

STATE FACILITIES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Gage Froerer

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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

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

44 ENACTS:

45            **63A-5-226**, Utah Code Annotated 1953

46 **Uncodified Material Affected:**

47 ENACTS UNCODIFIED MATERIAL



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

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

51            **63A-1-103. Definitions.**

52            As used in this title:

53            (1) "Agency" means a board, commission, institution, department, division, officer,

54 council, office, committee, bureau, or other administrative unit of the state, including the

55 agency head, agency employees, or other persons acting on behalf of or under the authority of

56 the agency head, the Legislature, the courts, or the governor, but does not mean a political

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

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

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

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

62 **63A-1-111. Service plans established by each division -- Contents -- Distribution.**

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

65 (2) The service plans shall describe:

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

67 (b) the methods of providing those services;

68 (c) the standards of performance; and

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

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

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

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

74 **Legislative intent.**

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

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

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

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

85 **63A-3-106. Per diem rates for board members.**

86 (1) As used in this section and Section [63A-3-107](#):

87 (a) "Board" means a board, commission, council, committee, task force, or similar  
88 body established to perform a governmental function.

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

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

93 (d) "Governmental entity" has the same meaning as provided under Section  
94 [63G-2-103](#).

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

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

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

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

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

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

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

109 (c) on a board that is:

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

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

112 (A) this section; and

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

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

- 116 (i) this section; or
- 117 (ii) the rule establishing the per diem rates.

118 (4) (a) Unless otherwise provided by statute, a board member who is not a legislator  
119 may receive per diem under this section and travel expenses under Section 63A-3-107 if the per  
120 diem and travel expenses are incurred by the board member for attendance at an official  
121 meeting.

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

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

126 (6) Compensation and expenses of a board member who is a legislator are governed by  
127 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

128 Section 5. Section 63A-3-201 is amended to read:

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

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

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

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

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

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

- 142 (3) (a) As used in this Subsection (3):
- 143 (i) "Public employee" means a person employed by a state agency.
- 144 (ii) "Public funds" means money, funds, and accounts, regardless of the source from  
145 which the money, funds, and accounts are derived, that are owned, held, or administered by a  
146 state agency.
- 147 (iii) "Public funds position" means employment with a state agency that requires:
- 148 (A) physical or electronic access to public funds;
- 149 (B) performing internal control functions or accounting;
- 150 (C) creating reports on public funds; or
- 151 (D) using, operating, or accessing state systems that account for or help account for  
152 public funds.
- 153 (iv) "State agency" means [~~an executive branch~~]:
- 154 [~~(A) department;~~
- 155 [~~(B)~~] (A) an executive branch agency; or
- 156 [~~(C) board;~~
- 157 [~~(D) commission;~~
- 158 [~~(E) division;~~
- 159 [~~(F) office; or~~
- 160 [~~(G)~~] (B) a state educational institution with the exception of an institution defined in  
161 Subsection [53B-1-102\(1\)](#).
- 162 (b) The Division of Finance may require that a public employee who applies for or  
163 holds a public funds position:
- 164 (i) submit a fingerprint card in a form acceptable to the division;
- 165 (ii) consent to a criminal background check by:
- 166 (A) the Federal Bureau of Investigation;
- 167 (B) the Utah Bureau of Criminal Identification; or
- 168 (C) another agency of any state that performs criminal background checks; or
- 169 (iii) consent to a credit history report, subject to the requirements of the Fair Credit

170 Reporting Act, 15 U.S.C. Sec. 1681 et seq.

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

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

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

176 (1) The director of the Division of Finance shall:

177 (a) exercise accounting control over all state departments and agencies except  
178 institutions of higher education; and

179 (b) prescribe the manner and method of certifying that funds are available and adequate  
180 to meet all contracts and obligations.

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

183 (3) (a) The director shall:

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

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

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

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

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

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

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

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

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

198           **63A-3-302. Unpaid account receivable due the state.**

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

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

204           **63A-3-501. Definitions.**

205           As used in this part:

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

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

212           (2) "Administrative offset" means:

213           (a) a reduction of an individual's tax refund or other payments due to the individual to  
214 reduce or eliminate accounts receivable that the individual owes to a state agency; and

215           (b) a reduction of an entity's tax refund or other payments due to the entity to reduce or  
216 eliminate accounts receivable that the entity owes to a state agency.

