

Senator Wayne A. Harper proposes the following substitute bill:

STATE FACILITIES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Gage Froerer

LONG TITLE

General Description:

This bill amends provisions of the Utah Administrative Services Code related to state facilities.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "agency";
- ▶ grants rulemaking authority to the State Building Board relating to budgeting for and determining operations and maintenance expenses for a state facility;
- ▶ establishes requirements relating to compliance with rules made by the State Building Board under this bill;
- ▶ amends provisions relating to the capital development and capital improvement process;
- ▶ requires the Division of Facilities and Construction Management to present a regular report on state land or buildings that are no longer needed by the state;
- ▶ requires the State Board of Regents to conduct a study; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 **Utah Code Sections Affected:**

28 AMENDS:

- 29 **63A-1-103**, as last amended by Laws of Utah 2014, Chapter 292
- 30 **63A-1-111**, as renumbered and amended by Laws of Utah 1993, Chapter 212
- 31 **63A-3-104**, as renumbered and amended by Laws of Utah 1993, Chapter 212
- 32 **63A-3-106**, as last amended by Laws of Utah 2014, Chapter 387
- 33 **63A-3-201**, as last amended by Laws of Utah 2015, Chapter 43
- 34 **63A-3-203**, as last amended by Laws of Utah 2010, Chapter 324
- 35 **63A-3-302**, as enacted by Laws of Utah 1993, Chapter 212
- 36 **63A-3-501**, as last amended by Laws of Utah 2014, Chapter 286
- 37 **63A-5-103**, as last amended by Laws of Utah 2015, Chapter 297
- 38 **63A-5-104**, as last amended by Laws of Utah 2015, Chapter 297
- 39 **63A-5-204**, as last amended by Laws of Utah 2009, Chapters 183 and 344
- 40 **63A-5-206**, as last amended by Laws of Utah 2011, Chapter 14
- 41 **63A-5-215**, as renumbered and amended by Laws of Utah 1993, Chapter 212
- 42 **63J-1-201**, as last amended by Laws of Utah 2015, Chapters 175 and 407

43 ENACTS:

44 **63A-5-226**, Utah Code Annotated 1953

45 **Uncodified Material Affected:**

46 ENACTS UNCODIFIED MATERIAL



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

49 Section 1. Section **63A-1-103** is amended to read:

50 **63A-1-103. Definitions.**

51 As used in this title:

52 (1) "Agency" means a board, commission, institution, department, division, officer,
 53 council, office, committee, bureau, or other administrative unit of the state, including the
 54 agency head, agency employees, or other persons acting on behalf of or under the authority of
 55 the agency head, the Legislature, the courts, or the governor, but does not mean a political

56 subdivision of the state, or any administrative unit of a political subdivision of the state.

57 (2) "Department" means the Department of Administrative Services.

58 (3) "Executive director" means the executive director of the Department of
59 Administrative Services.

60 Section 2. Section **63A-1-111** is amended to read:

61 **63A-1-111. Service plans established by each division -- Contents -- Distribution.**

62 (1) Each division of the department shall formulate and establish service plans for each
63 fiscal year.

64 (2) The service plans shall describe:

65 (a) the services to be rendered to state agencies;

66 (b) the methods of providing those services;

67 (c) the standards of performance; and

68 (d) the performance measures used to gauge compliance with those standards.

69 (3) Before the beginning of each fiscal year, the service plans shall be distributed to
70 each state agency [~~and institution~~] that uses the services provided by that division.

71 Section 3. Section **63A-3-104** is amended to read:

72 **63A-3-104. Appropriation for contingency purposes -- Procedure for allotment --**
73 **Legislative intent.**

74 (1) (a) The Legislature shall determine the amount to be appropriated for contingency
75 purposes, as well as the limits on the amount of any one allotment or total allotments to any
76 one [~~department or~~] agency.

77 (b) In advance of making any such allotment, the governor shall notify the Legislature
78 through the Office of the Legislative Fiscal Analyst, of his or her intent to do so, of the amount
79 to be allotted, and the justification for the allotment.

80 (2) It is the intent of the Legislature that such transfers be made only for unforeseeable
81 emergencies, and allotments shall not be made to correct poor budgetary practices or for
82 purposes having no existing appropriation or authorization.

83 Section 4. Section **63A-3-106** is amended to read:

84 **63A-3-106. Per diem rates for board members.**

85 (1) As used in this section and Section **63A-3-107**:

86 (a) "Board" means a board, commission, council, committee, task force, or similar

87 body established to perform a governmental function.

88 (b) "Board member" means a person appointed or designated by statute to serve on a
89 board.

90 (c) "Executive branch" means [~~a department, division, agency, board, or office~~] an
91 agency within the executive branch of state government.

92 (d) "Governmental entity" has the same meaning as provided under Section
93 63G-2-103.

94 (e) "Higher education" means a state institution of higher education, as defined under
95 Section 53B-1-102.

96 (f) "Officer" means a person who is elected or appointed to an office or position within
97 a governmental entity.

98 (g) "Official meeting" means a meeting of a board that is called in accordance with
99 statute.

100 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
101 subject to approval by the executive director, the director of the Division of Finance shall make
102 rules establishing per diem rates to defray subsistence costs for a board member's attendance at
103 an official meeting.

104 (3) Unless otherwise provided by statute, a per diem rate established under Subsection
105 (2) is applicable to a board member who serves:

106 (a) within the executive branch, except as provided under Subsection (3)(b);

107 (b) within higher education, unless higher education pays the costs of the per diem;

108 (c) on a board that is:

109 (i) not included under Subsection (3)(a) or (b); and

110 (ii) created by a statute that adopts the per diem rates by reference to:

111 (A) this section; and

112 (B) the rule authorized by this section; and

113 (d) within a government entity that is not included under Subsection (3)(a), if the
114 government entity adopts the per diem rates by reference to:

115 (i) this section; or

116 (ii) the rule establishing the per diem rates.

117 (4) (a) Unless otherwise provided by statute, a board member who is not a legislator

118 may receive per diem under this section and travel expenses under Section 63A-3-107 if the per
119 diem and travel expenses are incurred by the board member for attendance at an official
120 meeting.

121 (b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or
122 travel expenses under this Subsection (4) if the board member is being paid by a governmental
123 entity while performing the board member's service on the board.

