

1 **AMENDMENTS RELATING TO ADMINISTRATION OF**
2 **STATE FACILITIES**

3 2020 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Walt Brooks**

6 Senate Sponsor: David G. Buxton

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions relating to the administration of state facilities.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ reorganizes and modifies provisions relating to the state building board, the
14 Division of Facilities Construction and Management, and the administration of state
15 facilities;
- 16 ▶ modifies duties and responsibilities of the state building board and the director of
17 the Division of Facilities Construction and Management;
- 18 ▶ increases from \$100,000 to \$250,000 the value of property that is exempt from rules
19 adopted to ensure that the value of property being bought or exchanged is congruent
20 with the terms of the purchase or exchange;
- 21 ▶ increases from \$100,000 to \$250,000 the value of property the disposal or lease of
22 which is not governed by provisions relating to the disposition of property owned by
23 the Division of Facilities and Construction Management;
- 24 ▶ repeals obsolete or redundant language; and
- 25 ▶ makes technical and conforming changes.

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill provides a special effective date.

30 This bill provides a coordination clause.

31 **Utah Code Sections Affected:**

32 **AMENDS:**

- 33 **11-44-201**, as last amended by Laws of Utah 2018, Chapter 415
- 34 **11-59-302**, as enacted by Laws of Utah 2018, Chapter 388
- 35 **11-59-304**, as enacted by Laws of Utah 2018, Chapter 388
- 36 **11-59-501**, as enacted by Laws of Utah 2018, Chapter 388
- 37 **17B-2a-818.5**, as last amended by Laws of Utah 2018, Chapter 319
- 38 **19-1-206**, as last amended by Laws of Utah 2018, Chapter 319
- 39 **26-18-402**, as last amended by Laws of Utah 2018, Chapter 319
- 40 **26-40-115**, as last amended by Laws of Utah 2019, Chapter 393
- 41 **51-11-102**, as enacted by Laws of Utah 2018, Chapter 253
- 42 **53B-2-109**, as enacted by Laws of Utah 2005, Chapter 231
- 43 **53B-2a-101**, as last amended by Laws of Utah 2019, Chapter 482
- 44 **53B-2a-117**, as enacted by Laws of Utah 2019, Chapter 482
- 45 **53B-22-201**, as enacted by Laws of Utah 2019, Chapter 482
- 46 **53B-22-204**, as enacted by Laws of Utah 2019, Chapter 482
- 47 **63A-1-112**, as last amended by Laws of Utah 2015, Chapter 181
- 48 **63B-1-304**, as last amended by Laws of Utah 2010, Chapter 286
- 49 **63B-2-301**, as last amended by Laws of Utah 2013, Chapters 310 and 465
- 50 **63B-4-201**, as last amended by Laws of Utah 2016, Chapter 144
- 51 **63B-9-103**, as last amended by Laws of Utah 2014, Chapter 196
- 52 **63B-16-201**, as enacted by Laws of Utah 2007, Chapter 174
- 53 **63B-16-202**, as last amended by Laws of Utah 2012, Chapter 393
- 54 **63B-16-301**, as enacted by Laws of Utah 2007, Chapter 174
- 55 **63B-17-201**, as last amended by Laws of Utah 2009, Chapter 150

- 56 **63B-17-202**, as enacted by Laws of Utah 2008, Chapter 128
- 57 **63B-17-301**, as enacted by Laws of Utah 2008, Chapter 128
- 58 **63B-23-101**, as last amended by Laws of Utah 2019, Chapter 468
- 59 **63B-25-101**, as last amended by Laws of Utah 2019, Chapter 246
- 60 **63C-9-403**, as last amended by Laws of Utah 2018, Chapter 319
- 61 **63G-6a-103**, as last amended by Laws of Utah 2019, Chapters 136, 170, 314, and 456
- 62 **63H-6-102**, as last amended by Laws of Utah 2016, Chapter 301
- 63 **63H-6-103**, as last amended by Laws of Utah 2019, Chapters 370 and 456
- 64 **63I-1-263**, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468,
- 65 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter
- 66 246
- 67 **63J-1-201 (Superseded 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 136
- 68 **63J-1-201 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapters 136
- 69 and 464
- 70 **63J-1-206**, as last amended by Laws of Utah 2019, Chapters 182 and 468
- 71 **63J-1-602.2**, as last amended by Laws of Utah 2019, Chapters 136, 326, 468, and 469
- 72 **63J-3-103**, as last amended by Laws of Utah 2017, Chapter 382
- 73 **65A-4-1**, as last amended by Laws of Utah 2019, Chapter 195
- 74 **72-6-107.5**, as last amended by Laws of Utah 2018, Chapter 319
- 75 **79-2-404**, as last amended by Laws of Utah 2018, Chapter 319
- 76 ENACTS:
- 77 **63A-5b-101**, Utah Code Annotated 1953
- 78 **63A-5b-102**, Utah Code Annotated 1953
- 79 **63A-5b-201**, Utah Code Annotated 1953
- 80 **63A-5b-202**, Utah Code Annotated 1953
- 81 **63A-5b-203**, Utah Code Annotated 1953
- 82 **63A-5b-303**, Utah Code Annotated 1953

- 83 **63A-5b-304**, Utah Code Annotated 1953
- 84 **63A-5b-305**, Utah Code Annotated 1953
- 85 **63A-5b-401**, Utah Code Annotated 1953
- 86 **63A-5b-402**, Utah Code Annotated 1953
- 87 **63A-5b-403**, Utah Code Annotated 1953
- 88 **63A-5b-404**, Utah Code Annotated 1953
- 89 **63A-5b-406**, Utah Code Annotated 1953
- 90 **63A-5b-501**, Utah Code Annotated 1953
- 91 **63A-5b-502**, Utah Code Annotated 1953
- 92 **63A-5b-601**, Utah Code Annotated 1953
- 93 **63A-5b-602**, Utah Code Annotated 1953
- 94 **63A-5b-603**, Utah Code Annotated 1953
- 95 **63A-5b-604**, Utah Code Annotated 1953
- 96 **63A-5b-606**, Utah Code Annotated 1953
- 97 **63A-5b-701**, Utah Code Annotated 1953
- 98 **63A-5b-702**, Utah Code Annotated 1953
- 99 **63A-5b-703**, Utah Code Annotated 1953
- 100 **63A-5b-801**, Utah Code Annotated 1953
- 101 **63A-5b-1001**, Utah Code Annotated 1953
- 102 **63A-5b-1101**, Utah Code Annotated 1953
- 103 **63A-5b-1103**, Utah Code Annotated 1953
- 104 **63A-5b-1104**, Utah Code Annotated 1953
- 105 **63A-5b-1105**, Utah Code Annotated 1953

106 **RENUMBERS AND AMENDS:**

107 **63A-5b-301**, (Renumbered from 63A-5-201, as renumbered and amended by Laws of
108 Utah 1993, Chapter 212)

109 **63A-5b-302**, (Renumbered from 63A-5-203, as renumbered and amended by Laws of

110 Utah 1993, Chapter 212)
111 **63A-5b-405**, (Renumbered from 63A-5-228, as enacted by Laws of Utah 2019, Chapter
112 468)
113 **63A-5b-503**, (Renumbered from 63A-5-211, as last amended by Laws of Utah 2011,
114 Chapter 303)
115 **63A-5b-605**, (Renumbered from 63A-5-208, as last amended by Laws of Utah 2016,
116 Chapter 348)
117 **63A-5b-607**, (Renumbered from 63A-5-205.5, as enacted by Laws of Utah 2018,
118 Chapter 319)
119 **63A-5b-608**, (Renumbered from 63A-5-207, as last amended by Laws of Utah 2000,
120 Chapter 231)
121 **63A-5b-609**, (Renumbered from 63A-5-209, as last amended by Laws of Utah 2019,
122 Chapter 468)
123 **63A-5b-610**, (Renumbered from 63A-5-219, as last amended by Laws of Utah 2002,
124 Fifth Special Session, Chapter 20)
125 **63A-5b-802**, (Renumbered from 63A-5-302, as last amended by Laws of Utah 2012,
126 Chapter 347)
127 **63A-5b-803**, (Renumbered from 63A-5-303, as enacted by Laws of Utah 1995, Chapter
128 113)
129 **63A-5b-804**, (Renumbered from 63A-5-304, as enacted by Laws of Utah 1995, Chapter
130 113)
131 **63A-5b-805**, (Renumbered from 63A-5-305, as last amended by Laws of Utah 2016,
132 Chapter 240)
133 **63A-5b-806**, (Renumbered from 63A-5-401, as last amended by Laws of Utah 2019,
134 Chapter 195)
135 **63A-5b-901**, (Renumbered from 63A-5a-102, as enacted by Laws of Utah 2019,
136 Chapter 195)

- 137 **63A-5b-902**, (Renumbered from 63A-5a-103, as enacted by Laws of Utah 2019,
138 Chapter 195)
- 139 **63A-5b-903**, (Renumbered from 63A-5a-104, as enacted by Laws of Utah 2019,
140 Chapter 195)
- 141 **63A-5b-904**, (Renumbered from 63A-5a-201, as enacted by Laws of Utah 2019,
142 Chapter 195)
- 143 **63A-5b-905**, (Renumbered from 63A-5a-202, as enacted by Laws of Utah 2019,
144 Chapter 195)
- 145 **63A-5b-906**, (Renumbered from 63A-5a-203, as enacted by Laws of Utah 2019,
146 Chapter 195)
- 147 **63A-5b-907**, (Renumbered from 63A-5a-204, as enacted by Laws of Utah 2019,
148 Chapter 195)
- 149 **63A-5b-908**, (Renumbered from 63A-5a-205, as enacted by Laws of Utah 2019,
150 Chapter 195)
- 151 **63A-5b-909**, (Renumbered from 63A-5a-206, as enacted by Laws of Utah 2019,
152 Chapter 195)
- 153 **63A-5b-910**, (Renumbered from 63A-5-215, as last amended by Laws of Utah 2018,
154 Chapter 404)
- 155 **63A-5b-911**, (Renumbered from 63A-5-224, as enacted by Laws of Utah 2009, Chapter
156 53)
- 157 **63A-5b-912**, (Renumbered from 63A-5-226, as enacted by Laws of Utah 2016, Chapter
158 298)
- 159 **63A-5b-1002**, (Renumbered from 63A-5-701, as last amended by Laws of Utah 2015,
160 Chapter 181)
- 161 **63A-5b-1003**, (Renumbered from 63A-5-603, as last amended by Laws of Utah 2016,
162 Chapter 322)
- 163 **63A-5b-1102**, (Renumbered from 63A-5-801, as last amended by Laws of Utah 2008,