217           (3) "Entity" means an individual, a corporation, partnership, or other organization that  
218 pays taxes to or does business with the state.

219           (4) "Office" means the Office of State Debt Collection established by this part.

220           (5) "Past due" means any accounts receivable that the state has not received by the  
221 payment due date.

222           (6) "Restitution to victims" means restitution ordered by a court to be paid to a victim  
223 of an offense in a criminal or juvenile proceeding.

224           (7) (a) "State agency" includes:

225           (i) [~~any department, division, commission, council, board, bureau, committee, office,~~



226 ~~or other administrative subunit of Utah state government]~~ an executive branch agency;  
 227 (ii) the legislative branch of state government; and  
 228 (iii) the judicial branches of state government, including justice courts.  
 229 (b) "State agency" does not include:  
 230 (i) any institution of higher education;  
 231 (ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or  
 232 (iii) the administrator of the Uninsured Employers' Fund appointed by the Labor  
 233 Commissioner under Section 34A-2-704, solely for the purposes of collecting money required  
 234 to be deposited into the Uninsured Employers' Fund under:  
 235 (A) Section 34A-1-405;  
 236 (B) Title 34A, Chapter 2, Workers' Compensation Act; or  
 237 (C) Title 34A, Chapter 3, Utah Occupational Disease Act.  
 238 (8) "Writing-off" means the removal of an accounts receivable from an agency's  
 239 accounts receivable records but does not necessarily eliminate further collection efforts.  
 240 Section 9. Section 63A-5-103 is amended to read:  
 241 **63A-5-103. Board -- Powers.**  
 242 (1) The State Building Board shall:  
 243 (a) in cooperation with [~~state institutions, departments, commissions, and~~] agencies,  
 244 prepare a master plan of structures built or contemplated;  
 245 (b) submit to the governor and the Legislature a comprehensive five-year building plan  
 246 for the state containing the information required by Subsection (2);  
 247 (c) amend and keep current the five-year building program for submission to the  
 248 governor and subsequent legislatures;  
 249 (d) as a part of the long-range plan, recommend to the governor and Legislature any  
 250 changes in the law that are necessary to [~~insure~~] ensure an effective, well-coordinated building  
 251 program for all [~~state institutions~~] agencies;  
 252 (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
 253 make rules:

254 (i) that are necessary to discharge its duties and the duties of the Division of Facilities  
255 Construction and Management;

256 (ii) to establish standards and requirements for life cycle cost-effectiveness of state  
257 facility projects;

258 (iii) to govern the disposition of real property by the division and establish factors,  
259 including appraised value and historical significance, in evaluating the disposition;

260 (iv) to establish standards and requirements for a capital development project request,  
261 including a requirement for a feasibility study; and

262 (v) [to establish standards and requirements for reporting] for operations and  
263 maintenance expenditures for state-owned facilities~~[, including standards and requirements~~  
264 ~~relating to]~~ that require, and establish standards for:

265 (A) reporting;

266 (B) utility metering;

267 (C) creating operations and maintenance programs within all agency institutional line  
268 items;

269 (D) reviewing and adjusting for inflationary costs of goods and services on an annual  
270 basis; and

271 (E) determining the actual cost for operations and management requests for a new  
272 facility;

273 (f) with support from the Division of Facilities Construction and Management,  
274 establish design criteria, standards, and procedures for planning, design, and construction of  
275 new state facilities and for improvements to existing state facilities, including life-cycle  
276 costing, cost-effectiveness studies, and other methods and procedures that address:

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

278 (ii) the effectiveness of its design;

279 (iii) the efficiency of energy use; and

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

281 (g) prepare and submit a yearly request to the governor and the Legislature for a

282 designated amount of square footage by type of space to be leased by the Division of Facilities  
283 Construction and Management in that fiscal year;

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

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

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

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

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

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

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

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

305 (ii) information, and space use data for all state-owned and leased facilities;

306 (iii) substantiating data to support the adequacy of any projected plans;

307 (iv) a summary of all statewide contingency reserve and project reserve balances as of  
308 the end of the most recent fiscal year;

309 (v) a list of buildings that have completed a comprehensive facility evaluation by an

310 architect/engineer or are scheduled to have an evaluation;

311 (vi) for those buildings that have completed the evaluation, the estimated costs of