124 (5) A board member may decline to receive per diem for the board member's service.

125 (6) Compensation and expenses of a board member who is a legislator are governed by
126 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
127 Section 5. Section 63A-3-201 is amended to read:

128 **63A-3-201. Appointment of accounting and other officers and employees by**
129 **director of the Division of Finance -- Delegation of powers and duties by director --**
130 **Background checks.**

131 (1) With the approval of the executive director, the director of the Division of Finance
132 shall appoint an accounting officer and other administrative officers that are necessary to
133 efficiently and economically perform the functions of the Division of Finance.

134 (2) The director of the Division of Finance may:

135 (a) organize the division and employ other assistants to discharge the functions of the
136 division;

137 (b) delegate to assistants, officers, and employees any of the powers and duties of the
138 office subject to his or her control and subject to any conditions he may prescribe; and

139 (c) delegate the powers and duties of the office only by written order filed with the
140 lieutenant governor.

141 (3) (a) As used in this Subsection (3):

142 (i) "Public employee" means a person employed by a state agency.

143 (ii) "Public funds" means money, funds, and accounts, regardless of the source from
144 which the money, funds, and accounts are derived, that are owned, held, or administered by a
145 state agency.

146 (iii) "Public funds position" means employment with a state agency that requires:

147 (A) physical or electronic access to public funds;

148 (B) performing internal control functions or accounting;

149 (C) creating reports on public funds; or
150 (D) using, operating, or accessing state systems that account for or help account for
151 public funds.
152 (iv) "State agency" means [~~an executive branch~~]:
153 [~~(A) department;~~
154 ~~(B)~~ (A) an executive branch agency; or
155 ~~(C) board;~~
156 ~~(D) commission;~~
157 ~~(E) division;~~
158 ~~(F) office; or~~
159 ~~(G)~~ (B) a state educational institution with the exception of an institution defined in
160 Subsection 53B-1-102(1).

161 (b) The Division of Finance may require that a public employee who applies for or
162 holds a public funds position:

- 163 (i) submit a fingerprint card in a form acceptable to the division;
- 164 (ii) consent to a criminal background check by:
 - 165 (A) the Federal Bureau of Investigation;
 - 166 (B) the Utah Bureau of Criminal Identification; or
 - 167 (C) another agency of any state that performs criminal background checks; or
- 168 (iii) consent to a credit history report, subject to the requirements of the Fair Credit
169 Reporting Act, 15 U.S.C. Sec. 1681 et seq.

170 (c) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah
171 Administrative Rulemaking Act, adopt rules to implement this section.

172 Section 6. Section **63A-3-203** is amended to read:

173 **63A-3-203. Accounting control over state departments and agencies --**
174 **Prescription and approval of financial forms, accounting systems, and fees.**

- 175 (1) The director of the Division of Finance shall:
 - 176 (a) exercise accounting control over all state departments and agencies except
177 institutions of higher education; and
 - 178 (b) prescribe the manner and method of certifying that funds are available and adequate
179 to meet all contracts and obligations.

180 (2) The director shall audit all claims against the state for which an appropriation has
181 been made.

182 (3) (a) The director shall:

183 (i) prescribe all forms of requisitions, receipts, vouchers, bills, or claims to be used by
184 all state departments and agencies;

185 (ii) prescribe the forms, procedures, and records to be maintained by all departmental,
186 institutional, or agency store rooms;

187 (iii) exercise inventory control over the store rooms; and

188 (iv) prescribe all forms to be used by the division.

189 (b) Before approving the forms in Subsection (3)(a), the director shall obtain approval
190 from the state auditor that the forms will adequately facilitate the post-audit of public accounts.

191 (4) Before implementation by any state [~~department or~~] agency, the director of the
192 Division of Finance shall review and approve:

193 (a) any accounting system developed by a state [~~department or~~] agency; and

194 (b) any fees established by any state [~~department or~~] agency to recover the costs of
195 operations.

196 Section 7. Section **63A-3-302** is amended to read:

197 **63A-3-302. Unpaid account receivable due the state.**

198 If any account receivable has been unpaid for more than 90 days, any agency[;
199 ~~department, division, commission, committee, board, council, institution, or any~~] or other
200 authority of state government responsible for collection of the account may proceed under this
201 part to collect the delinquent amount.

202 Section 8. Section **63A-3-501** is amended to read:

203 **63A-3-501. Definitions.**

204 As used in this part:

205 (1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency
206 from an entity for which payment has not been received by the state agency that is servicing the
207 debt.

208 (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments,
209 fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims,
210 third-party claims, sale of goods, sale of services, claims, and damages.

- 211 (2) "Administrative offset" means:
- 212 (a) a reduction of an individual's tax refund or other payments due to the individual to
- 213 reduce or eliminate accounts receivable that the individual owes to a state agency; and
- 214 (b) a reduction of an entity's tax refund or other payments due to the entity to reduce or
- 215 eliminate accounts receivable that the entity owes to a state agency.
- 216 (3) "Entity" means an individual, a corporation, partnership, or other organization that
- 217 pays taxes to or does business with the state.
- 218 (4) "Office" means the Office of State Debt Collection established by this part.
- 219 (5) "Past due" means any accounts receivable that the state has not received by the
- 220 payment due date.
- 221 (6) "Restitution to victims" means restitution ordered by a court to be paid to a victim
- 222 of an offense in a criminal or juvenile proceeding.
- 223 (7) (a) "State agency" includes:
- 224 (i) ~~[any department, division, commission, council, board, bureau, committee, office,~~
- 225 ~~or other administrative subunit of Utah state government]~~ an executive branch agency;
- 226 (ii) the legislative branch of state government; and
- 227 (iii) the judicial branches of state government, including justice courts.
- 228 (b) "State agency" does not include:
- 229 (i) any institution of higher education;
- 230 (ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or
- 231 (iii) the administrator of the Uninsured Employers' Fund appointed by the Labor
- 232 Commissioner under Section 34A-2-704, solely for the purposes of collecting money required
- 233 to be deposited into the Uninsured Employers' Fund under:
- 234 (A) Section 34A-1-405;
- 235 (B) Title 34A, Chapter 2, Workers' Compensation Act; or
- 236 (C) Title 34A, Chapter 3, Utah Occupational Disease Act.
- 237 (8) "Writing-off" means the removal of an accounts receivable from an agency's
- 238 accounts receivable records but does not necessarily eliminate further collection efforts.
- 239 Section 9. Section 63A-5-103 is amended to read:
- 240 **63A-5-103. Board -- Powers.**
- 241 (1) The State Building Board shall:

- 242 (a) in cooperation with [~~state institutions, departments, commissions, and~~] agencies,
243 prepare a master plan of structures built or contemplated;
- 244 (b) submit to the governor and the Legislature a comprehensive five-year building plan
245 for the state containing the information required by Subsection (2);
- 246 (c) amend and keep current the five-year building program for submission to the
247 governor and subsequent legislatures;
- 248 (d) as a part of the long-range plan, recommend to the governor and Legislature any
249 changes in the law that are necessary to [~~insure~~] ensure an effective, well-coordinated building
250 program for all [~~state institutions~~] agencies;
- 251 (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
252 make rules:
- 253 (i) that are necessary to discharge its duties and the duties of the Division of Facilities
254 Construction and Management;
- 255 (ii) to establish standards and requirements for life cycle cost-effectiveness of state
256 facility projects;
- 257 (iii) to govern the disposition of real property by the division and establish factors,
258 including appraised value and historical significance, in evaluating the disposition;
- 259 (iv) to establish standards and requirements for a capital development project request,
260 including a requirement for a feasibility study; and
- 261 (v) [~~to establish standards and requirements for reporting~~] for operations and
262 maintenance expenditures for state-owned facilities[~~, including standards and requirements~~
263 ~~relating to~~] that require, and establish standards for:
- 264 (A) reporting;
- 265 (B) utility metering;
- 266 (C) creating operations and maintenance programs within all agency institutional line
267 items;
- 268 (D) reviewing and adjusting for inflationary costs of goods and services on an annual
269 basis; and
- 270 (E) determining the actual cost for operations and management requests for a new
271 facility;
- 272 (f) with support from the Division of Facilities Construction and Management,

273 establish design criteria, standards, and procedures for planning, design, and construction of
274 new state facilities and for improvements to existing state facilities, including life-cycle
275 costing, cost-effectiveness studies, and other methods and procedures that address:

276 (i) the need for the building or facility;

277 (ii) the effectiveness of its design;

278 (iii) the efficiency of energy use; and

279 (iv) the usefulness of the building or facility over its lifetime;

280 (g) prepare and submit a yearly request to the governor and the Legislature for a
281 designated amount of square footage by type of space to be leased by the Division of Facilities
282 Construction and Management in that fiscal year;

283 (h) assure the efficient use of all building space; and

284 (i) conduct ongoing facilities maintenance audits for state-owned facilities.

285 (2) (a) An agency shall comply with the rules described in Subsection (1)(e)(v)(E) for
286 new facility requests submitted to the Legislature for the 2017 General Session or any session
287 of the Legislature after the 2017 General Session.

288 (b) On or before September 1, 2016, each agency shall revise the agency's budget to
289 comply with the rules described in Subsection (1)(e)(v)(C).

290 (c) Beginning on December 1, 2016, the Office of the Legislative Fiscal Analyst and
291 the Governor's Office of Management and Budget shall, for each agency with operating and
292 maintenance expenses, ensure that each required budget for that agency is adjusted in
293 accordance with the rules described in Subsection (1)(e)(v)(D).

294 ~~[(2)]~~ (3) In order to provide adequate information upon which the State Building Board
295 may make ~~[its]~~ a recommendation ~~[under]~~ described in Subsection (1), any state agency
296 requesting new full-time employees for the next fiscal year shall report those anticipated
297 requests to the building board at least 90 days before the annual general session in which the
298 request is made.

299 ~~[(3)]~~ (4) (a) The State Building Board shall ensure that the five-year building plan
300 required by Subsection (1)(c) includes:

301 (i) a list that prioritizes construction of new buildings for all structures built or
302 contemplated based upon each agency's~~[- department's, commission's, and institution's]~~ present
303 and future needs;

- 304 (ii) information, and space use data for all state-owned and leased facilities;
- 305 (iii) substantiating data to support the adequacy of any projected plans;
- 306 (iv) a summary of all statewide contingency reserve and project reserve balances as of
307 the end of the most recent fiscal year;
- 308 (v) a list of buildings that have completed a comprehensive facility evaluation by an
309 architect/engineer or are scheduled to have an evaluation;
- 310 (vi) for those buildings that have completed the evaluation, the estimated costs of
311 needed improvements; and
- 312 (vii) for projects recommended in the first two years of the five-year building plan:
 - 313 (A) detailed estimates of the cost of each project;
 - 314 (B) the estimated cost to operate and maintain the building or facility on an annual
315 basis;
 - 316 (C) the cost of capital improvements to the building or facility, estimated at 1.1% of
317 the replacement cost of the building or facility, on an annual basis;
 - 318 (D) the estimated number of new agency full-time employees expected to be housed in
319 the building or facility;
 - 320 (E) the estimated cost of new or expanded programs and personnel expected to be
321 housed in the building or facility;
 - 322 (F) the estimated lifespan of the building with associated costs for major component
323 replacement over the life of the building; and
 - 324 (G) the estimated cost of any required support facilities.
- 325 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
326 State Building Board may make rules prescribing the format for submitting the information
327 required by this Subsection [~~(3)~~] (4).
- 328 [~~(4)~~] (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
329 Act, the State Building Board may make rules establishing circumstances under which bids
330 may be modified when all bids for a construction project exceed available funds as certified by
331 the director.
- 332 (b) In making those rules, the State Building Board shall provide for the fair and
333 equitable treatment of bidders.
- 334 [~~(5)~~] (6) (a) A person who violates a rule adopted by the board under Subsection (1)(e)

335 is subject to a civil penalty not to exceed \$2,500 for each violation plus the amount of any
336 actual damages, expenses, and costs related to the violation of the rule that are incurred by the
337 state.

338 (b) The board may take any other action allowed by law.

339 (c) If any violation of a rule adopted by the board is also an offense under Title 76,
340 Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs
341 allowed under Subsection (1)(e) in addition to any criminal prosecution.