164 Chapter 360 and renumbered and amended by Laws of Utah 2008, Chapter 382)
165 **63A-5b-1106**, (Renumbered from 63A-5-222, as last amended by Laws of Utah 2009,
166 Chapters 53 and 344)
167 **63A-5b-1107**, (Renumbered from 63A-5-225, as last amended by Laws of Utah 2019,
168 Chapter 246)
169 **REPEALS:**
170 **63A-5-100**, as enacted by Laws of Utah 2017, Chapter 355
171 **63A-5-101**, as last amended by Laws of Utah 2017, Chapter 355
172 **63A-5-101.5**, as enacted by Laws of Utah 2017, Chapter 355
173 **63A-5-102**, as last amended by Laws of Utah 2012, Chapter 199
174 **63A-5-103**, as last amended by Laws of Utah 2019, Chapter 195
175 **63A-5-104**, as last amended by Laws of Utah 2019, Chapters 468 and 482
176 **63A-5-202**, as enacted by Laws of Utah 1993, Chapter 212
177 **63A-5-204**, as last amended by Laws of Utah 2019, Chapters 195 and 255
178 **63A-5-205**, as last amended by Laws of Utah 2018, Chapter 319
179 **63A-5-206**, as last amended by Laws of Utah 2019, Chapter 195
180 **63A-5-216**, as renumbered and amended by Laws of Utah 1993, Chapter 212
181 **63A-5-223**, as enacted by Laws of Utah 2009, Chapter 217
182 **63A-5-301**, as last amended by Laws of Utah 2007, Chapter 12
183 **63A-5-501**, as renumbered and amended by Laws of Utah 2008, Chapter 382
184 **63A-5-502**, as last amended by Laws of Utah 2018, Chapter 148
185 **63A-5-601**, as renumbered and amended by Laws of Utah 2008, Chapters 334 and 382
186 **63A-5-602**, as last amended by Laws of Utah 2017, Chapter 181
187 **63A-5a-101**, as enacted by Laws of Utah 2019, Chapter 195
188 **Utah Code Sections Affected by Coordination Clause:**
189 **63A-5-205.5**, as enacted by Laws of Utah 2018, Chapter 319
190 **63A-5b-607**, Utah Code Annotated 1953

191

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

193 Section 1. Section **11-44-201** is amended to read:

194 **11-44-201. Political subdivision responsibilities -- State responsibilities.**

195 (1) A political subdivision may:

- 196 (a) enter into a performance efficiency agreement;
- 197 (b) develop and administer a performance efficiency program;
- 198 (c) analyze energy consumption by the political subdivision;
- 199 (d) designate a staff member who is responsible for a performance efficiency program;

200 and

201 (e) provide the governing body of the political subdivision with information regarding
202 the performance efficiency program.

203 (2) The following entities may provide information, technical resources, and other
204 assistance to a political subdivision acting under this chapter:

- 205 (a) the Utah Geological Survey, created in Section [79-3-201](#);
- 206 (b) the State Board of Education;
- 207 (c) the Division of Purchasing and General Services, created in Section [63A-2-101](#);

208 and

209 (d) the Division of Facilities Construction and Management, created in Section
210 ~~[63A-5-201]~~ [63A-5b-301](#).

211 Section 2. Section **11-59-302** is amended to read:

212 **11-59-302. Number of board members -- Appointment -- Vacancies -- Chairs.**

213 (1) The board shall consist of 11 members as provided in Subsection (2).

214 (2) (a) The president of the Senate shall appoint two members of the Senate to serve as
215 members of the board.

216 (b) The speaker of the House of Representatives shall appoint two members of the
217 House of Representatives to serve as members of the board.

218 (c) The governor shall appoint four individuals to serve as members of the board:

219 (i) one of whom shall be a member of the board of or employed by the Governor's
220 Office of Economic Development, created in Section [63N-1-201](#); and

221 (ii) one of whom shall be an employee of the Division of Facilities Construction and
222 Management, created in Section [~~63A-5-201~~] [63A-5b-301](#).

223 (d) The Salt Lake County mayor shall appoint one board member, who shall be an
224 elected Salt Lake County government official.

225 (e) The mayor of Draper, or a member of the Draper city council that the mayor
226 designates, shall serve as a board member.

227 (f) The commissioner of higher education, appointed under Section [53B-1-105](#), or the
228 commissioner's designee, shall serve as a board member.

229 (3) (a) (i) Subject to Subsection (3)(a)(ii), a vacancy on the board shall be filled in the
230 same manner under this section as the appointment of the member whose vacancy is being
231 filled.

232 (ii) If the mayor of Draper or commissioner of higher education is removed as a board
233 member under Subsection (5), the mayor of Draper or commissioner of higher education, as the
234 case may be, shall designate an individual to serve as a member of the board, as provided in
235 Subsection (2)(e) or (f), respectively.

236 (b) Each person appointed or designated to fill a vacancy shall serve the remaining
237 unexpired term of the member whose vacancy the person is filling.

238 (4) A member of the board appointed by the governor, president of the Senate, or
239 speaker of the House of Representatives serves at the pleasure of and may be removed and
240 replaced at any time, with or without cause, by the governor, president of the Senate, or speaker
241 of the House of Representatives, respectively.

242 (5) A member of the board may be removed by a vote of two-thirds of all members of
243 the board.

244 (6) (a) The governor shall appoint one board member to serve as cochair of the board.

245 (b) The president of the Senate and speaker of the House of Representatives shall
246 jointly appoint one legislative member of the board to serve as cochair of the board.

247 Section 3. Section **11-59-304** is amended to read:

248 **11-59-304. Staff and other support services -- Cooperation from state and local**
249 **government entities.**

250 (1) As used in this section:

251 (a) "Division" means the Division of Facilities Construction and Management, created
252 in Section [~~63A-5-201~~] [63A-5b-301](#).

253 (b) "Office" means the Governor's Office of Economic Development, created in
254 Section [63N-1-201](#).

255 (2) If and as requested by the board:

256 (a) the division shall:

257 (i) provide staff support to the board; and

258 (ii) make available to the board existing division resources and expertise to assist the
259 board in the development, marketing, and disposition of the point of the mountain state land;
260 and

261 (b) the office shall cooperate with and provide assistance to the board in the board's:

262 (i) formulation of a development plan for the point of the mountain state land; and

263 (ii) management and implementation of a development plan, including the marketing
264 of property and recruitment of businesses and others to locate on the point of the mountain
265 state land.

266 (3) A department, division, or other agency of the state and a political subdivision of
267 the state shall cooperate with the authority and the board to the fullest extent possible to
268 provide whatever support, information, or other assistance the board requests that is reasonably
269 necessary to help the authority fulfill its duties and responsibilities under this chapter.

270 Section 4. Section **11-59-501** is amended to read:

271 **11-59-501. Dissolution of authority -- Restrictions -- Publishing notice of**

272 **dissolution -- Authority records -- Dissolution expenses.**

273 (1) The authority may not be dissolved unless:

274 (a) the authority board first receives approval from the Legislative Management
275 Committee of the Legislature to dissolve the authority; and

276 (b) the authority has no outstanding bonded indebtedness, other unpaid loans,
277 indebtedness, or advances, and no legally binding contractual obligations with persons or
278 entities other than the state.

279 (2) To dissolve the authority, the board shall:

280 (a) obtain the approval of the Legislative Management Committee of the Legislature;
281 and

282 (b) adopt a resolution dissolving the authority, to become effective as provided in the
283 resolution.

284 (3) Upon the dissolution of the authority:

285 (a) the Governor's Office of Economic Development shall publish a notice of
286 dissolution:

287 (i) in a newspaper of general circulation in the county in which the dissolved authority
288 is located; and

289 (ii) as required in Section [45-1-101](#); and

290 (b) all title to property owned by the authority vests in the Division of Facilities
291 Construction and Management, created in Section [~~63A-5-201~~] [63A-5b-301](#), for the benefit of
292 the state.

293 (4) The board shall deposit all books, documents, records, papers, and seal of the
294 dissolved authority with the state auditor for safekeeping and reference.

295 (5) The authority shall pay all expenses of the deactivation and dissolution.

296 Section 5. Section **17B-2a-818.5** is amended to read:

297 **17B-2a-818.5. Contracting powers of public transit districts -- Health insurance**
298 **coverage.**

- 299 (1) As used in this section:
- 300 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
301 related to a single project.
- 302 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).
- 303 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
304 "operative" who:
- 305 (i) works at least 30 hours per calendar week; and
- 306 (ii) meets employer eligibility waiting requirements for health care insurance, which
307 may not exceed the first day of the calendar month following 60 days after the day on which
308 the individual is hired.
- 309 (d) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).
- 310 (e) "Qualified health insurance coverage" means the same as that term is defined in
311 Section [26-40-115](#).
- 312 (f) "Subcontractor" means the same as that term is defined in Section [[63A-5-208](#)]
313 [63A-5b-605](#).
- 314 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 315 (a) a contractor of a design or construction contract entered into by the public transit
316 district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or
317 greater than \$2,000,000; and
- 318 (b) a subcontractor of a contractor of a design or construction contract entered into by
319 the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount
320 equal to or greater than \$1,000,000.
- 321 (3) The requirements of this section do not apply to a contractor or subcontractor
322 described in Subsection (2) if:
- 323 (a) the application of this section jeopardizes the receipt of federal funds;
- 324 (b) the contract is a sole source contract; or
- 325 (c) the contract is an emergency procurement.

326 (4) A person that intentionally uses change orders, contract modifications, or multiple
327 contracts to circumvent the requirements of this section is guilty of an infraction.

328 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
329 public transit district that the contractor has and will maintain an offer of qualified health
330 insurance coverage for the contractor's employees and the employee's dependents during the
331 duration of the contract by submitting to the public transit district a written statement that:

332 (i) the contractor offers qualified health insurance coverage that complies with Section
333 26-40-115;

334 (ii) is from:

335 (A) an actuary selected by the contractor or the contractor's insurer; or

336 (B) an underwriter who is responsible for developing the employer group's premium
337 rates; and

338 (iii) was created within one year before the day on which the statement is submitted.

339 (b) A contractor that is subject to the requirements of this section shall:

340 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
341 is subject to the requirements of this section shall obtain and maintain an offer of qualified
342 health insurance coverage for the subcontractor's employees and the employees' dependents
343 during the duration of the subcontract; and

344 (ii) obtain from a subcontractor that is subject to the requirements of this section a
345 written statement that:

346 (A) the subcontractor offers qualified health insurance coverage that complies with
347 Section 26-40-115;

348 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an
349 underwriter who is responsible for developing the employer group's premium rates; and

350 (C) was created within one year before the day on which the contractor obtains the
351 statement.

352 (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance

353 coverage as described in Subsection (5)(a) during the duration of the contract is subject to
354 penalties in accordance with an ordinance adopted by the public transit district under
355 Subsection (6).

356 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
357 and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

358 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
359 insurance coverage described in Subsection (5)(b)(i) during the duration of the subcontract is
360 subject to penalties in accordance with an ordinance adopted by the public transit district under
361 Subsection (6).

362 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
363 an offer of qualified health insurance coverage described in Subsection (5)(a).

364 (6) The public transit district shall adopt ordinances:

365 (a) in coordination with:

366 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

367 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

368 (iii) the State Building Board in accordance with Section [~~63A-5-205.5~~] [63A-5b-607](#);

369 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#); and

370 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and

371 (b) that establish:

372 (i) the requirements and procedures a contractor and a subcontractor shall follow to
373 demonstrate compliance with this section, including:

374 (A) that a contractor or subcontractor's compliance with this section is subject to an
375 audit by the public transit district or the Office of the Legislative Auditor General;

376 (B) that a contractor that is subject to the requirements of this section shall obtain a
377 written statement described in Subsection (5)(a); and

378 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
379 written statement described in Subsection (5)(b)(ii);

380 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
381 violates the provisions of this section, which may include:

382 (A) a three-month suspension of the contractor or subcontractor from entering into
383 future contracts with the public transit district upon the first violation;

384 (B) a six-month suspension of the contractor or subcontractor from entering into future
385 contracts with the public transit district upon the second violation;

386 (C) an action for debarment of the contractor or subcontractor in accordance with
387 Section 63G-6a-904 upon the third or subsequent violation; and

388 (D) monetary penalties which may not exceed 50% of the amount necessary to
389 purchase qualified health insurance coverage for employees and dependents of employees of
390 the contractor or subcontractor who were not offered qualified health insurance coverage
391 during the duration of the contract; and

392 (iii) a website on which the district shall post the commercially equivalent benchmark,
393 for the qualified health insurance coverage identified in Subsection (1)(e), that is provided by
394 the Department of Health, in accordance with Subsection 26-40-115(2).

