

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

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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;
- 19                   ▶ prohibits the Legislature from funding the programming, design, and construction of  
20 a new building or facility in phases over more than one year unless the Legislature  
21 has approved each phase of the funding for the construction of the new building or  
22 facility by the affirmative vote of two-thirds of all the members elected to each  
23 house;
- 24                   ▶ repeals the July 1, 2014, sunset date on the provision requiring the State Building  
25 Board, in prioritizing capital improvements, to allocate at least 80% of the funds the  
26 Legislature appropriates for certain capital improvements;
- 27                   ▶ repeals the July 1, 2014, sunset date on the provision requiring the State Building  
28 Board, in prioritizing capital improvements, to allocate no more than 20% of the  
29 funds the Legislature appropriates for capital improvements to remodeling and

30 aesthetic upgrades or the construction of an addition to an existing building or facility; and

31       ▶ makes technical corrections.

32 **Money Appropriated in this Bill:**

33       None

34 **Other Special Clauses:**

35       None

36 **Utah Code Sections Affected:**

37 AMENDS:

38       **63A-5-104**, as last amended by Laws of Utah 2013, Chapters 250 and 409

39       **63I-1-263**, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and

40 413



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

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

44       **63A-5-104. Definitions -- Capital development and capital improvement process**

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

46       (1) As used in this section:

47       (a) "Capital developments" means a:

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

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

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

51       (b) "Capital improvements" means a:

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

53 \$2,500,000;

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

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

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

57 regardless of funding source.

- 58 (ii) "New facility" includes:
- 59 (A) an addition to an existing building; and
- 60 (B) the enclosure of space that was not previously fully enclosed.
- 61 (iii) "New facility" does not mean:
- 62 (A) the replacement of state-owned space that is demolished or that is otherwise
- 63 removed from state use, if the total construction cost of the replacement space is less than
- 64 \$2,500,000; or
- 65 (B) the construction of facilities that do not fully enclose a space.
- 66 (d) "Replacement cost of existing state facilities and infrastructure" means the
- 67 replacement cost, as determined by the Division of Risk Management, of state facilities,
- 68 excluding auxiliary facilities as defined by the State Building Board and the replacement cost
- 69 of infrastructure as defined by the State Building Board.
- 70 (e) "State funds" means public money appropriated by the Legislature.
- 71 (2) The State Building Board, on behalf of all state agencies, commissions,
- 72 departments, and institutions shall submit its capital development recommendations and
- 73 priorities to the Legislature for approval and prioritization.
- 74 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development
- 75 project may not be constructed on state property without legislative approval.
- 76 (b) Legislative approval is not required for a capital development project that consists
- 77 of the design or construction of a new facility if the State Building Board determines that:
- 78 (i) the requesting state agency, commission, department, or institution has provided
- 79 adequate assurance that:
- 80 (A) state funds will not be used for the design or construction of the facility; and
- 81 (B) the state agency, commission, department, or institution has a plan for funding in
- 82 place that will not require increased state funding to cover the cost of operations and
- 83 maintenance to, or state funding for, immediate or future capital improvements to the resulting
- 84 facility; and
- 85 (ii) the use of the state property is:

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

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

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

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

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

93 (B) state capital improvement funding.

94 (d) Legislative approval is not required for:

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

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

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

102 (iv) a capital project that:

103 (A) is funded by:

104 (I) the Uintah Basin Revitalization Fund; or

105 (II) the Navajo Revitalization Fund; and

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

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

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

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

113 (B) as a result of a sale or exchange of real property from a maintenance facility if the

114 real property is exchanged for, or the proceeds from the sale of the real property are used for,  
115 another maintenance facility, including improvements for a maintenance facility and real  
116 property.

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

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

125 (ii) The list shall identify:

126 (A) a single project that costs more than \$1,000,000;

127 (B) multiple projects within a single building or facility that collectively cost more than  
128 \$1,000,000;

129 (C) a single project that will be constructed over multiple years with a yearly cost of  
130 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

131 (D) multiple projects within a single building or facility with a yearly cost of  
132 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

133 (E) a single project previously reported to the Legislature as a capital improvement  
134 project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost  
135 more than \$1,000,000; and

136 (F) multiple projects within a single building or facility previously reported to the  
137 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in  
138 costs or scope of work, will now cost more than \$1,000,000.