342 Section 10. Section **63A-5-104** is amended to read:

343 **63A-5-104. Definitions -- Capital development and capital improvement process**
344 **-- Approval requirements -- Limitations on new projects -- Emergencies.**

345 (1) As used in this section:

346 (a) (i) "Capital developments" means a:

347 [(i)] (A) remodeling, site, or utility project with a total cost of [~~\$2,500,000~~] \$3,500,000
348 or more;

349 [(ii)] (B) new facility with a construction cost of \$500,000 or more; or

350 [(iii)] (C) purchase of real property where an appropriation is requested to fund the
351 purchase.

352 (ii) "Capital developments" does not include a project described in Subsection

353 (1)(b)(iii).

354 (b) "Capital improvements" means [a]:

355 (i) a remodeling, alteration, replacement, or repair project with a total cost of less than
356 [~~\$2,500,000~~] \$3,500,000;

357 (ii) a site [~~and~~] or utility improvement with a total cost of less than [~~\$2,500,000; or~~]
358 \$3,500,000;

359 (iii) a utility infrastructure improvement project that:

360 (A) has a total cost of less than \$7,000,000;

361 (B) consists of two or more projects that, if done separately, would each cost less than
362 \$3,500,000; and

363 (C) the State Building Board determines is more cost effective or feasible to be
364 completed as a single project; or

365 [(iii)] (iv) a new facility with a total construction cost of less than \$500,000.

366 (c) (i) "New facility" means the construction of a new building on state property
367 regardless of funding source.

368 (ii) "New facility" includes:

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

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

371 (iii) "New facility" does not [~~mean~~] include:

372 (A) the replacement of state-owned space that is demolished or that is otherwise
373 removed from state use, if the total construction cost of the replacement space is less than

374 [~~\$2,500,000~~] \$3,500,000; or

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

376 (d) "Replacement cost of existing state facilities and infrastructure" means the
377 replacement cost, as determined by the Division of Risk Management, of state facilities,
378 excluding auxiliary facilities as defined by the State Building Board and the replacement cost
379 of infrastructure as defined by the State Building Board.

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

381 (2) (a) The State Building Board, on behalf of all state agencies, [~~commissions;~~
382 ~~departments, and institutions~~] shall submit its capital development recommendations and
383 priorities to the Legislature for approval and prioritization.

384 (b) In developing the State Building Board's capital development recommendations and
385 priorities, the State Building Board shall:

386 (i) require each state agency[~~, commission, department, or institution~~] requesting an
387 appropriation for a capital development project to complete a study that demonstrates the
388 feasibility of the capital development project, including:

389 (A) the need for the capital development project;

390 (B) the appropriateness of the scope of the capital development project;

391 (C) any private funding for the capital development project; and

392 (D) the economic and community impacts of the capital development project; [~~and~~]

393 (ii) verify the completion and accuracy of the feasibility study described in Subsection

394 (2)(b)(i)[~~]~~;

395 (iii) require that an institution described in Section 53B-1-102 that submits a request
396 for a capital development project address whether and how, as a result of the project, the

397 institution will:

398 (A) offer courses or other resources that will help meet demand for jobs, training, and
 399 employment in the current market and the projected market for the next five years;

400 (B) respond to individual skilled and technical job demand over the next 3, 5, and 10
 401 years;

402 (C) respond to industry demands for trained workers;

403 (D) help meet commitments made by the Governor's Office of Economic
 404 Development, including relating to training and incentives;

405 (E) respond to changing needs in the economy; and

406 (F) based on demographics, respond to demands for on-line or in-class instruction; and

407 (iv) only when determining the order of prioritization among requests submitted by the
 408 State Board of Regents, give more weight, in the State Building Board's scoring process, to a
 409 request that is designated as a higher priority by the State Board of Regents than a request that
 410 is designated as a lower priority by the State Board of Regents.

411 (c) An agency may not modify a capital development project request after the deadline
 412 for submitting the request, except to the extent that a modification of the scope of the project,
 413 or the amount of funds requested, is necessary due to increased construction costs or other
 414 factors outside of the agency's control.

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

417 (b) Legislative approval is not required for a capital development project that consists
 418 of the design or construction of a new facility if:

419 (i) the State Building Board determines that~~[(i)]~~ the requesting state agency~~;~~
 420 ~~commission, department, or institution~~ has provided adequate assurance that~~[(A)]~~ state funds
 421 will not be used for the design or construction of the facility; ~~and~~

422 ~~[(B)] (ii) the state agency~~;~~ commission, department, or institution has a plan for~~
 423 ~~funding in place that will not require increased state funding~~ provides to the State Building
 424 Board a written document, signed by the head of the state agency:

425 (A) stating that funding or a revenue stream is in place, or will be in place before the
 426 project is completed, to ensure that increased state funding will not be required to cover the
 427 cost of operations and maintenance to~~;~~ ~~or state funding for,~~ the resulting facility for

428 immediate or future capital improvements [~~to the resulting facility~~]; and

429 (B) detailing the source of the funding that will be used for the cost of operations and

430 maintenance for immediate and future capital improvements to the resulting facility; and

431 ~~[(ii)]~~ (iii) the State Building Board determines that the use of the state property is:

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

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

434 (c) (i) The Division of Facilities Construction and Management shall maintain a record

435 of facilities constructed under the exemption provided in Subsection (3)(b).

436 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state

437 agency~~[, commission, department, or institution]~~ may not request:

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

439 (B) state capital improvement funding.

440 (d) Legislative approval is not required for:

441 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds

442 that has been approved by the State Building Board;

443 (ii) a facility to be built with nonstate funds and owned by nonstate entities within

444 research park areas at the University of Utah and Utah State University;

445 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation

446 with funds of the foundation, including grant money from the state, or with donated services or

447 materials;

448 (iv) a capital project that:

449 (A) is funded by:

450 (I) the Uintah Basin Revitalization Fund; or

451 (II) the Navajo Revitalization Fund; and

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

453 (v) a capital project on school and institutional trust lands that is funded by the School

454 and Institutional Trust Lands Administration from the Land Grant Management Fund and that

455 does not fund construction of a new facility for a state agency or higher education institution.

456 (e) (i) Legislative approval is not required for capital development projects to be built

457 for the Department of Transportation:

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

459 (B) as a result of a sale or exchange of real property from a maintenance facility if the
460 real property is exchanged for, or the proceeds from the sale of the real property are used for,
461 another maintenance facility, including improvements for a maintenance facility and real
462 property.