395 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor
396 or subcontractor who intentionally violates the provisions of this section is liable to the
397 employee for health care costs that would have been covered by qualified health insurance
398 coverage.

399 (ii) An employer has an affirmative defense to a cause of action under Subsection
400 (7)(a)(i) if:

401 (A) the employer relied in good faith on a written statement described in Subsection
402 (5)(a) or (5)(b)(ii); or

403 (B) a department or division determines that compliance with this section is not
404 required under the provisions of Subsection (3).

405 (b) An employee has a private right of action only against the employee's employer to
406 enforce the provisions of this Subsection (7).

407 (8) Any penalties imposed and collected under this section shall be deposited into the
408 Medicaid Restricted Account created in Section [26-18-402](#).

409 (9) The failure of a contractor or subcontractor to provide qualified health insurance
410 coverage as required by this section:

411 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
412 or contractor under:

413 (i) Section [63G-6a-1602](#); or

414 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

415 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
416 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
417 or construction.

418 Section 6. Section **19-1-206** is amended to read:

419 **19-1-206. Contracting powers of department -- Health insurance coverage.**

420 (1) As used in this section:

421 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
422 related to a single project.

423 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

424 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
425 "operative" who:

426 (i) works at least 30 hours per calendar week; and

427 (ii) meets employer eligibility waiting requirements for health care insurance, which
428 may not exceed the first day of the calendar month following 60 days after the day on which
429 the individual is hired.

430 (d) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

431 (e) "Qualified health insurance coverage" means the same as that term is defined in
432 Section [26-40-115](#).

433 (f) "Subcontractor" means the same as that term is defined in Section [[63A-5-208](#)]

434 [63A-5b-605](#).

435 (2) Except as provided in Subsection (3), the requirements of this section apply to:

436 (a) a contractor of a design or construction contract entered into by, or delegated to, the
437 department, or a division or board of the department, on or after July 1, 2009, if the prime
438 contract is in an aggregate amount equal to or greater than \$2,000,000; and

439 (b) a subcontractor of a contractor of a design or construction contract entered into by,
440 or delegated to, the department, or a division or board of the department, on or after July 1,
441 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

442 (3) This section does not apply to contracts entered into by the department or a division
443 or board of the department if:

444 (a) the application of this section jeopardizes the receipt of federal funds;

445 (b) the contract or agreement is between:

446 (i) the department or a division or board of the department; and

447 (ii) (A) another agency of the state;

448 (B) the federal government;

449 (C) another state;

450 (D) an interstate agency;

451 (E) a political subdivision of this state; or

452 (F) a political subdivision of another state;

453 (c) the executive director determines that applying the requirements of this section to a
454 particular contract interferes with the effective response to an immediate health and safety
455 threat from the environment; or

456 (d) the contract is:

457 (i) a sole source contract; or

458 (ii) an emergency procurement.

459 (4) A person that intentionally uses change orders, contract modifications, or multiple
460 contracts to circumvent the requirements of this section is guilty of an infraction.

461 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
462 executive director that the contractor has and will maintain an offer of qualified health
463 insurance coverage for the contractor's employees and the employees' dependents during the
464 duration of the contract by submitting to the executive director a written statement that:

465 (i) the contractor offers qualified health insurance coverage that complies with Section
466 [26-40-115](#);

467 (ii) is from:

468 (A) an actuary selected by the contractor or the contractor's insurer; or

469 (B) an underwriter who is responsible for developing the employer group's premium
470 rates; and

471 (iii) was created within one year before the day on which the statement is submitted.

472 (b) A contractor that is subject to the requirements of this section shall:

473 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
474 is subject to the requirements of this section shall obtain and maintain an offer of qualified
475 health insurance coverage for the subcontractor's employees and the employees' dependents
476 during the duration of the subcontract; and

477 (ii) obtain from a subcontractor that is subject to the requirements of this section a
478 written statement that:

479 (A) the subcontractor offers qualified health insurance coverage that complies with
480 Section [26-40-115](#);

481 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an
482 underwriter who is responsible for developing the employer group's premium rates; and

483 (C) was created within one year before the day on which the contractor obtains the
484 statement.

485 (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance
486 coverage described in Subsection (5)(a) during the duration of the contract is subject to
487 penalties in accordance with administrative rules adopted by the department under Subsection

488 (6).

489 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
490 and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

491 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
492 insurance coverage described in Subsection (5)(b) during the duration of the subcontract is
493 subject to penalties in accordance with administrative rules adopted by the department under
494 Subsection (6).

495 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
496 an offer of qualified health insurance coverage described in Subsection (5)(a).

497 (6) The department shall adopt administrative rules:

498 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

499 (b) in coordination with:

500 (i) a public transit district in accordance with Section [17B-2a-818.5](#);

501 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

502 (iii) the State Building Board in accordance with Section ~~[[63A-5-205.5](#)]~~ [63A-5b-607](#);

503 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#);

504 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and

505 (vi) the Legislature's Administrative Rules Review Committee; and

506 (c) that establish:

507 (i) the requirements and procedures a contractor and a subcontractor shall follow to
508 demonstrate compliance with this section, including:

509 (A) that a contractor or subcontractor's compliance with this section is subject to an
510 audit by the department or the Office of the Legislative Auditor General;

511 (B) that a contractor that is subject to the requirements of this section shall obtain a
512 written statement described in Subsection (5)(a); and

513 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
514 written statement described in Subsection (5)(b)(ii);

515 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
516 violates the provisions of this section, which may include:

517 (A) a three-month suspension of the contractor or subcontractor from entering into
518 future contracts with the state upon the first violation;

519 (B) a six-month suspension of the contractor or subcontractor from entering into future
520 contracts with the state upon the second violation;

521 (C) an action for debarment of the contractor or subcontractor in accordance with
522 Section [63G-6a-904](#) upon the third or subsequent violation; and

523 (D) notwithstanding Section [19-1-303](#), monetary penalties which may not exceed 50%
524 of the amount necessary to purchase qualified health insurance coverage for an employee and
525 the dependents of an employee of the contractor or subcontractor who was not offered qualified
526 health insurance coverage during the duration of the contract; and

527 (iii) a website on which the department shall post the commercially equivalent
528 benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is
529 provided by the Department of Health, in accordance with Subsection [26-40-115\(2\)](#).

530 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
531 or subcontractor who intentionally violates the provisions of this section is liable to the
532 employee for health care costs that would have been covered by qualified health insurance
533 coverage.

534 (ii) An employer has an affirmative defense to a cause of action under Subsection
535 (7)(a)(i) if:

536 (A) the employer relied in good faith on a written statement described in Subsection
537 (5)(a) or (5)(b)(ii); or

538 (B) the department determines that compliance with this section is not required under
539 the provisions of Subsection (3).

540 (b) An employee has a private right of action only against the employee's employer to
541 enforce the provisions of this Subsection (7).

542 (8) Any penalties imposed and collected under this section shall be deposited into the
543 Medicaid Restricted Account created in Section 26-18-402.

544 (9) The failure of a contractor or subcontractor to provide qualified health insurance
545 coverage as required by this section:

546 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
547 or contractor under:

548 (i) Section 63G-6a-1602; or

549 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

550 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
551 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
552 or construction.

553 Section 7. Section 26-18-402 is amended to read:

554 **26-18-402. Medicaid Restricted Account.**

555 (1) There is created a restricted account in the General Fund known as the Medicaid
556 Restricted Account.

557 (2) (a) Except as provided in Subsection (3), the following shall be deposited into the
558 Medicaid Restricted Account:

559 (i) any general funds appropriated to the department for the state plan for medical
560 assistance or for the Division of Health Care Financing that are not expended by the
561 department in the fiscal year for which the general funds were appropriated and which are not
562 otherwise designated as nonlapsing shall lapse into the Medicaid Restricted Account;

563 (ii) any unused state funds that are associated with the Medicaid program, as defined in
564 Section 26-18-2, from the Department of Workforce Services and the Department of Human
565 Services; and

566 (iii) any penalties imposed and collected under:

567 (A) Section 17B-2a-818.5;

568 (B) Section 19-1-206;

569 (C) Section [~~63A-5-205.5~~] 63A-5b-607;

570 (D) Section 63C-9-403;

571 (E) Section 72-6-107.5; or

572 (F) Section 79-2-404.

573 (b) The account shall earn interest and all interest earned shall be deposited into the
574 account.

575 (c) The Legislature may appropriate money in the restricted account to fund programs
576 that expand medical assistance coverage and private health insurance plans to low income
577 persons who have not traditionally been served by Medicaid, including the Utah Children's
578 Health Insurance Program created in Chapter 40, Utah Children's Health Insurance Act.

579 (3) For fiscal years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 the following
580 funds are nonlapsing:

581 (a) any general funds appropriated to the department for the state plan for medical
582 assistance, or for the Division of Health Care Financing that are not expended by the
583 department in the fiscal year in which the general funds were appropriated; and

584 (b) funds described in Subsection (2)(a)(ii).

585 Section 8. Section **26-40-115** is amended to read:

586 **26-40-115. State contractor -- Employee and dependent health benefit plan**
587 **coverage.**

588 (1) For purposes of Sections 17B-2a-818.5, 19-1-206, [~~63A-5-205.5~~] 63A-5b-607,
589 63C-9-403, 72-6-107.5, and 79-2-404, "qualified health insurance coverage" means, at the time
590 the contract is entered into or renewed:

591 (a) a health benefit plan and employer contribution level with a combined actuarial
592 value at least actuarially equivalent to the combined actuarial value of the benchmark plan
593 determined by the program under Subsection 26-40-106(1)(a), and a contribution level at
594 which the employer pays at least 50% of the premium for the employee and the dependents of
595 the employee who reside or work in the state; or

596 (b) a federally qualified high deductible health plan that, at a minimum:
597 (i) has a deductible that is:
598 (A) the lowest deductible permitted for a federally qualified high deductible health
599 plan; or
600 (B) a deductible that is higher than the lowest deductible permitted for a federally
601 qualified high deductible health plan, but includes an employer contribution to a health savings
602 account in a dollar amount at least equal to the dollar amount difference between the lowest
603 deductible permitted for a federally qualified high deductible plan and the deductible for the
604 employer offered federally qualified high deductible plan;
605 (ii) has an out-of-pocket maximum that does not exceed three times the amount of the
606 annual deductible; and
607 (iii) provides that the employer pays 60% of the premium for the employee and the
608 dependents of the employee who work or reside in the state.
609 (2) The department shall:
610 (a) on or before July 1, 2016:
611 (i) determine the commercial equivalent of the benchmark plan described in Subsection
612 (1)(a); and
613 (ii) post the commercially equivalent benchmark plan described in Subsection (2)(a)(i)
614 on the department's website, noting the date posted; and
615 (b) update the posted commercially equivalent benchmark plan annually and at the
616 time of any change in the benchmark.
617 Section 9. Section **51-11-102** is amended to read:
618 **51-11-102. Definitions.**
619 As used in this chapter:
620 (1) "Division" means the Division of Facilities Construction and Management created
621 in Section [~~63A-5-201~~] 63A-5b-301.
622 (2) "Fund" means the Winter Sports Venue Grant Fund.