139 (b) Unless otherwise directed by the Legislature, the State Building Board shall  
140 prioritize capital improvements from the list submitted to the Legislature up to the level of  
141 appropriation made by the Legislature.

142 (c) In prioritizing capital improvements, the State Building Board shall consider the  
143 results of facility evaluations completed by an architect/engineer as stipulated by the building  
144 board's facilities maintenance standards.

145 (d) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building  
146 Board shall allocate at least 80% of the funds that the Legislature appropriates for capital  
147 improvements to:

148 (i) projects that address:

149 (A) a structural issue;

150 (B) fire safety;

151 (C) a code violation; or

152 (D) any issue that impacts health and safety;

153 (ii) projects that upgrade:

154 (A) an HVAC system;

155 (B) an electrical system;

156 (C) essential equipment;

157 (D) an essential building component; or

158 (E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof,  
159 parking lot, or road; or

160 (iii) projects that demolish and replace an existing building that is in extensive  
161 disrepair and cannot be fixed by repair or maintenance.

162 (e) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building  
163 Board shall allocate no more than 20% of the funds that the Legislature appropriates for capital  
164 improvements to:

165 (i) remodeling and aesthetic upgrades to meet state programmatic needs; or

166 (ii) construct an addition to an existing building or facility.

167 (f) The State Building Board may require an entity that benefits from a capital  
168 improvement project to repay the capital improvement funds from savings that result from the  
169 project.

170 (g) The State Building Board may provide capital improvement funding to a single  
171 project, or to multiple projects within a single building or facility, even if the total cost of the  
172 project or multiple projects is \$2,500,000 or more, if:

173 (i) the capital improvement project or multiple projects require more than one year to  
174 complete; and

175 (ii) the Legislature has affirmatively authorized the capital improvement project or  
176 multiple projects to be funded in phases.

177 (5) The Legislature may authorize:

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

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

180 (6) If construction of a new building or facility will be paid for by nonstate funds, but  
181 will require an immediate or future increase in state funding for operations and maintenance or  
182 for capital improvements, the Legislature may not authorize the new building or facility until  
183 the Legislature appropriates funds for:

184 (a) the portion of operations and maintenance, if any, that will require an immediate or  
185 future increase in state funding; and

186 (b) the portion of capital improvements, if any, that will require an immediate or future  
187 increase in state funding.

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

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

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

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

196 (ii) If the Legislature determines that an Education Fund budget deficit or a General  
197 Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount

198 appropriated to capital improvements to 0.9% of the replacement cost of state buildings and  
199 infrastructure.

200 (c) (i) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09,  
201 2009-10, 2010-11, 2011-12, and 2012-13 fiscal years.

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

204 (8) It is the policy of the Legislature that a new building or facility be approved and  
205 funded for construction in a single budget action, therefore the Legislature may not fund the  
206 programming, design, and construction of a new building or facility in phases over more than  
207 one year unless the Legislature has approved each phase of the funding for the construction of  
208 the new building or facility by the affirmative vote of two-thirds of all the members elected to  
209 each house.

210 [~~8~~] (9) (a) If, after approval of capital development and capital improvement  
211 priorities by the Legislature under this section, emergencies arise that create unforeseen critical  
212 capital improvement projects, the State Building Board may, notwithstanding the requirements  
213 of Title 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to  
214 address those projects.

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

- 217 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and
- 218 (ii) the Legislature at its next annual general session.

219 [~~9~~] (10) (a) The State Building Board may adopt a rule allocating to institutions and  
220 agencies their proportionate share of capital improvement funding.