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

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

471 (ii) The list shall identify:

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

473 (B) multiple projects within a single building or facility that collectively cost more than
474 \$1,000,000;

475 (C) a single project that will be constructed over multiple years with a yearly cost of
476 \$1,000,000 or more and an aggregate cost of more than [~~\$2,500,000~~] \$3,500,000;

477 (D) multiple projects within a single building or facility with a yearly cost of
478 \$1,000,000 or more and an aggregate cost of more than [~~\$2,500,000~~] \$3,500,000;

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

482 (F) multiple projects within a single building or facility previously reported to the
483 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in
484 costs or scope of work, will now cost more than \$1,000,000[~~;~~]; and

485 (G) projects approved under Subsection (1)(b)(iii).

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

489 (c) In prioritizing capital improvements, the State Building Board shall consider the

490 results of facility evaluations completed by an architect/engineer as stipulated by the building
491 board's facilities maintenance standards.

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

495 (i) projects that address:

496 (A) a structural issue;

497 (B) fire safety;

498 (C) a code violation; or

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

500 (ii) projects that upgrade:

501 (A) an HVAC system;

502 (B) an electrical system;

503 (C) essential equipment;

504 (D) an essential building component; or

505 (E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof,

506 parking lot, or road; or

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

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

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

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

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

517 (g) The State Building Board may provide capital improvement funding to a single
518 project, or to multiple projects within a single building or facility, even if the total cost of the
519 project or multiple projects is [~~\$2,500,000~~] \$3,500,000 or more, if:

520 (i) the capital improvement project [~~or multiple projects require more than one year to~~

521 ~~complete~~] is a project described in Subsection (1)(b)(iii); and

522 (ii) the Legislature has [~~affirmatively authorized the capital improvement project or~~
523 ~~multiple projects to be funded in phases~~] not refused to fund the project with capital
524 improvement funds.

525 (h) In prioritizing and allocating capital improvement funding, the State Building
526 Board shall comply with the requirement in Subsection 63B-23-101(2)(f).

527 (5) The Legislature may authorize:

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

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

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

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

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

538 (7) (a) Except as provided in Subsection (7)(b) [~~or (e)~~], the Legislature may not fund
539 the design or construction of any new capital development projects, except to complete the
540 funding of projects for which partial funding has been previously provided, until the
541 Legislature has appropriated ~~H~~→ [H] 1.1% [H] [~~1.3%~~] ←~~H~~ of the replacement cost of existing
541a state facilities and
542 infrastructure to capital improvements.

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

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

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

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

550 [~~(c) (i) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09,~~
551 ~~2009-10, 2010-11, 2011-12, and 2012-13 fiscal years.~~]

552 ~~[(ii) For the 2013-14 fiscal year, the amount appropriated to capital improvements shall~~
553 ~~be reduced to 0.9% of the replacement cost of state facilities.]~~

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

560 (9) (a) If, after approval of capital development and capital improvement priorities by
561 the Legislature under this section, emergencies arise that create unforeseen critical capital
562 improvement projects, the State Building Board may, notwithstanding the requirements of Title
563 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address
564 those projects.

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

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

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

569 (10) (a) The State Building Board may adopt a rule allocating to institutions and
570 agencies their proportionate share of capital improvement funding.

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

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

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

577 (11) It is the intent of the Legislature that in funding capital improvement requirements
578 under this section the General Fund be considered as a funding source for at least half of those
579 costs.

580 (12) (a) Subject to Subsection (12)(b), at least 80% of the state funds appropriated for
581 capital improvements shall be used for maintenance or repair of the existing building or
582 facility.

583 (b) The State Building Board may modify the requirement described in Subsection
584 (12)(a) if the State Building Board determines that a different allocation of capital
585 improvements funds is in the best interest of the state.

586 Section 11. Section **63A-5-204** is amended to read:

587 **63A-5-204. Specific powers and duties of director.**

588 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the
589 same meaning as provided in Section [63C-9-102](#).

590 (2) (a) The director shall:

591 (i) recommend rules to the executive director for the use and management of facilities
592 and grounds owned or occupied by the state for the use of its departments and agencies;

593 (ii) supervise and control the allocation of space, in accordance with legislative
594 directive through annual appropriations acts or other specific legislation, to the various
595 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or
596 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as
597 otherwise provided by law;

598 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,
599 Division of Facilities Construction and Management Leasing;

600 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature
601 through the appropriations act or other specific legislation, and hold title to, in the name of the
602 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its
603 agencies;

604 (v) adopt and use a common seal, of a form and design determined by the director, and
605 of which courts shall take judicial notice;

606 (vi) file a description and impression of the seal with the Division of Archives;

607 (vii) collect and maintain all deeds, abstracts of title, and all other documents
608 evidencing title to or interest in property belonging to the state or any of its departments, except
609 institutions of higher education and the School and Institutional Trust Lands Administration;

610 (viii) report all properties acquired by the state, except those acquired by institutions of
611 higher education, to the director of the Division of Finance for inclusion in the state's financial
612 records;

613 (ix) before charging a rate, fee, or other amount for services provided by the division's

614 internal service fund to an executive branch agency, or to a subscriber of services other than an
615 executive branch agency:

616 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee
617 established in Section 63A-1-114; and

618 (B) obtain the approval of the Legislature as required by Section 63J-1-410;

619 (x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed
620 rates and fees, which analysis shall include a comparison of the division's rates and fees with
621 the fees of other public or private sector providers where comparable services and rates are
622 reasonably available;

623 (xi) implement the State Building Energy Efficiency Program under Section
624 63A-5-701; and

625 (xii) take all other action necessary for carrying out the purposes of this chapter.

626 (b) Legislative approval is not required for acquisitions by the division that cost less
627 than \$250,000.

628 (3) (a) The director shall direct or delegate maintenance and operations, preventive
629 maintenance, and facilities inspection programs and activities for any [~~department,~~
630 ~~commission, institution, or~~] agency, except:

631 (i) the State Capitol Preservation Board; and

632 (ii) state institutions of higher education.

633 (b) The director may choose to delegate responsibility for these functions only when
634 the director determines that:

635 (i) the [~~department or~~] agency has requested the responsibility;

636 (ii) the [~~department or~~] agency has the necessary resources and skills to comply with
637 facility maintenance standards approved by the State Building Board; and

638 (iii) the delegation would result in net cost savings to the state as a whole.