623 (3) "Improve" or "improvements" means the replacement or addition to infrastructure,
624 buildings, building components, or facility equipment.

625 (4) "Venue" means a facility:

626 (a) designed and currently approved under standards developed by a generally
627 recognized sports federation to host world-class level, international winter sports competitions;
628 and

629 (b) used for recreational, developmental, and competitive athletic training.

630 (5) "Venue operator" means a person who:

631 (a) (i) operates a venue; and

632 (ii) the venue is exempt from federal income taxation under Section 501(c)(3), Internal
633 Revenue Code; or

634 (b) owns a venue or operates a venue under contract with the public owner of the
635 venue.

636 Section 10. Section **53B-2-109** is amended to read:

637 **53B-2-109. Notice to local government when constructing student housing.**

638 (1) Each institution that intends to construct student housing on property owned by the
639 institution shall provide written notice of the intended construction, as provided in Subsection
640 (2), before any funds are committed to the construction, if any of the proposed student housing
641 buildings is within 300 feet of privately owned residential property.

642 (2) Each notice under Subsection (1) shall be provided to the legislative body and, if
643 applicable, the mayor of:

644 (a) the county in whose unincorporated area the privately owned residential property is
645 located; or

646 (b) the municipality in whose boundaries the privately owned residential property is
647 located.

648 (3) (a) (i) Within 21 days after receiving the notice required by Subsection (1), a county
649 or municipality entitled to the notice may submit a written request to the institution for a public

650 hearing on the proposed student housing construction.

651 (ii) Each county or municipality that submits a written request for a hearing under
652 Subsection (3)(a) shall deliver a copy of the request to the Division of Facilities Construction
653 and Management.

654 (b) If a county or municipality requests a hearing under Subsection (3)(a), the
655 legislative body of the affected county or municipality and the institution shall jointly hold a
656 public hearing to provide information to the public and to allow the institution and the county
657 or municipality to receive input from the public about the proposed student housing
658 construction.

659 (c) A public hearing held under Subsection (3)(a) satisfies the public hearing
660 requirement of Subsection [~~63A-5-206(13)(b)~~] 63A-5b-1104(2) for the same proposed student
661 housing construction.

662 Section 11. Section **53B-2a-101** is amended to read:

663 **53B-2a-101. Definitions.**

664 As used in this chapter:

665 (1) "Board of trustees" means the UTech Board of Trustees.

666 (2) "Capital [~~developments~~] development" means the same as [~~that term is~~] capital
667 development project, as defined in Section [~~63A-5-104~~] 63A-5b-401.

668 (3) "Commissioner of technical education" means the UTech commissioner of
669 technical education.

670 (4) "Competency-based" means mastery of subject matter or skill level, as
671 demonstrated through business and industry approved standards and assessments, achieved
672 through participation in a hands-on learning environment, and which is tied to observable,
673 measurable performance objectives.

674 (5) "Dedicated project" means a capital development project for which state funds from
675 the Technical Colleges Capital Projects Fund created in Section **53B-2a-118** are requested or
676 used.

677 (6) "Nondedicated project" means a capital development project for which state funds
678 from a source other than the Technical Colleges Capital Projects Fund created in Section
679 [53B-2a-118](#) are requested or used.

680 (7) "Open-entry, open-exit" means:

681 (a) a method of instructional delivery that allows for flexible scheduling in response to
682 individual student needs or requirements and demonstrated competency when knowledge and
683 skills have been mastered;

684 (b) students have the flexibility to begin or end study at any time, progress through
685 course material at their own pace, and demonstrate competency when knowledge and skills
686 have been mastered; and

687 (c) if competency is demonstrated in a program of study, a credential, certificate, or
688 diploma may be awarded.

689 (8) "State funds" means the same as that term is defined in Section [~~63A-5-104~~]
690 [63A-5b-401](#).

691 (9) "UTech" means the Utah System of Technical Colleges described in Section
692 [53B-1-102](#).

693 Section 12. Section **53B-2a-117** is amended to read:

694 **53B-2a-117. Legislative approval -- Capital development projects --**

695 **Prioritization.**

696 (1) As used in this section:

697 (a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers
698 as published by the Bureau of Labor Statistics of the United States Department of Labor.

699 (b) "Fund" means the Technical Colleges Capital Projects Fund created in Section
700 [53B-2a-118](#).

701 (2) In accordance with this section, a technical college is required to receive legislative
702 approval in an appropriations act for a dedicated project or a nondedicated project.

703 (3) In accordance with Section [53B-2a-112](#), a technical college shall submit to the

704 board of trustees a proposal for a funding request for each dedicated project or nondedicated
705 project for which the technical college seeks legislative approval.

706 (4) The board of trustees shall:

707 (a) review each proposal submitted under Subsection (3) to ensure that the proposal
708 complies with Section [53B-2a-112](#);

709 (b) based on the results of the board of trustees' review under Subsection (4)(a), create:

710 (i) a list of approved dedicated projects, prioritized in accordance with Subsection (6);

711 and

712 (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection
713 (6); and

714 (c) submit the lists described in Subsection (4)(b) to:

715 (i) the governor;

716 (ii) the Infrastructure and General Government Appropriations Subcommittee;

717 (iii) the Higher Education Appropriations Subcommittee; and

718 (iv) the State Building Board for the State Building Board's:

719 (A) recommendation, for the list described in Subsection (4)(b)(i); or

720 (B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

721 (5) A dedicated project:

722 (a) is subject to the State Building Board's recommendation as described in Section
723 ~~[63A-5-104]~~ [63A-5b-403](#); and

724 (b) is not subject to the State Building Board's prioritization as described in Section
725 ~~[63A-5-104]~~ [63A-5b-403](#).

726 (6) (a) Subject to Subsection (7), the board of trustees shall prioritize funding requests
727 for capital development projects described in this section based on:

728 (i) growth and capacity;

729 (ii) effectiveness and support of critical programs;

730 (iii) cost effectiveness;

731 (iv) building deficiencies and life safety concerns; and

732 (v) alternative funding sources.

733 (b) On or before August 1, 2019, the board of trustees shall establish:

734 (i) how the board of trustees will measure each factor described in Subsection (6)(a);

735 and

736 (ii) procedures for prioritizing funding requests for capital development projects

737 described in this section.

738 (7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board
739 of trustees may annually prioritize:

740 (i) up to three nondedicated projects if the ongoing appropriation to the fund is less
741 than \$7,000,000;

742 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least
743 \$7,000,000 but less than \$14,000,000; or

744 (iii) one nondedicated project if the ongoing appropriation to the fund is at least
745 \$14,000,000.

746 (b) For each calendar year beginning on or after January 1, 2020, the dollar amounts
747 described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage
748 difference between:

749 (i) the Consumer Price Index for the 2019 calendar year; and

750 (ii) the Consumer Price Index for the previous calendar year.

751 (8) (a) A technical college may request operations and maintenance funds for a capital
752 development project approved under this section.

753 (b) The Legislature shall consider a technical college's request described in Subsection
754 (8)(a).

755 Section 13. Section **53B-22-201** is amended to read:

756 **53B-22-201. Definitions.**

757 As used in this part:

758 (1) "Capital [~~developments~~] development" means the same as [~~that term is~~] capital
759 development project, as defined in Section [~~63A-5-104~~] 63A-5b-401.

760 (2) "Consumer Price Index" means the Consumer Price Index for All Urban
761 Consumers as published by the Bureau of Labor Statistics of the United States Department of
762 Labor.

763 (3) "Dedicated project" means a capital development project for which state funds from
764 an institution's allocation are requested or used.

765 (4) "Fund" means the Higher Education Capital Projects Fund created in Section
766 53B-22-202.

767 (5) "Institution" means a college or university that is part of the Utah System of Higher
768 Education described in Section 53B-1-102.

769 (6) "Institution's allocation" means the total amount of money in the fund that an
770 institution has been allocated in accordance with Section 53B-22-203.

771 (7) "Nondedicated project" means a capital development project for which state funds
772 from a source other than an institution's allocation are requested or used.

773 (8) "State funds" means the same as that term is defined in Section [~~63A-5-104~~]
774 63A-5b-401.

775 Section 14. Section **53B-22-204** is amended to read:

776 **53B-22-204. Funding request for capital development project -- Legislative**
777 **approval -- Board prioritization, approval, and review.**

778 (1) In accordance with this section, an institution is required to receive legislative
779 approval in an appropriations act for a dedicated project or a nondedicated project.

780 (2) An institution shall submit to the board a proposal for a funding request for each
781 dedicated project or nondedicated project for which the institution seeks legislative approval.

782 (3) The board shall:

783 (a) review each proposal submitted under Subsection (2) to ensure the proposal:

784 (i) is cost effective and an efficient use of resources;

- 785 (ii) is consistent with the institution's mission and master plan; and
786 (iii) fulfills a critical institutional facility need;
- 787 (b) based on the results of the board's review under Subsection (3)(a), create:
788 (i) a list of approved dedicated projects; and
789 (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection
790 (5); and
- 791 (c) submit the lists described in Subsection (3)(b) to:
792 (i) the governor;
793 (ii) the Infrastructure and General Government Appropriations Subcommittee;
794 (iii) the Higher Education Appropriations Subcommittee; and
795 (iv) the State Building Board for the State Building Board's:
796 (A) recommendation, for the list described in Subsection (3)(b)(i); or
797 (B) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).
798 (4) A dedicated project:
799 (a) is subject to the State Building Board's recommendation as described in Section
800 ~~[63A-5-104]~~ [63A-5b-403](#); and
801 (b) is not subject to the State Building Board's prioritization as described in Section
802 ~~[63A-5-104]~~ [63A-5b-403](#).
- 803 (5) (a) Subject to Subsection (6), the board shall prioritize institution requests for
804 funding for nondedicated projects based on:
805 (i) capital facility need;
806 (ii) utilization of facilities;
807 (iii) maintenance and condition of facilities; and
808 (iv) any other factor determined by the board.
- 809 (b) On or before August 1, 2019, the board shall establish how the board will prioritize
810 institution requests for funding for nondedicated projects, including:
811 (i) how the board will measure each factor described in Subsection (5)(a); and

812 (ii) procedures for prioritizing requests.

813 (6) (a) Subject to Subsection (6)(b), and in accordance with Subsection (5), the board
814 may annually prioritize:

815 (i) up to three nondedicated projects if the ongoing appropriation to the fund is less
816 than \$50,000,000;

817 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least
818 \$50,000,000 but less than \$100,000,000; or

819 (iii) one nondedicated project if the ongoing appropriation to the fund is at least
820 \$100,000,000.

821 (b) For each calendar year beginning on or after January 1, 2020, the dollar amounts
822 described in Subsection (6)(a) shall be adjusted by an amount equal to the percentage
823 difference between:

824 (i) the Consumer Price Index for the 2019 calendar year; and

825 (ii) the Consumer Price Index for the previous calendar year.

826 (7) (a) An institution may request operations and maintenance funds for a capital
827 development project approved under this section.

828 (b) The Legislature shall consider an institution's request described in Subsection
829 (7)(a).

830 (8) After an institution completes a capital development project described in this
831 section, the board shall review the capital development project, including the costs and design
832 of the capital development project.