221 (b) The State Building Board shall ensure that the rule:

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

224 (ii) allows the delegation of projects to some institutions and agencies with the  
225 requirement that a report of expenditures will be filed annually with the Division of Facilities



226 Construction and Management and appropriate governing bodies.

227 ~~[(10)]~~ (11) It is the intent of the Legislature that in funding capital improvement  
228 requirements under this section the General Fund be considered as a funding source for at least  
229 half of those costs.

230 ~~[(11)]~~ (12) (a) Subject to Subsection ~~[(11)]~~ (12)(b), at least 80% of the state funds  
231 appropriated for capital improvements shall be used for maintenance or repair of the existing  
232 building or facility.

233 (b) The State Building Board may modify the requirement described in Subsection  
234 ~~[(11)]~~ (12)(a) if the State Building Board determines that a different allocation of capital  
235 improvements funds is in the best interest of the state.

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

237 **63I-1-263. Repeal dates, Titles 63A to 63M.**

238 (1) Section **63A-4-204**, authorizing the Risk Management Fund to provide coverage to  
239 any public school district which chooses to participate, is repealed July 1, 2016.

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

241 ~~[(3)]~~ (2) Section **63A-5-603**, State Facility Energy Efficiency Fund, is repealed July 1,  
242 2016.

243 ~~[(4)]~~ (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed  
244 July 1, 2018.

245 ~~[(5)]~~ (4) Section **53B-24-402**, rural residency training program, is repealed July 1,  
246 2015.

247 ~~[(6)]~~ (5) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is  
248 repealed July 1, 2014.

249 ~~[(7)]~~ (6) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

250 ~~[(8)]~~ (7) Subsection **63G-6a-1402**(7) authorizing certain transportation agencies to  
251 award a contract for a design-build transportation project in certain circumstances, is repealed  
252 July 1, 2015.

253 ~~[(9)]~~ (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed

254 July 1, 2020.

255 ~~[(10)]~~ (9) The Resource Development Coordinating Committee, created in Section  
256 63J-4-501, is repealed July 1, 2015.

257 ~~[(11)]~~ (10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

258 ~~[(12)]~~ (11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone  
259 Act, is repealed January 1, 2021.

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

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

264 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or  
265 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

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

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

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

271 (ii) (A) for the purchase price of machinery or equipment described in Section  
272 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,  
273 2020; or

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

276 ~~[(13)]~~ (12) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

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

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

281 (B) prior to July 1, 2014, seek amendments to the Health Care Compact among the

282 member states that the Legislature determines are appropriate after considering the  
283 recommendations of the Health System Reform Task Force.

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

286 (A) the impact of the Supreme Court ruling on the Affordable Care Act;

287 (B) whether Utah is likely to be required to implement any part of the Affordable Care  
288 Act prior to negotiating the compact with the federal government, such as Medicaid expansion  
289 in 2014;

290 (C) whether the compact's current funding formula, based on adjusted 2010 state  
291 expenditures, is the best formula for Utah and other state compact members to use for  
292 establishing the block grants from the federal government;

293 (D) whether the compact's calculation of current year inflation adjustment factor,  
294 without consideration of the regional medical inflation rate in the current year, is adequate to  
295 protect the state from increased costs associated with administering a state based Medicaid and  
296 a state based Medicare program;

297 (E) whether the state has the flexibility it needs under the compact to implement and  
298 fund state based initiatives, or whether the compact requires uniformity across member states  
299 that does not benefit Utah;

300 (F) whether the state has the option under the compact to refuse to take over the federal  
301 Medicare program;

302 (G) whether a state based Medicare program would provide better benefits to the  
303 elderly and disabled citizens of the state than a federally run Medicare program;

304 (H) whether the state has the infrastructure necessary to implement and administer a  
305 better state based Medicare program;

306 (I) whether the compact appropriately delegates policy decisions between the  
307 legislative and executive branches of government regarding the development and  
308 implementation of the compact with other states and the federal government; and

309 (J) the impact on public health activities, including communicable disease surveillance

310 and epidemiology.

311 [~~(14)~~] (13) The Crime Victim Reparations and Assistance Board, created in Section  
312 63M-7-504, is repealed July 1, 2017.

313 [~~(15)~~] (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,  
314 2017.