312 needed improvements; and

313 (vii) for projects recommended in the first two years of the five-year building plan:

314 (A) detailed estimates of the cost of each project;

315 (B) the estimated cost to operate and maintain the building or facility on an annual

316 basis;

317 (C) the cost of capital improvements to the building or facility, estimated at 1.1% of

318 the replacement cost of the building or facility, on an annual basis;

319 (D) the estimated number of new agency full-time employees expected to be housed in

320 the building or facility;

321 (E) the estimated cost of new or expanded programs and personnel expected to be

322 housed in the building or facility;

323 (F) the estimated lifespan of the building with associated costs for major component

324 replacement over the life of the building; and

325 (G) the estimated cost of any required support facilities.

326 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

327 State Building Board may make rules prescribing the format for submitting the information

328 required by this Subsection [~~(3)~~] (4).

329 [~~(4)~~] (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

330 Act, the State Building Board may make rules establishing circumstances under which bids

331 may be modified when all bids for a construction project exceed available funds as certified by

332 the director.

333 (b) In making those rules, the State Building Board shall provide for the fair and

334 equitable treatment of bidders.

335 [~~(5)~~] (6) (a) A person who violates a rule adopted by the board under Subsection (1)(e)

336 is subject to a civil penalty not to exceed \$2,500 for each violation plus the amount of any

337 actual damages, expenses, and costs related to the violation of the rule that are incurred by the

338 state.

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

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

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

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

346 (1) As used in this section:

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

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

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

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

353 (ii) "Capital developments" does not include a project described in Subsection  
354 (1)(b)(iii).

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

356 (i) a remodeling, alteration, replacement, or repair project with a total cost of less than  
357 [~~\$2,500,000~~] \$3,500,000;

358 (ii) a site [~~and~~] or utility improvement with a total cost of less than [~~\$2,500,000, or~~]  
359 \$3,500,000;

360 (iii) a utility infrastructure improvement project that:

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

362 (B) consists of two or more projects that, if done separately, would each cost less than  
363 \$3,500,000; and

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

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

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

369           (ii) "New facility" includes:

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

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

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

373           (A) the replacement of state-owned space that is demolished or that is otherwise  
374 removed from state use, if the total construction cost of the replacement space is less than  
375 ~~[\$2,500,000]~~ \$3,500,000; or

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

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

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

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

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

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

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

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

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

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

394 (ii) verify the completion and accuracy of the feasibility study described in Subsection  
395 (2)(b)(i)[:-];

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

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

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

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

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

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

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

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

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

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

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

420 (i) the State Building Board determines that[:(+)] the requesting state agency[;  
421 commission, department, or institution] has provided adequate assurance that[:(A)] state funds

422 will not be used for the design or construction of the facility; ~~and~~

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

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

430 (B) detailing the source of the funding that will be used for the cost of operations and  
431 maintenance for immediate and future capital improvements to the resulting facility; and

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

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

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

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

437 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state  
438 agency ~~[, commission, department, or institution]~~ may not request:

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

440 (B) state capital improvement funding.

441 (d) Legislative approval is not required for:

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

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

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

449 (iv) a capital project that:



450 (A) is funded by:  
451 (I) the Uintah Basin Revitalization Fund; or  
452 (II) the Navajo Revitalization Fund; and  
453 (B) does not provide a new facility for a state agency or higher education institution; or  
454 (v) a capital project on school and institutional trust lands that is funded by the School  
455 and Institutional Trust Lands Administration from the Land Grant Management Fund and that  
456 does not fund construction of a new facility for a state agency or higher education institution.

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

459 (A) as a result of an exchange of real property under Section 72-5-111; or

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

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

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

472 (ii) The list shall identify:

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

474 (B) multiple projects within a single building or facility that collectively cost more than  
475 \$1,000,000;

476 (C) a single project that will be constructed over multiple years with a yearly cost of  
477 \$1,000,000 or more and an aggregate cost of more than [~~\$2,500,000~~] \$3,500,000;

478 (D) multiple projects within a single building or facility with a yearly cost of  
479 \$1,000,000 or more and an aggregate cost of more than [~~\$2,500,000~~] \$3,500,000;

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

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

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

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

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

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

496 (i) projects that address:

497 (A) a structural issue;

498 (B) fire safety;

499 (C) a code violation; or

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

501 (ii) projects that upgrade:

502 (A) an HVAC system;