639 (c) The State Capitol Preservation Board and state institutions of higher education are
640 exempt from Division of Facilities Construction and Management oversight.

641 (d) Each state institution of higher education shall comply with the facility
642 maintenance standards approved by the State Building Board.

643 (e) Except for the State Capitol Preservation Board, agencies and institutions that are
644 exempt from division oversight shall annually report their compliance with the facility

645 maintenance standards to the division in the format required by the division.

646 (f) The division shall:

647 (i) prescribe a standard format for reporting compliance with the facility maintenance
648 standards;

649 (ii) report agency [~~and institution~~] compliance or noncompliance with the standards to
650 the Legislature; and

651 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are
652 complying with the standards.

653 (4) (a) In making any allocations of space under Subsection (2), the director shall:

654 (i) conduct studies to determine the actual needs of each [~~department, commission,~~
655 ~~institution, or~~] agency; and

656 (ii) comply with the restrictions contained in this Subsection (4).

657 (b) The supervision and control of the legislative area is reserved to the Legislature.

658 (c) The supervision and control of the judicial area is reserved to the judiciary for trial
659 courts only.

660 (d) The director may not supervise or control the allocation of space for entities in the
661 public and higher education systems.

662 (e) The supervision and control of capitol hill facilities and capitol hill grounds is
663 reserved to the State Capitol Preservation Board.

664 (5) The director may:

665 (a) hire or otherwise procure assistance and services, professional, skilled, or
666 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds
667 provided for that purpose either through annual operating budget appropriations or from
668 nonlapsing project funds;

669 (b) sue and be sued in the name of the division; and

670 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the
671 Legislature, whatever real or personal property that is necessary for the discharge of the
672 director's duties.

673 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may
674 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes
675 other than administration that are under their control and management:

- 676 (a) the Office of Trust Administrator;
- 677 (b) the Department of Transportation;
- 678 (c) the Division of Forestry, Fire, and State Lands;
- 679 (d) the Department of Natural Resources;
- 680 (e) the Utah National Guard;
- 681 (f) any area vocational center or other institution administered by the State Board of
- 682 Education;
- 683 (g) any institution of higher education; and
- 684 (h) the Utah Science Technology and Research Governing Authority.

685 (7) The director shall ensure that any firm performing testing and inspection work
686 governed by the American Society for Testing Materials Standard E-329 on public buildings
687 under the director's supervision shall:

688 (a) fully comply with the American Society for Testing Materials standard
689 specifications for agencies engaged in the testing and inspection of materials known as ASTM
690 E-329; and

691 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

692 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust
693 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances
694 held by it that are under its control.

695 Section 12. Section **63A-5-206** is amended to read:

696 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**
697 **director -- Exceptions -- Expenditure of appropriations -- Notification to local**
698 **governments for construction or modification of certain facilities.**

699 (1) As used in this section:

700 (a) "Capital developments" and "capital improvements" have the same meaning as
701 provided in Section [63A-5-104](#).

702 (b) "Compliance agency" has the same meaning as provided in Section [15A-1-202](#).

703 (c) (i) "Facility" means any building, structure, or other improvement that is
704 constructed on property owned by the state, its departments, commissions, institutions, or
705 agencies.

706 (ii) "Facility" does not mean an unoccupied structure that is a component of the state

707 highway system.

708 (d) "Life cycle cost-effective" means, as provided for in rules adopted by the State
709 Building Board, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
710 Act, the most prudent cost of owning and operating a facility, including the initial cost, energy
711 costs, operation and maintenance costs, repair costs, and the costs of energy conservation and
712 renewable energy systems.

713 (e) "Local government" means the county, municipality, or local school district that
714 would have jurisdiction to act as the compliance agency if the property on which the project is
715 being constructed were not owned by the state.

716 (f) "Renewable energy system" means a system designed to use solar, wind, geothermal
717 power, wood, or other replenishable energy source to heat, cool, or provide electricity to a
718 building.

719 (2) (a) (i) Except as provided in Subsections (3) and (4), the director shall exercise
720 direct supervision over the design and construction of all new facilities, and all alterations,
721 repairs, and improvements to existing facilities if the total project construction cost, regardless
722 of the funding source, is greater than \$100,000, unless there is memorandum of understanding
723 between the director and an institution of higher education that permits the institution of higher
724 education to exercise direct supervision for a project with a total project construction cost of
725 not greater than \$250,000.

726 (ii) A state entity may exercise direct supervision over the design and construction of
727 all new facilities, and all alterations, repairs, and improvements to existing facilities if:

728 (A) the total project construction cost, regardless of the funding sources, is \$100,000 or
729 less; and

730 (B) the state entity assures compliance with the division's forms and contracts and the
731 division's design, construction, alteration, repair, improvements, and code inspection standards.

732 (b) The director shall prepare or have prepared by private firms or individuals designs,
733 plans, and specifications for the projects administered by the division.

734 (c) Before proceeding with construction, the director and the officials charged with the
735 administration of the affairs of the particular [~~department, commission, institution, or~~] agency
736 shall approve the location, design, plans, and specifications.

737 (3) Projects for the construction of new facilities and alterations, repairs, and

738 improvements to existing facilities are not subject to Subsection (2) if the project:

739 (a) occurs on property under the jurisdiction of the State Capitol Preservation Board;

740 (b) is within a designated research park at the University of Utah or Utah State

741 University;

742 (c) occurs within the boundaries of This is the Place State Park and is administered by

743 This is the Place Foundation except that This is the Place Foundation may request the director

744 to administer the design and construction; or

745 (d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah

746 Percent-for-Art Act.

747 (4) (a) (i) The State Building Board may authorize the delegation of control over

748 design, construction, and all other aspects of any project to entities of state government on a

749 project-by-project basis or for projects within a particular dollar range and a particular project

750 type.

751 (ii) The state entity to whom control is delegated shall assume fiduciary control over

752 project finances, shall assume all responsibility for project budgets and expenditures, and shall

753 receive all funds appropriated for the project, including any contingency funds contained in the

754 appropriated project budget.

755 (iii) Delegation of project control does not exempt the state entity from complying with

756 the codes and guidelines for design and construction adopted by the division and the State

757 Building Board.

758 (iv) State entities that receive a delegated project may not access, for the delegated

759 project, the division's statewide contingency reserve and project reserve authorized in Section

760 [63A-5-209](#).