833 Section 15. Section **63A-1-112** is amended to read:

834 **63A-1-112. Certificates of participation -- Legislative approval required --**
835 **Definition -- Exception.**

836 (1) (a) Certificates of participation for either capital facilities or capital improvements
837 may not be issued by the department, its subdivisions, or any other state agency after July 1,
838 1985, without prior legislative approval.

839 (b) Nothing in this section affects the rights and obligations surrounding certificates of
840 participation that were issued prior to July 1, 1985.

841 (2) (a) As used in this section, "certificate of participation" means an instrument that
842 acts as evidence of the certificate holder's undivided interest in property being lease-purchased,
843 the payment on which is subject to appropriation by the Legislature.

844 (b) (i) As used in this Subsection (2)(b), "performance efficiency agreement" means the
845 same as that term is defined in Section [~~63A-5-701~~] [63A-5b-1001](#).

846 (ii) "Certificate of participation" does not include a performance efficiency agreement.
847 Section 16. Section **63A-5b-101** is enacted to read:

848 **CHAPTER 5b. ADMINISTRATION OF STATE FACILITIES**

849 **Part 1. General Provisions**

850 **63A-5b-101. Title.**

851 This chapter is known as "Administration of State Facilities."

852 Section 17. Section **63A-5b-102** is enacted to read:

853 **63A-5b-102. Definitions.**

854 As used in this chapter:

855 (1) "Board" means the state building board created in Section [63A-5b-201](#).

856 (2) "Board of Regents" means the State Board of Regents established in Section
857 [53B-1-103](#).

858 (3) "Capitol hill facilities" means the same as that term is defined in Section
859 [63C-9-102](#).

860 (4) "Capitol hill grounds" means the same as that term is defined in Section [63C-9-102](#).

861 (5) "Compliance agency" means the same as that term is defined in Section [15A-1-202](#).

862 (6) "Director" means the division director, appointed under Section [63A-5b-302](#).

863 (7) "Division" means the Division of Facilities Construction and Management created
864 in Section [63A-5b-301](#).

865 (8) "Institution of higher education" means an institution listed in Subsection

866 [53B-2-101](#)(1).

867 (9) "Trust lands administration" means the School and Institutional Trust Lands
868 Administration established in Section [53C-1-201](#).

869 (10) "UTech board" means the UTech Board of Trustees created in Section
870 [53B-2a-103](#).

871 Section 18. Section **63A-5b-201** is enacted to read:

872 **Part 2. State Building Board**

873 **63A-5b-201. Creation of state building board -- Composition -- Appointment --**
874 **Per diem and expenses -- Board officers.**

875 (1) There is created within the department the state building board.

876 (2) (a) The board is composed of eight members, seven of whom are voting members
877 appointed by the governor.

878 (b) The executive director of the Governor's Office of Management and Budget, or the
879 executive director's designee, is a nonvoting member of the board.

880 (3) The term of a voting board member is four years, except that the governor shall, at
881 the time of a member's appointment or reappointment, adjust the length of the member's term,
882 as necessary, to ensure that approximately half of the board is appointed every two years.

883 (4) When a vacancy occurs in the membership of the voting members of the board for
884 any reason, the governor shall appoint a replacement for the unexpired term of the member
885 who created the vacancy.

886 (5) (a) A voting board member shall hold office until a successor is appointed and
887 qualified.

888 (b) A voting board member may not serve more than two consecutive terms.

889 (6) The governor shall designate one board member as the board chair.

890 (7) A member of the board may not receive compensation or benefits for the member's
891 service on the board, but may receive per diem and travel expenses in accordance with:

892 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

893 (b) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
894 [63A-3-107](#).

895 (8) A member of the board is not required to post a bond for the performance of the
896 member's official duties.

897 (9) The executive director or the executive director's designee shall serve as secretary
898 to the board and shall:

899 (a) manage scheduling for the board and the board's calendar;

900 (b) establish and manage the agenda for meetings of the board;

901 (c) keep the minutes of board meetings;

902 (d) assist the board in the board's obligation to comply with Title 52, Chapter 4, Utah
903 Open and Public Meetings Act;

904 (e) (i) assist the board in the board's obligation to comply with Title 63G, Chapter 2,
905 Government Records Access and Management Act; and

906 (ii) act as the board's records officer, as defined in Section [63G-2-103](#); and

907 (f) assist the board in the board's obligation to comply with Title 63G, Chapter 3, Utah
908 Administrative Rulemaking Act.

909 Section 19. Section **63A-5b-202** is enacted to read:

910 **63A-5b-202. State building Board powers and duties.**

911 (1) The board may, in accordance with Title 63G, Chapter 3, Utah Administrative
912 Rulemaking Act, make rules that are necessary to discharge the board's duties.

913 (2) The board shall:

914 (a) review and approve agency master plans of structures built or contemplated;

915 (b) submit capital development recommendations and priorities to the Legislature as
916 set forth in Section [63A-5b-402](#);

917 (c) submit recommendations for dedicated projects and prioritize nondedicated projects
918 as provided in Section [63A-5b-403](#);

919 (d) make a finding that the requirements of Section [53B-2a-112](#) are met before the

920 board may consider a funding request from the UTech board pertaining to new capital facilities
921 and land purchases; and

922 (e) fulfill the board's responsibilities under:

923 (i) Section 63A-5b-802, relating to the approval of leases with terms of more than 10
924 years;

925 (ii) Section 63A-5b-907, relating to vacant division-owned property; and

926 (iii) Section 63A-5b-1003, relating to the approval of loans from the state facility
927 energy efficiency fund.

928 (3) The board may:

929 (a) authorize capital development projects without Legislative approval only as
930 authorized in Section 63A-5b-404; and

931 (b) make rules relating to the categorical delegation of projects as provided in
932 Subsection 63A-5b-604(4).

933 Section 20. Section **63A-5b-203** is enacted to read:

934 **63A-5b-203. Meetings of state building board -- Rules of procedure -- Quorum.**

935 (1) The board shall meet quarterly and at other times at the call of the executive
936 director or at the request of the board chair.

937 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
938 board shall adopt rules of procedure for the conduct of the board's meetings.

939 (3) Four members of the board constitute a quorum for the transaction of business.

940 (4) The board shall conduct all meetings of the board in accordance with Title 52,
941 Chapter 4, Open and Public Meetings Act.

942 Section 21. Section **63A-5b-301**, which is renumbered from Section 63A-5-201 is
943 renumbered and amended to read:

944 **Part 3. Division of Facilities Construction and Management**

945 **~~[63A-5-201].~~ 63A-5b-301. Creation -- Administration.**

946 There is created within the department the Division of Facilities Construction and

947 Management, to be administered by a director.

948 Section 22. Section **63A-5b-302**, which is renumbered from Section 63A-5-203 is
949 renumbered and amended to read:

950 ~~[63A-5-203]~~. **63A-5b-302. Director of division -- Appointment.**

951 The executive director shall appoint the director of the division with the approval of the
952 governor.

953 Section 23. Section **63A-5b-303** is enacted to read:

954 **63A-5b-303. Duties and authority of division.**

955 (1) (a) The division shall:

956 (i) subject to Subsection (1)(b), supervise and control the allocation of space, in
957 accordance with legislative directive through annual appropriations acts, other legislation, or
958 statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except
959 as provided in Subsection (3) or as otherwise provided by statute;

960 (ii) assure the efficient use of all building space under the division's supervision and
961 control;

962 (iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by
963 the state or an agency, as authorized by the Legislature through an appropriation act, other
964 legislation, or statute, subject to Subsection (1)(c);

965 (iv) except as otherwise provided by statute, hold title to all real property, buildings,
966 fixtures, and appurtenances owned by the state or an agency;

967 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing
968 title to or an interest in property belonging to the state or of the state's departments, except
969 institutions of higher education and the trust lands administration;

970 (vi) (A) periodically conduct a market analysis of proposed rates and fees; and

971 (B) include in a market analysis a comparison of the division's rates and fees with the
972 rates and fees of other public or private sector providers of comparable services, if rates and
973 fees for comparable services are reasonably available;

974 (vii) implement the state building energy efficiency program under Section
975 63A-5b-1002;

976 (viii) convey, lease, or dispose of the real property, water rights, or water shares
977 associated with the Utah State Developmental Center if directed to do so by the Utah State
978 Developmental Center board, as provided in Subsection 62A-5-206.6(2); and

979 (ix) take all other action that the division is required to do under this chapter or other
980 applicable statute.

981 (b) In making an allocation of space under Subsection (1)(a)(i), the division shall
982 conduct one or more studies to determine the actual needs of each agency.

983 (c) The division may, without legislative approval, acquire title to real property for use
984 by the state or an agency if the acquisition cost does not exceed \$250,000.

985 (2) The division may:

986 (a) sue and be sued;

987 (b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or
988 otherwise, and hold real or personal property necessary for the discharge of the division's
989 duties; and

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

991 (3) (a) The division may not supervise or control the allocation of space for an
992 institution of higher education or an entity in the public education system.

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

994 (c) The supervision and control of the trial courts area is reserved to the judiciary.

995 (d) The supervision and control of capitol hill facilities and capitol hill grounds is
996 reserved to the State Capitol Preservation Board.

997 (4) Before the division charges a rate, fee, or other amount for a service provided by
998 the division's internal service fund to an executive branch agency, or to a service subscriber
999 other than an executive branch agency, the division shall:

1000 (a) submit an analysis of the proposed rate, fee, or other amount to the rate committee

1001 created in Section 63A-1-114; and

1002 (b) obtain the approval of the Legislature as required by Section 63J-1-410.

1003 Section 24. Section **63A-5b-304** is enacted to read:

1004 **63A-5b-304. Agencies authorized to hold title.**

1005 Notwithstanding Section 63A-5b-303, an agency may hold title to real property that the
1006 agency occupies for a purpose other than the agency's administrative offices, if the agency is:

1007 (1) the Department of Transportation;

1008 (2) the Department of Natural Resources;

1009 (3) the Department of Workforce Services;

1010 (4) the Division of Forestry, Fire, and State Lands;

1011 (5) the Utah National Guard;

1012 (6) an area vocational center or other institution administered by the State Board of

1013 Education;

1014 (7) the trust lands administration; and

1015 (8) an institution of higher education.

1016 Section 25. Section **63A-5b-305** is enacted to read:

1017 **63A-5b-305. Duties and authority of director.**

1018 (1) The director shall:

1019 (a) administer the division's duties and responsibilities;

1020 (b) report all property acquired by the state, except property acquired by an institution

1021 of higher education or the trust lands administration, to the director of the Division of Finance

1022 for inclusion in the state's financial records;

1023 (c) after receiving the notice required under Subsection 10-2-419(3)(d), file a written

1024 protest at or before the public hearing under Subsection 10-2-419(2)(b), if:

1025 (i) it is in the best interest of the state to protest the boundary adjustment; or

1026 (ii) the Legislature instructs the director to protest the boundary adjustment; and

1027 (d) take all other action that the director is required to take under this chapter or other

1028 applicable statute.

1029 (2) The director may:

1030 (a) create forms and make policies necessary for the division or director to perform the
1031 division or director's duties;

1032 (b) (i) hire or otherwise procure assistance and service, professional, skilled, or
1033 otherwise, necessary to carry out the director's duties under this chapter; and

1034 (ii) expend funds provided for the purpose described in Subsection (2)(b)(i) through
1035 annual operation budget appropriations or from other nonlapsing project funds;

1036 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1037 make rules necessary for the division or director to perform the division or director's duties;
1038 and

1039 (d) take all other action necessary for carrying out the purposes of this chapter.