503 (B) an electrical system;

504 (C) essential equipment;

505 (D) an essential building component; or

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

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

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

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

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

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

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

521 (i) the capital improvement project [~~or multiple projects require more than one year to~~  
522 ~~complete~~] is a project described in Subsection (1)(b)(iii); and

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

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

528 (5) The Legislature may authorize:

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

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

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

534 the Legislature appropriates funds for:

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

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

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

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

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

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

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

551 [~~(c) (i) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09,  
552 2009-10, 2010-11, 2011-12, and 2012-13 fiscal years.]~~

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

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

561 (9) (a) If, after approval of capital development and capital improvement priorities by

562 the Legislature under this section, emergencies arise that create unforeseen critical capital  
563 improvement projects, the State Building Board may, notwithstanding the requirements of Title  
564 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address  
565 those projects.

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

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

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

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

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

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

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

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

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

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

588 **63A-5-204. Specific powers and duties of director.**

589 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the

590 same meaning as provided in Section 63C-9-102.

591 (2) (a) The director shall:

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

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

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

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

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

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

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

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

614 (ix) before charging a rate, fee, or other amount for services provided by the division's  
615 internal service fund to an executive branch agency, or to a subscriber of services other than an  
616 executive branch agency:

617 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee

618 established in Section 63A-1-114; and

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

620 (x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed

621 rates and fees, which analysis shall include a comparison of the division's rates and fees with

622 the fees of other public or private sector providers where comparable services and rates are

623 reasonably available;

624 (xi) implement the State Building Energy Efficiency Program under Section

625 63A-5-701; and

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

627 (b) Legislative approval is not required for acquisitions by the division that cost less

628 than \$250,000.

629 (3) (a) The director shall direct or delegate maintenance and operations, preventive

630 maintenance, and facilities inspection programs and activities for any [~~department,~~

631 ~~commission, institution, or~~] agency, except:

632 (i) the State Capitol Preservation Board; and

633 (ii) state institutions of higher education.

634 (b) The director may choose to delegate responsibility for these functions only when

635 the director determines that:

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

637 (ii) the [~~department or~~] agency has the necessary resources and skills to comply with

638 facility maintenance standards approved by the State Building Board; and

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

640 (c) The State Capitol Preservation Board and state institutions of higher education are

641 exempt from Division of Facilities Construction and Management oversight.

642 (d) Each state institution of higher education shall comply with the facility

643 maintenance standards approved by the State Building Board.

644 (e) Except for the State Capitol Preservation Board, agencies and institutions that are

645 exempt from division oversight shall annually report their compliance with the facility

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

647 (f) The division shall:

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

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

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

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

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

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

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

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

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

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

665 (5) The director may:

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

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

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



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

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

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

- 689 (a) fully comply with the American Society for Testing Materials standard  
690 specifications for agencies engaged in the testing and inspection of materials known as ASTM  
691 E-329; and
- 692 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

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

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

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

700 (1) As used in this section:

- 701 (a) "Capital developments" and "capital improvements" have the same meaning as

702 provided in Section 63A-5-104.

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

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

707 (ii) "Facility" does not mean an unoccupied structure that is a component of the state  
708 highway system.

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

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

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

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

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

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

730 less; and

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

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

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

738 (3) Projects for the construction of new facilities and alterations, repairs, and  
739 improvements to existing facilities are not subject to Subsection (2) if the project:

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

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

743 (c) occurs within the boundaries of This is the Place State Park and is administered by  
744 This is the Place Foundation except that This is the Place Foundation may request the director  
745 to administer the design and construction; or

746 (d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah  
747 Percent-for-Art Act.

748 (4) (a) (i) The State Building Board may authorize the delegation of control over  
749 design, construction, and all other aspects of any project to entities of state government on a  
750 project-by-project basis or for projects within a particular dollar range and a particular project  
751 type.

752 (ii) The state entity to whom control is delegated shall assume fiduciary control over  
753 project finances, shall assume all responsibility for project budgets and expenditures, and shall  
754 receive all funds appropriated for the project, including any contingency funds contained in the  
755 appropriated project budget.

756 (iii) Delegation of project control does not exempt the state entity from complying with  
757 the codes and guidelines for design and construction adopted by the division and the State

758 Building Board.

759 (iv) State entities that receive a delegated project may not access, for the delegated  
760 project, the division's statewide contingency reserve and project reserve authorized in Section  
761 [63A-5-209](#).