761 (b) For facilities that will be owned, operated, maintained, and repaired by an entity

762 that is not a state agency [~~or institution~~] and that are located on state property, the State

763 Building Board may authorize the owner to administer the design and construction of the

764 project instead of the division.

765 (5) Notwithstanding any other provision of this section, if a donor donates land to an

766 eligible institution of higher education and commits to build a building or buildings on that

767 land, and the institution agrees to provide funds for the operations and maintenance costs from

768 sources other than state funds, and agrees that the building or buildings will not be eligible for

769 state capital improvement funding, the higher education institution may:

770 (a) oversee and manage the construction without involvement, oversight, or
771 management from the division; or

772 (b) arrange for management of the project by the division.

773 (6) (a) The role of compliance agency as provided in Title 15A, State Construction and
774 Fire Codes Act, shall be provided by:

775 (i) the director, for projects administered by the division;

776 (ii) the entity designated by the State Capitol Preservation Board, for projects under
777 Subsection (3)(a);

778 (iii) the local government, for projects exempt from the division's administration under
779 Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);

780 (iv) the state entity or local government designated by the State Building Board, for
781 projects under Subsection (4); or

782 (v) the institution, for projects exempt from the division's administration under
783 Subsection (5)(a).

784 (b) For the installation of art under Subsection (3)(d), the role of compliance agency
785 shall be provided by the entity that is acting in this capacity for the balance of the project as
786 provided in Subsection (6)(a).

787 (c) The local government acting as the compliance agency under Subsection (6)(a)(iii)
788 may:

789 (i) only review plans and inspect construction to enforce the State Construction Code
790 or an approved code under Title 15A, State Construction and Fire Codes Act; and

791 (ii) charge a building permit fee of no more than the amount it could have charged if
792 the land upon which the improvements are located were not owned by the state.

793 (d) (i) The use of state property and any improvements constructed on state property,
794 including improvements constructed by nonstate entities, is not subject to the zoning authority
795 of local governments as provided in Sections [10-9a-304](#) and [17-27a-304](#).

796 (ii) The state entity controlling the use of the state property shall consider any input
797 received from the local government in determining how the property shall be used.

798 (7) Before construction may begin, the director shall review the design of projects
799 exempted from the division's administration under Subsection (4) to determine if the design:

800 (a) complies with any restrictions placed on the project by the State Building Board;
801 and

802 (b) is appropriate for the purpose and setting of the project.

803 (8) The director shall ensure that state-owned facilities, except for facilities under the
804 control of the State Capitol Preservation Board, are life cycle cost-effective.

805 (9) The director may expend appropriations for statewide projects from funds provided
806 by the Legislature for those specific purposes and within guidelines established by the State
807 Building Board.

808 (10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst,
809 shall develop standard forms to present capital development and capital improvement cost
810 summary data.

811 (b) The director shall:

812 (i) within 30 days after the completion of each capital development project, submit cost
813 summary data for the project on the standard form to the Office of Legislative Fiscal Analyst;
814 and

815 (ii) upon request, submit cost summary data for a capital improvement project to the
816 Office of Legislative Fiscal Analyst on the standard form.

817 (11) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures
818 Act, the director may:

819 (a) accelerate the design of projects funded by any appropriation act passed by the
820 Legislature in its annual general session;

821 (b) use any unencumbered existing account balances to fund that design work; and

822 (c) reimburse those account balances from the amount funded for those projects when
823 the appropriation act funding the project becomes effective.

824 (12) (a) The director, the director's designee, or the state entity to whom control has
825 been designated under Subsection (4), shall notify in writing the elected representatives of local
826 government entities directly and substantively affected by any diagnostic, treatment, parole,
827 probation, or other secured facility project exceeding \$250,000, if:

828 (i) the nature of the project has been significantly altered since prior notification;

829 (ii) the project would significantly change the nature of the functions presently
830 conducted at the location; or

831 (iii) the project is new construction.

832 (b) At the request of either the state entity or the local government entity,
833 representatives from the state entity and the affected local entity shall conduct or participate in
834 a local public hearing or hearings to discuss these issues.

835 (13) (a) (i) Before beginning the construction of student housing on property owned by
836 the state or a public institution of higher education, the director shall provide written notice of
837 the proposed construction, as provided in Subsection (13)(a)(ii), if any of the proposed student
838 housing buildings is within 300 feet of privately owned residential property.

839 (ii) Each notice under Subsection (13)(a)(i) shall be provided to the legislative body
840 and, if applicable, the mayor of:

841 (A) the county in whose unincorporated area the privately owned residential property is
842 located; or

843 (B) the municipality in whose boundaries the privately owned residential property is
844 located.

845 (b) (i) Within 21 days after receiving the notice required by Subsection (13)(a)(i), a
846 county or municipality entitled to the notice may submit a written request to the director for a
847 public hearing on the proposed student housing construction.

848 (ii) If a county or municipality requests a hearing under Subsection (13)(b)(i), the
849 director and the county or municipality shall jointly hold a public hearing to provide
850 information to the public and to allow the director and the county or municipality to receive
851 input from the public about the proposed student housing construction.

852 Section 13. Section **63A-5-215** is amended to read:

853 **63A-5-215. Disposition of proceeds received by division from sale of property.**

854 (1) The money received by the division from the sale or other disposition of property
855 shall be paid into the state treasury and becomes a part of the funds provided by law for
856 carrying out the building program of the state, and are appropriated for that purpose.

857 (2) The proceeds from sales of property belonging to or used by a particular state
858 [~~institution or~~] agency shall, to the extent practicable, be expended for the construction of
859 buildings or in the performance of other work for the benefit of that [~~institution or~~] agency.

860 Section 14. Section **63A-5-226** is enacted to read:

861 **63A-5-226. Report to Infrastructure and General Government Appropriations**

862 **Subcommittee.**

863 The division shall, beginning in 2016, and in every even-numbered year after 2016, on
864 or before the third Wednesday in November, present a written report to the Infrastructure and
865 General Government Appropriations Subcommittee that identifies state land and buildings that
866 are no longer needed and can be sold by the state.