1040 Section 26. Section **63A-5b-401** is enacted to read:

1041 **Part 4. Development of Capital Facilities**

1042 **63A-5b-401. Definitions.**

1043 As used in this part:

1044 (1) (a) "Capital development project" means:

1045 (i) a remodeling or site or utility improvement project with a total cost of \$3,500,000 or
1046 more;

1047 (ii) a new facility with a construction cost of \$500,000 or more; or

1048 (iii) a purchase of real property if an appropriation is requested and made for the
1049 purchase.

1050 (b) "Capital development project" does not include a capital improvement project.

1051 (2) "Capital improvement project" means:

1052 (a) a remodeling, alteration, replacement, repair, or site or utility improvement project:

1053 (i) with a total cost of less than \$3,500,000; or

1054 (ii) (A) with a total cost of \$3,500,000 or more; and

1055 (B) that will be paid for with funds that are not state funds;
1056 (b) a utility infrastructure improvement project that:
1057 (i) has a total cost of less than \$7,000,000;
1058 (ii) consists of two or more projects that, if done separately, would each cost less than
1059 \$3,500,000; and
1060 (iii) the division determines is more cost effective or feasible to be completed as a
1061 single project; or
1062 (c) a new facility with a total construction cost of less than \$500,000.
1063 (3) (a) "New facility" means a new building constructed on state property regardless of
1064 the source of the funding that pays for construction of the new building.
1065 (b) "New facility" includes:
1066 (i) an addition to an existing building; and
1067 (ii) the enclosure of space that was not previously fully enclosed.
1068 (c) "New facility" does not include:
1069 (i) the replacement of state-owned space that is demolished or that is otherwise
1070 removed from state use, if the total construction cost of the replacement space is less than
1071 \$3,500,000; or
1072 (ii) the construction of facilities that do not fully enclose a space.
1073 (4) "Replacement cost" means, as determined by the Division of Risk Management:
1074 (a) for state facilities, excluding auxiliary facilities as defined by the director, the cost
1075 to replace those facilities; and
1076 (b) for infrastructure, as defined by the director, the cost to replace the infrastructure.
1077 (5) "State funds" means public money appropriated by the Legislature.
1078 Section 27. Section **63A-5b-402** is enacted to read:
1079 **63A-5b-402. Capital development process -- Approval requirements.**
1080 (1) Except as provided in Section [63A-5b-404](#), the board shall, on behalf of all
1081 agencies, submit capital development project recommendations and priorities to the Legislature

1082 for approval and prioritization.

1083 (2) An agency that requests an appropriation for a capital development project shall
1084 submit to the division for transmission to the board a capital development project request and a
1085 feasibility study relating to the capital development project.

1086 (3) (a) The division shall, in consultation with the board and in accordance with Title
1087 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards and
1088 requirements for a capital development project request and feasibility study.

1089 (b) The rules shall include:

1090 (i) a deadline by which an agency is required to submit a capital development project
1091 request;

1092 (ii) conditions under which an agency may modify the agency's capital development
1093 project request after the agency submits the request, and requirements applicable to a
1094 modification; and

1095 (iii) requirements for the contents of a feasibility study, including:

1096 (A) the need for the capital development project;

1097 (B) the appropriateness of the scope of the capital development project;

1098 (C) any private funding for the capital development project; and

1099 (D) the economic and community impacts of the capital development project.

1100 (4) The division shall verify the completion and accuracy of a feasibility study that an
1101 agency submits under Subsection (2) prior to transmitting the feasibility study to the board.

1102 Section 28. Section **63A-5b-403** is enacted to read:

1103 **63A-5b-403. Institutions of higher education -- Capital development projects --**
1104 **Dedicated and nondedicated projects -- Recommendations and prioritization.**

1105 (1) As used in this section:

1106 (a) "Dedicated project" has the same meaning as that term is defined in:

1107 (i) Section [53B-2a-101](#), for a capital development project under Title 53B, Chapter 2a,
1108 Utah System of Technical Colleges; or

1109 (ii) Section 53B-22-201, for a capital development project under Title 53B, Chapter 22,
1110 Higher Education Capital Projects.

1111 (b) "Nondedicated project" has the same meaning as that term is defined in:

1112 (i) Section 53B-2a-101, for a capital development project under Title 53B, Chapter 2a,
1113 Utah System of Technical Colleges; or

1114 (ii) Section 53B-22-201, for a capital development project under Title 53B, Chapter 22,
1115 Higher Education Capital Projects.

1116 (2) (a) The board shall submit recommendations to the Legislature in accordance with:

1117 (i) Section 53B-2a-117, for a dedicated project under Title 53B, Chapter 2a, Utah
1118 System of Technical Colleges; or

1119 (ii) Section 53B-22-204, for a dedicated project under Title 53B, Chapter 22, Higher
1120 Education Capital Projects.

1121 (b) A dedicated project is not subject to prioritization by the board.

1122 (3) (a) The board shall prioritize nondedicated projects in accordance with:

1123 (i) Section 63A-5b-402; and

1124 (ii) (A) Section 53B-2a-117, for a nondedicated project under Title 53B, Chapter 2a,
1125 Utah System of Technical Colleges; or

1126 (B) Section 53B-22-204, for a nondedicated project under Title 53B, Chapter 22,
1127 Higher Education Capital Projects.

1128 (b) In the board's scoring process for prioritizing nondedicated projects, the board shall
1129 give more weight to a request that is designated as a higher priority by the UTech board or
1130 Board of Regents than a request that is designated as a lower priority by the UTech board or
1131 Board of Regents only for determining the order of prioritization among requests submitted by
1132 the UTech board or Board of Regents, respectively.

1133 (4) The board shall require that an institution of higher education that submits a request
1134 for a capital development project address whether and how, as a result of the project, the
1135 institution of higher education will:

- 1136 (a) offer courses or other resources that will help meet demand for jobs, training, and
1137 employment in the current market and the projected market for the next five years;
- 1138 (b) respond to individual skilled and technical job demand over the next three, five,
1139 and 10 years;
- 1140 (c) respond to industry demands for trained workers;
- 1141 (d) help meet commitments made by the Governor's Office of Economic Development,
1142 including relating to training and incentives;
- 1143 (e) respond to changing needs in the economy; and
- 1144 (f) respond to demands for online or in-class instruction, based on demographics.
- 1145 (5) The division shall:
- 1146 (a) (i) assist institutions of higher education in providing the information required by
1147 Subsection (3); and
- 1148 (ii) verify the completion and accuracy of the information submitted by an institution
1149 of higher education under Subsection (3);
- 1150 (b) assist the UTech board to fulfill the requirements of Section [53B-2a-112](#) in
1151 connection with the finding that the board is required to make under Subsection
1152 [53B-2a-112](#)(5)(b); and
- 1153 (c) assist the Board of Regents in submitting a list of dedicated projects to the board for
1154 approval and nondedicated projects to the board for recommendation and prioritization
1155 pursuant to Section [53B-22-204](#).
- 1156 Section 29. Section **63A-5b-404** is enacted to read:
- 1157 **63A-5b-404. Exceptions to requirement of legislative approval for capital**
1158 **development projects.**
- 1159 (1) (a) Except as provided in this section, a capital development project may not be
1160 constructed on state property without legislative approval.
- 1161 (b) The board may authorize a capital development project on state property without
1162 legislative approval only as provided in this section.

1163 (2) (a) Legislative approval is not required for a capital development project that
1164 consists of the design or construction of a new facility if:
1165 (i) the board determines that the requesting agency has provided adequate assurance
1166 that state funds will not be used for the design or construction of the facility;
1167 (ii) the agency provides to the board a written document, signed by the head of the
1168 agency:
1169 (A) stating that funding or a revenue stream is in place, or will be in place before the
1170 project is completed, to ensure that increased state funding will not be required to cover the
1171 cost of operations and maintenance for the resulting facility or for immediate or future capital
1172 improvements; and
1173 (B) detailing the source of the funding that will be used for the cost of operations and
1174 maintenance and for immediate and future capital improvements to the resulting facility; and
1175 (iii) the board determines that the use of the state property:
1176 (A) is appropriate and consistent with the master plan for the property; and
1177 (B) will not create an adverse impact on the state.
1178 (b) For a facility constructed without legislative approval under Subsection (2)(a), an
1179 agency may not request:
1180 (i) increased state funds for operations and maintenance; or
1181 (ii) increased state capital improvement funding.
1182 (3) Legislative approval is not required for:
1183 (a) a facility:
1184 (i) to be built with funds other than state funds and owned by an entity other than a
1185 state entity; and
1186 (ii) that is within a research park area at the University of Utah or Utah State
1187 University;
1188 (b) a facility to be built at This is the Place State Park by the This is the Place
1189 Foundation with funds of the This is the Place Foundation or with donated services or materials

1190 and that may include grant money from the state;

1191 (c) a project that:

1192 (i) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization

1193 Fund; and

1194 (ii) does not provide a new facility for an agency or institution of higher education; or

1195 (d) a project on school and institutional trust lands that:

1196 (i) is funded by the trust lands administration from the Land Grant Management Fund;

1197 and

1198 (ii) does not fund construction of a new facility for an agency or institution of higher

1199 education.

1200 (4) (a) Legislative approval is not required for a capital development project to be built

1201 for the Department of Transportation resulting from:

1202 (i) an exchange of real property under Section [72-5-111](#); or

1203 (ii) a sale or exchange of real property from a maintenance facility if the proceeds from

1204 the sale of the real property are used for, or the real property is exchanged for:

1205 (A) real property for another maintenance facility; or

1206 (B) another maintenance facility, including improvements for a maintenance facility.

1207 (b) If the Department of Transportation approves a sale or exchange under Subsection

1208 (4)(a) for a capital development project subject to the board's approval, the Department of

1209 Transportation shall notify the president of the Senate, the speaker of the House of

1210 Representatives, and the cochairs of the Infrastructure and General Government Appropriations

1211 Subcommittee of the Legislature's Joint Appropriations Committee about any new facilities to

1212 be built or improved.

1213 Section 30. Section **63A-5b-405**, which is renumbered from Section 63A-5-228 is

1214 renumbered and amended to read:

1215 **~~[63A-5-228].~~ 63A-5b-405. Capital improvement projects.**

1216 ~~[(1) As used in this section:]~~

1217 [~~(a)~~ "Building board" means the State Building Board created under Section
1218 ~~63A-5-101.~~]
1219 [~~(b)~~ "Capital improvement" means:]
1220 [~~(i)~~ a remodeling, alteration, replacement, or repair project with a total cost of less than
1221 \$3,500,000;]
1222 [~~(ii)~~ a site or utility improvement with a total cost of less than \$3,500,000;]
1223 [~~(iii)~~ a utility infrastructure improvement project that:]
1224 [~~(A)~~ has a total cost of less than \$7,000,000;]
1225 [~~(B)~~ consists of two or more projects that, if done separately, would each cost less than
1226 \$3,500,000; and]
1227 [~~(C)~~ the division determines is more cost effective or feasible to be completed as a
1228 single project; or]
1229 [~~(iv)~~ a new facility with a total construction cost of less than \$500,000.]
1230 [~~(c)~~ "Capital improvements list" means the list that the division is required to submit to
1231 the Legislature under Subsection ~~(2)~~(a).]
1232 [~~(2)~~ (a) (i)] (1) (a) On or before January 15 of each year, the division shall, on behalf of
1233 all [state] agencies, submit a list of anticipated capital improvement project requirements to the
1234 Legislature.
1235 [~~(ii)~~] (b) The division shall ensure that the capital improvements project list identifies:
1236 [~~(A)~~] (i) each single capital improvement project that costs more than \$1,000,000;
1237 [~~(B)~~] (ii) each multiple capital improvement project within a single building or facility
1238 that collectively costs more than \$1,000,000;
1239 [~~(C)~~] (iii) each single capital improvement project that will be constructed over
1240 multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than
1241 \$3,500,000;
1242 [~~(D)~~] (iv) each multiple capital improvement project within a single building or facility
1243 with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;

1244 ~~[(E)]~~ (v) each single capital improvement project previously reported to the Legislature
1245 as a capital improvement project under \$1,000,000 that, because of an increase in costs or
1246 scope of work, will now cost more than \$1,000,000;

1247 ~~[(F)]~~ (vi) each multiple capital improvement project within a single building or facility
1248 previously reported to the Legislature as a capital improvement project under \$1,000,000 that,
1249 because of an increase in costs or scope of work, will now cost more than \$1,000,000; and

1250 ~~[(G)]~~ (vii) each capital improvement project described in Subsection ~~[(1)(b)(iii)]~~
1251 [63A-5b-401\(3\)\(c\)](#).