762 (b) For facilities that will be owned, operated, maintained, and repaired by an entity  
763 that is not a state agency [~~or institution~~] and that are located on state property, the State  
764 Building Board may authorize the owner to administer the design and construction of the  
765 project instead of the division.

766 (5) Notwithstanding any other provision of this section, if a donor donates land to an  
767 eligible institution of higher education and commits to build a building or buildings on that  
768 land, and the institution agrees to provide funds for the operations and maintenance costs from  
769 sources other than state funds, and agrees that the building or buildings will not be eligible for  
770 state capital improvement funding, the higher education institution may:

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

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

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

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

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

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

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

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

785 (b) For the installation of art under Subsection (3)(d), the role of compliance agency

786 shall be provided by the entity that is acting in this capacity for the balance of the project as  
787 provided in Subsection (6)(a).

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

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

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

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

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

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

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

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

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

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

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

812 (b) The director shall:

813 (i) within 30 days after the completion of each capital development project, submit cost

814 summary data for the project on the standard form to the Office of Legislative Fiscal Analyst;  
815 and

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

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

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

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

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

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

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

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

832 (iii) the project is new construction.

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

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

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

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

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

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

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

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

854 **63A-5-215. Disposition of proceeds received by division from sale of property.**

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

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

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

862 **63A-5-226. Report to Infrastructure and General Government Appropriations**  
863 **Subcommittee.**

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

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

869 **63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation**

870 -- **Appropriations based on current tax laws and not to exceed estimated revenues.**

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

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

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

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

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

883 (b) The proposed budget shall include:

884 (i) a projection of:

885 (A) estimated revenues by major tax type;

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

887 (C) estimated receipts of federal funds; and

888 (D) appropriations for the next fiscal year;

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

891 (iii) changes to debt service;

892 (iv) a plan of proposed changes to appropriations and estimated revenues for the next  
893 fiscal year that is based upon the current fiscal year state tax laws and rates and considers  
894 projected changes in federal grants or assistance programs included in the budget;

895 (v) an itemized estimate of the proposed changes to appropriations for:

896 (A) the Legislative Department as certified to the governor by the president of the  
897 Senate and the speaker of the House;



898 (B) the Executive Department;

899 (C) the Judicial Department as certified to the governor by the state court  
900 administrator;

901 (D) changes to salaries payable by the state under the Utah Constitution or under law  
902 for lease agreements planned for the next fiscal year; and

903 (E) all other changes to ongoing or one-time appropriations, including dedicated  
904 credits, restricted funds, nonlapsing balances, grants, and federal funds;

905 (vi) for each line item, the average annual dollar amount of staff funding associated  
906 with all positions that were vacant during the last fiscal year;

907 (vii) deficits or anticipated deficits;

908 (viii) the recommendations for each state agency for new full-time employees for the  
909 next fiscal year, which shall also be provided to the State Building Board as required by  
910 Subsection [63A-5-103](#)~~(2)~~(3);

911 (ix) a written description and itemized report submitted by a state agency to the  
912 Governor's Office of Management and Budget under Section [63J-1-220](#), including:

913 (A) a written description and an itemized report provided at least annually detailing the  
914 expenditure of the state money, or the intended expenditure of any state money that has not  
915 been spent; and

916 (B) a final written itemized report when all the state money is spent;

917 (x) any explanation that the governor may desire to make as to the important features  
918 of the budget and any suggestion as to methods for the reduction of expenditures or increase of  
919 the state's revenue; and

920 (xi) information detailing certain fee increases as required by Section [63J-1-504](#).

921 (3) For the purpose of preparing and reporting the proposed budget:

922 (a) The governor shall require the proper state officials, including all public and higher  
923 education officials, all heads of executive and administrative departments and state institutions,  
924 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the  
925 state money, and all institutions applying for state money and appropriations, to provide

926 itemized estimates of changes in revenues and appropriations.

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

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

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

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

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

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

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

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

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

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

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

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

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

953       (d) The information provided under Subsection (4)(a) may be provided as a shared

954 record under Section 63G-2-206 as considered necessary by the Governor's Office of  
955 Management and Budget.

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

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

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

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

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

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

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

977 (1) The State Board of Regents shall:

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

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

982 and

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

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