867 Section 15. Section **63J-1-201** is amended to read:

868 **63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation**
869 **-- Appropriations based on current tax laws and not to exceed estimated revenues.**

870 (1) The governor shall deliver, not later than 30 days before the date the Legislature
871 convenes in the annual general session, a confidential draft copy of the governor's proposed
872 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
873 requirements of this section.

874 (2) (a) When submitting a proposed budget, the governor shall, within the first three
875 days of the annual general session of the Legislature, submit to the presiding officer of each
876 house of the Legislature:

877 (i) a proposed budget for the ensuing fiscal year;

878 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,
879 with each change clearly itemized and classified; and

880 (iii) as applicable, a document showing proposed changes in estimated revenues that
881 are based on changes in state tax laws or rates.

882 (b) The proposed budget shall include:

883 (i) a projection of:

884 (A) estimated revenues by major tax type;

885 (B) 15-year trends for each major tax type;

886 (C) estimated receipts of federal funds; and

887 (D) appropriations for the next fiscal year;

888 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
889 federal grants or assistance programs included in the budget;

890 (iii) changes to debt service;

891 (iv) a plan of proposed changes to appropriations and estimated revenues for the next
892 fiscal year that is based upon the current fiscal year state tax laws and rates and considers

893 projected changes in federal grants or assistance programs included in the budget;
894 (v) an itemized estimate of the proposed changes to appropriations for:
895 (A) the Legislative Department as certified to the governor by the president of the
896 Senate and the speaker of the House;
897 (B) the Executive Department;
898 (C) the Judicial Department as certified to the governor by the state court
899 administrator;
900 (D) changes to salaries payable by the state under the Utah Constitution or under law
901 for lease agreements planned for the next fiscal year; and
902 (E) all other changes to ongoing or one-time appropriations, including dedicated
903 credits, restricted funds, nonlapsing balances, grants, and federal funds;
904 (vi) for each line item, the average annual dollar amount of staff funding associated
905 with all positions that were vacant during the last fiscal year;
906 (vii) deficits or anticipated deficits;
907 (viii) the recommendations for each state agency for new full-time employees for the
908 next fiscal year, which shall also be provided to the State Building Board as required by
909 Subsection [63A-5-103](#)~~(2)~~[\(3\)](#);
910 (ix) a written description and itemized report submitted by a state agency to the
911 Governor's Office of Management and Budget under Section [63J-1-220](#), including:
912 (A) a written description and an itemized report provided at least annually detailing the
913 expenditure of the state money, or the intended expenditure of any state money that has not
914 been spent; and
915 (B) a final written itemized report when all the state money is spent;
916 (x) any explanation that the governor may desire to make as to the important features
917 of the budget and any suggestion as to methods for the reduction of expenditures or increase of
918 the state's revenue; and
919 (xi) information detailing certain fee increases as required by Section [63J-1-504](#).
920 (3) For the purpose of preparing and reporting the proposed budget:
921 (a) The governor shall require the proper state officials, including all public and higher
922 education officials, all heads of executive and administrative departments and state institutions,
923 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the

924 state money, and all institutions applying for state money and appropriations, to provide
925 itemized estimates of changes in revenues and appropriations.

926 (b) The governor may require the persons and entities subject to Subsection (3)(a) to
927 provide other information under these guidelines and at times as the governor may direct,
928 which may include a requirement for program productivity and performance measures, where
929 appropriate, with emphasis on outcome indicators.

930 (c) The governor may require representatives of public and higher education, state
931 departments and institutions, and other institutions or individuals applying for state
932 appropriations to attend budget meetings.

933 (4) (a) The Governor's Office of Management and Budget shall provide to the Office of
934 Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the
935 Legislature convenes in the annual general session, data, analysis, or requests used in preparing
936 the governor's budget recommendations, notwithstanding the restrictions imposed on such
937 recommendations by available revenue.

938 (b) The information under Subsection (4)(a) shall include:

939 (i) actual revenues and expenditures for the fiscal year ending the previous June 30;

940 (ii) estimated or authorized revenues and expenditures for the current fiscal year;

941 (iii) requested revenues and expenditures for the next fiscal year;

942 (iv) detailed explanations of any differences between the amounts appropriated by the
943 Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and
944 (iii);

945 (v) a statement of agency and program objectives, effectiveness measures, and program
946 size indicators; and

947 (vi) other budgetary information required by the Legislature in statute.

948 (c) The budget information under Subsection (4)(a) shall cover:

949 (i) all items of appropriation, funds, and accounts included in appropriations acts for
950 the current and previous fiscal years; and

951 (ii) any new appropriation, fund, or account items requested for the next fiscal year.

952 (d) The information provided under Subsection (4)(a) may be provided as a shared
953 record under Section [63G-2-206](#) as considered necessary by the Governor's Office of
954 Management and Budget.

955 (5) (a) In submitting the budget for the Department of Public Safety, the governor shall
956 include a separate recommendation in the governor's budget for maintaining a sufficient
957 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to
958 or below the number specified in Subsection 32B-1-201(2).

959 (b) If the governor does not include in the governor's budget an amount sufficient to
960 maintain the number of alcohol-related law enforcement officers described in Subsection
961 (5)(a), the governor shall include a message to the Legislature regarding the governor's reason
962 for not including that amount.

963 (6) (a) The governor may revise all estimates, except those relating to the Legislative
964 Department, the Judicial Department, and those providing for the payment of principal and
965 interest to the state debt and for the salaries and expenditures specified by the Utah
966 Constitution or under the laws of the state.

967 (b) The estimate for the Judicial Department, as certified by the state court
968 administrator, shall also be included in the budget without revision, but the governor may make
969 separate recommendations on the estimate.

970 (7) The total appropriations requested for expenditures authorized by the budget may
971 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
972 fiscal year.

973 (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity
974 does not affect the budget itself or any other item in it.

975 **Section 16. Study by State Board of Regents.**

976 (1) The State Board of Regents shall:

977 (a) before November 16, 2016, conduct a study to identify the best method to
978 determine the amount or percentage of money received from research and development
979 activities that should be spent on operations and maintenance costs;

980 (b) consult with stakeholders to make the identification described in Subsection (1)(a);
981 and

982 (c) on or before November 16, 2016, present a written report of the study and the
983 method identified to the Infrastructure and General Government Appropriations Subcommittee.

984 (2) This section is repealed on January 1, 2017.