1252 ~~[(b)]~~ (2) (a) Unless otherwise directed by the Legislature, the division shall prioritize
1253 capital ~~[improvements]~~ improvement projects on the capital ~~[improvements]~~ improvement
1254 project list up to the level of appropriation made by the Legislature.

1255 ~~[(c)]~~ (b) In prioritizing capital ~~[improvements]~~ improvement projects, the division shall
1256 consider the results of facility evaluations completed by an architect or engineer as stipulated
1257 by the ~~[building board's]~~ division's facilities maintenance standards.

1258 ~~[(d)]~~ (c) In prioritizing capital ~~[improvements]~~ improvement projects, the division shall
1259 allocate at least 90% of the funds that the Legislature appropriates for capital ~~[improvements]~~
1260 improvement projects to:

- 1261 (i) capital improvement projects that address:
- 1262 (A) a structural issue;
 - 1263 (B) fire safety;
 - 1264 (C) a code violation; or
 - 1265 (D) any issue that impacts health and safety;
- 1266 (ii) capital improvement projects that upgrade:
- 1267 (A) an HVAC system;
 - 1268 (B) an electrical system;
 - 1269 (C) essential equipment;
 - 1270 (D) an essential building component; or

1271 (E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof,
1272 parking lot, or road; or

1273 (iii) capital improvement projects that demolish and replace an existing building that is
1274 in extensive disrepair and cannot be fixed by repair or maintenance.

1275 ~~[(e)]~~ (d) In prioritizing capital ~~[improvements]~~ improvement projects, the division may
1276 not allocate more than 10% of the funds that the Legislature appropriates for capital
1277 ~~[improvements]~~ improvement projects to:

1278 (i) remodeling and aesthetic upgrades to meet state programmatic needs; or

1279 (ii) construct an addition to an existing building or facility.

1280 ~~[(f)]~~ (3) The division may require an entity that benefits from a capital improvement
1281 project to repay the capital improvement funds from savings that result from the capital
1282 improvement project.

1283 ~~[(g)]~~ (4) The division may provide capital improvement project funding to a single
1284 project or to multiple projects within a single building or facility, even if the total cost of the
1285 project or multiple projects is \$3,500,000 or more, if:

1286 ~~[(i)]~~ (a) the capital improvement project is a project described in Subsection

1287 ~~[(1)(b)(iii)]~~ 63A-5b-401(3)(c); and

1288 ~~[(ii)]~~ (b) the Legislature has not refused to fund the project with capital improvement
1289 project funds.

1290 ~~[(h)]~~ (5) In prioritizing and allocating capital improvement project funding, the
1291 division shall comply with the requirement in Subsection 63B-23-101(2)(f).

1292 ~~[(i)]~~ (6) (a) In developing the capital improvement project list and priorities, the
1293 division shall require each ~~[state]~~ agency that requests an appropriation for a capital
1294 improvement project to:

1295 (i) submit a capital improvement project request; and

1296 (ii) complete and submit a project scoping document.

1297 ~~[(j)]~~ (b) A project scoping document under Subsection ~~[(2)(i)(ii)]~~ (6)(a)(ii) shall

1298 address:

1299 (i) the need for the capital improvement project; and

1300 (ii) the appropriateness of the scope of the capital improvement project.

1301 ~~[(A)]~~ (c) The division shall verify the completion and accuracy of a project scoping

1302 document that ~~[a state]~~ an agency submits under Subsection ~~[(2)(i)(ii)]~~ (6)(a)(ii).

1303 ~~[(3)(a) Beginning July 1, 2020, the division shall implement a program to charge state~~

1304 agencies, except institutions included within the state system of higher education under Section

1305 ~~53B-1-102, lease payments for the agency's use and occupancy of space within a building.]~~

1306 ~~[(b) Before July 1, 2020, the division shall:]~~

1307 ~~[(i) conduct a market analysis of market lease rates for comparable space in buildings~~

1308 ~~comparable to division-owned buildings; and]~~

1309 ~~[(ii) establish lease rates for an agency's use and occupancy of a division-owned~~

1310 ~~building.]~~

1311 ~~[(c) The lease rates shall be:]~~

1312 ~~[(i) consistent with market rates for comparable space in comparable buildings;]~~

1313 ~~[(ii) calculated to cover:]~~

1314 ~~[(A) an amortized amount for capital replacement;]~~

1315 ~~[(B) an amount for capital improvements; and]~~

1316 ~~[(C) operation and maintenance costs; and]~~

1317 ~~[(iii) in proportion to legislative appropriations.]~~

1318 ~~[(d) In making appropriations to cover lease payments under this Subsection (3), the~~

1319 ~~Legislature shall create a line item, as defined in Section ~~63J-1-102~~, for each agency to fund the~~

1320 ~~lease payments.]~~

1321 (7) Except for this Subsection (7), this section does not apply to a capital improvement

1322 project described in Subsection ~~63A-5b-401~~(2)(a)(ii).

1323 Section 31. Section ~~63A-5b-406~~ is enacted to read:

1324 ~~63A-5b-406. Limitations on new projects.~~

- 1325 (1) The Legislature may authorize:
- 1326 (a) the total square footage to be occupied by each agency; and
- 1327 (b) the total square footage and total cost of lease space for each agency.
- 1328 (2) If construction of a new building or facility will require an immediate or future
- 1329 increase in state funding for operations and maintenance or for capital improvements, the
- 1330 Legislature may not authorize the new building or facility until the Legislature appropriates
- 1331 funds for:
- 1332 (a) the portion of operations and maintenance, if any, that will require an immediate or
- 1333 future increase in state funding; and
- 1334 (b) the portion of capital improvements, if any, that will require an immediate or future
- 1335 increase in state funding.
- 1336 (3) (a) Except as provided in Subsections (3)(b) and (c), the Legislature may not fund
- 1337 the design or construction of any new capital development project, except to complete the
- 1338 funding of a project for which partial funding has been previously provided, until the
- 1339 Legislature has appropriated 1.1% of the replacement cost of existing state facilities and
- 1340 infrastructure to capital improvements.
- 1341 (b) If the Legislature determines that there exists an Education Fund budget deficit, as
- 1342 defined in Section [63J-1-312](#), or a General Fund budget deficit, as defined in Section
- 1343 [63J-1-312](#), the Legislature may, in eliminating the deficit, reduce the amount appropriated to
- 1344 capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.
- 1345 (c) Subsection (3)(a) does not apply to a dedicated project as defined in Section
- 1346 [63A-5b-403](#).
- 1347 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the Legislature may not fund the
- 1348 design and construction of a new facility in phases over more than one year unless the
- 1349 Legislature approves the funding for both the design and construction by a vote of two-thirds of
- 1350 all the members elected to each house.
- 1351 (ii) Subsection (4)(a)(i) does not apply to a dedicated project as defined in Section

1352 [63A-5b-403.](#)

1353 (b) An agency shall receive approval from the director before the agency begins
1354 programming for a new facility:

1355 (i) that requires legislative approval; or

1356 (ii) to be built under Subsection [63A-5b-404\(2\).](#)

1357 (c) The division or an agency may fund the programming of a new facility before the
1358 Legislature makes an appropriation for the new facility under Subsection (4)(a).

1359 (5) (a) The director, with the approval of the Office of the Legislative Fiscal Analyst,
1360 shall develop standard forms to present capital development project and capital improvement
1361 project cost summary data.

1362 (b) The director shall:

1363 (i) within 30 days after the completion of each capital development project, submit cost
1364 summary data for the project on the standard form to the Office of the Legislative Fiscal
1365 Analyst; and

1366 (ii) upon request, submit cost summary data for a capital improvement project to the
1367 Office of the Legislative Fiscal Analyst on the standard form.

1368 (6) (a) After the Legislature approves capital development project priorities under
1369 Section [63A-5b-402](#) and capital improvement project priorities under Section [63A-5b-405](#), the
1370 director may reallocate capital development project or capital improvement project funds to
1371 address a critical need for a capital improvement project:

1372 (i) if an emergency arises that creates an unforeseen and critical need for the capital
1373 improvement project; and

1374 (ii) notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures
1375 Act.

1376 (b) The director shall report any changes the director makes in capital development
1377 project or capital improvement project allocations approved by the Legislature to:

1378 (i) the Office of the Legislative Fiscal Analyst within 30 days after the reallocation; and

1379 (ii) the Legislature at the Legislature's next annual general session.

1380 Section 32. Section **63A-5b-501** is enacted to read:

1381 **Part 5. Planning and Programming**

1382 **63A-5b-501. Five-year building plan.**

1383 (1) The director shall:

1384 (a) in cooperation with agencies, prepare a master plan of structures built or
1385 contemplated;

1386 (b) submit to the governor and the Legislature a comprehensive five-year building plan
1387 for the state containing the information required by Subsection (2);

1388 (c) amend and keep current the five-year building plan that complies with the
1389 requirements described in Subsection (2), for submission to the governor and subsequent
1390 legislatures; and

1391 (d) as part of the long-range plan, recommend to the governor and Legislature any
1392 changes in the law that are necessary to ensure an effective, well-coordinated building program
1393 for all agencies.

1394 (2) (a) The director shall ensure that the five-year building plan required by Subsection
1395 (1)(b) includes:

1396 (i) a list that prioritizes construction of new buildings for all structures built or
1397 contemplated based upon each agency's present and future needs;

1398 (ii) information and space use data for all state-owned and leased facilities;

1399 (iii) substantiating data to support the adequacy of any projected plans;

1400 (iv) a summary of all statewide contingency reserve and project reserve balances as of
1401 the end of the most recent fiscal year;

1402 (v) a list of buildings that have completed a comprehensive facility evaluation by an
1403 architect or engineer or are scheduled to have an evaluation;

1404 (vi) for those buildings that have completed the evaluation, the estimated costs of
1405 needed improvements; and

- 1406 (vii) for projects recommended in the first two years of the five-year building plan:
- 1407 (A) detailed estimates of the cost of each project;
- 1408 (B) the estimated cost to operate and maintain the building or facility on an annual
- 1409 basis;
- 1410 (C) the cost of capital improvements to the building or facility, estimated at 1.1% of
- 1411 the replacement cost of the building or facility, on an annual basis;
- 1412 (D) the estimated number of new agency full-time employees expected to be housed in
- 1413 the building or facility;
- 1414 (E) the estimated cost of new or expanded programs and personnel expected to be
- 1415 housed in the building or facility;
- 1416 (F) the estimated lifespan of the building with associated costs for major component
- 1417 replacement over the life of the building; and
- 1418 (G) the estimated cost of any required support facilities.
- 1419 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1420 director may make rules prescribing the format for submitting the information required by this
- 1421 Subsection (2).
- 1422 (3) To provide adequate information to enable the director to make a recommendation
- 1423 described in Subsection (1), an agency requesting new full-time employees for the next fiscal
- 1424 year shall report those anticipated requests to the director at least 90 days before the annual
- 1425 general session in which the request is made.
- 1426 Section 33. Section **63A-5b-502** is enacted to read:
- 1427 **63A-5b-502. Programming.**
- 1428 (1) As used in this section:
- 1429 (a) "Program document" means a final document that contains programming
- 1430 information.
- 1431 (b) "Programming" means services to define the scope and purpose of an anticipated
- 1432 project, and may include:

- 1433 (i) researching criteria applicable to the scope and purpose of an anticipated project;
1434 (ii) identifying the scale of the project and the type of facilities and the level of
1435 specialized functions that will be required;
1436 (iii) identifying and prioritizing values and goals that will impact the project, including
1437 institutional purposes, growth objectives, and cultural, technological, temporal, aesthetic,
1438 symbolic, economic, environmental, safety, sustainability, and other relevant criteria;
1439 (iv) evaluating functional efficiency, user comfort, building economics, environmental
1440 sustainability, and visual quality;
1441 (v) identifying objectives for the project, including such elements as image,
1442 efficiencies, functionality, cost, and schedule;
1443 (vi) identifying and evaluating the constraints that will have an impact on the project
1444 such as legal requirements, financial constraints, location, access, visibility, and building
1445 services;
1446 (vii) developing standards such as area allowances, space allocation, travel distances,
1447 and furniture and equipment requirements;
1448 (viii) establishing general space quality standards related to such elements as lighting
1449 levels, equipment performance, acoustical requirements, security, and aesthetics;
1450 (ix) identifying required spaces;
1451 (x) establishing sizes and relationships;
1452 (xi) establishing space efficiency factors or the ratio of net square footage to gross
1453 square footage; and
1454 (xii) documenting particular space requirements such as special HVAC, plumbing,
1455 power, lighting, acoustical, furnishings, equipment, or security needs.
1456 (2) A program document may:
1457 (a) incorporate written and graphic materials; and
1458 (b) include:
1459 (i) an executive summary;

- 1460 (ii) documentation of the methodology used to develop the programming;
- 1461 (iii) value and goal statements;
- 1462 (iv) relevant facts upon which the programming was based;
- 1463 (v) conclusions derived from data analysis;
- 1464 (vi) relationship diagrams;
- 1465 (vii) flow diagrams;
- 1466 (viii) matrices identifying space allocations and relationships;
- 1467 (ix) space listings by function and size; and
- 1468 (x) space program sheets, including standard requirements and special HVAC,
- 1469 plumbing, power, lighting, acoustical, furnishings, equipment, or security needs.
- 1470 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1471 director may make rules:
- 1472 (a) establishing the types of projects for which programming and a program document
- 1473 are required;
- 1474 (b) establishing the scope of programming required for defined categories of projects;
- 1475 (c) establishing the circumstances under which an agency must obtain authorization
- 1476 from the director to engage in programming;
- 1477 (d) governing the funding of programming;
- 1478 (e) relating to the administration of programming; and
- 1479 (f) regarding any restrictions that may be imposed on a person involved in
- 1480 programming from participating in the preparation of construction documents for a project that
- 1481 is the subject of the programming.

1482 Section 34. Section **63A-5b-503**, which is renumbered from Section 63A-5-211 is

1483 renumbered and amended to read:

1484 ~~[63A-5-211]~~. **63A-5b-503. Planning Fund expenditures authorized --**

1485 **Ceiling on expenditures -- Recovery.**

1486 (1) The Planning Fund shall be used to make payments for engineering, architectural,

1487 and other planning expenses necessary to make a meaningful cost estimate of any facility or
1488 improvement with a demonstrable or immediate need.

1489 (2) The director may make expenditures from the Planning Fund in order to provide
1490 planning information to the ~~[State Building Board]~~ board, the governor, and the Legislature, up
1491 to a maximum of \$350,000 in outstanding Planning Fund commitments.

1492 (3) (a) The director shall authorize all payments made from the Planning Fund.

1493 (b) ~~[These payments]~~ Payments from the Planning Fund shall be a charge on the
1494 project for which they were drawn.

1495 (c) ~~[The amount paid shall be credited to the Planning Fund when]~~ If the Legislature
1496 appropriates money for [any] a building project for which planning costs have previously been
1497 paid from the Planning Fund, the director shall credit that amount to the Planning Fund.

1498 (4) (a) ~~[Money may also be expended]~~ The director may expend money from the
1499 Planning Fund for architectural and engineering services incident to the planning and
1500 preparation of applications for funds on construction financed by other than state sources,
1501 including federal grants.

1502 (b) ~~[However, upon]~~ Upon approval of [such] financing referred to in Subsection
1503 (4)(a), the director shall reimburse to the Planning Fund the money spent for architectural and
1504 engineering services [shall be returned as a reimbursement to the Planning Fund].

1505 Section 35. Section ~~63A-5b-601~~ is enacted to read:

1506 **Part 6. Design and Construction**

1507 **63A-5b-601. Definitions.**

1508 As used in this part:

1509 (1) (a) "Facility" means any building, structure, or other improvement that is
1510 constructed:

1511 (i) on property owned by the state, the state's departments, commissions, institutions,
1512 or agencies; or

1513 (ii) by the state, the state's departments, commissions, institutions, or agencies on

1514 property not owned by the state.

1515 (b) "Facility" does not mean an unoccupied structure that is a component of the state
1516 highway system.

1517 (2) "Local government" means the county, municipality, or local school district that
1518 would have jurisdiction to act as the compliance agency if the division did not have jurisdiction
1519 to act as the compliance agency.

1520 Section 36. Section **63A-5b-602** is enacted to read:

1521 **63A-5b-602. Design criteria, standards, and procedures.**

1522 (1) The director shall establish design criteria, standards, and procedures for the
1523 planning, design, and construction of a new facility and for improvements to an existing
1524 facility, including life-cycle costing, cost-effectiveness studies, and other methods and
1525 procedures that address:

1526 (a) the need for the facility;

1527 (b) the effectiveness of the facility's design;

1528 (c) the efficiency of energy use; and

1529 (d) the usefulness of the facility over the facility's lifetime.

1530 (2) Before proceeding with construction, the director and the officials charged with the
1531 administration of the affairs of the particular agency shall approve the location, design, plans,
1532 and specifications.

1533 (3) The director shall prepare or have prepared by one or more private persons the
1534 designs, plans, and specifications for the projects administered by the division.

1535 (4) Before construction may begin, the director shall review the design of projects
1536 exempted from the division's administration under Section [63A-5b-604](#) to determine if the
1537 design:

1538 (a) complies with any restrictions placed on the project by the director; and

1539 (b) is appropriate for the purpose and setting of the project.

1540 (5) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures

1541 Act, the director may:

1542 (a) accelerate the design of a project funded by an appropriation act passed by the

1543 Legislature in the Legislature's annual general session;

1544 (b) use an unencumbered existing account balance to fund that design work; and

1545 (c) reimburse the account balance from the amount funded for the project when the

1546 appropriation act funding the project becomes effective.

1547 Section 37. Section **63A-5b-603** is enacted to read:

1548 **63A-5b-603. Contracting powers of director -- Bids -- Retainage.**

1549 (1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the director

1550 may enter into a contract for any work or professional service that the division or board may do

1551 or have done.

1552 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

1553 the director may make rules establishing circumstances under which bids may be modified

1554 when all bids for a construction project exceed available funds as determined by the director.

1555 (b) In making the rules described in Subsection (2)(a), the director shall provide for the

1556 fair and equitable treatment of bidders.

1557 (c) The judgment of the director as to the responsibility and qualifications of a bidder is

1558 conclusive, except in case of fraud or bad faith.

1559 (3) The division shall make all payments to the contractor for completed work in

1560 accordance with Section [15-6-2](#) and pay the interest specified in Section [15-6-3](#) on any

1561 payments that are late.

1562 (4) If the division retains or withholds a payment on a contract with a private contractor

1563 to do work for the division, the division shall retain or withhold and release the payment as

1564 provided in Section [13-8-5](#).

1565 Section 38. Section **63A-5b-604** is enacted to read:

1566 **63A-5b-604. Construction, alteration, and repair of state facilities -- Powers of**

1567 **director -- Exceptions -- Expenditure of appropriations -- Compliance agency role.**

1568 (1) (a) Except as provided in this section and Section 63A-5b-1101, the director shall
1569 exercise direct supervision over the design and construction of all new facilities, and all
1570 alterations, repairs, and improvements to existing facilities, if the total project construction
1571 cost, regardless of the funding source, is greater than \$100,000.

1572 (b) A state entity may exercise direct supervision over the design and construction of
1573 all new facilities, and over all alterations, repairs, and improvements to existing facilities, if:

1574 (i) the total project construction cost, regardless of the funding sources, is \$100,000 or
1575 less; and

1576 (ii) the state entity assures compliance with the division's forms and contracts and the
1577 division's design, construction, alteration, repair, improvement, and code inspection standards.

1578 (2) The director may enter into a capital improvement partnering agreement with an
1579 institution of higher education that permits the institution of higher education to exercise direct
1580 supervision for a capital improvement project with oversight from the division.

1581 (3) (a) Subject to Subsection (3)(b), the director may delegate control over design,
1582 construction, and other aspects of any project to entities of state government on a
1583 project-by-project basis.

1584 (b) With respect to a delegation of control under Subsection (3)(a), the director may:

1585 (i) impose terms and conditions on the delegation that the director considers necessary
1586 or advisable to protect the interests of the state; and

1587 (ii) revoke the delegation and assume control of the design, construction, or other
1588 aspect of a delegated project if the director considers the revocation and assumption of control
1589 to be necessary to protect the interests of the state.

1590 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1591 the board may delegate control over design, construction, and all other aspects of any project to
1592 entities of state government on a categorical basis for projects within a particular dollar range
1593 and a particular project type.

1594 (b) Rules adopted by the board under Subsection (4)(a) may:

1595 (i) impose the terms and conditions on categorical delegation that the board considers
1596 necessary or advisable to protect the interests of the state;

1597 (ii) provide for the revocation of the delegation on a categorical or project specific
1598 basis and for the division to assume control of the design, construction, or other aspect of a
1599 category of delegated projects or a specific delegated project if the board considers revocation
1600 of the delegation and assumption of control to be necessary to protect the interests of the state;

1601 (iii) require that a categorical delegation be renewed by the board on an annual basis;

1602 and

1603 (iv) require the division's oversight of delegated projects.

1604 (5) (a) A state entity to which project control is delegated under this section shall:

1605 (i) assume fiduciary control over project finances;

1606 (ii) assume all responsibility for project budgets and expenditures; and

1607 (iii) receive all funds appropriated for the project, including any contingency funds
1608 contained in the appropriated project budget.

1609 (b) Notwithstanding a delegation of project control under this section, a state entity to
1610 which control is delegated is required to comply with the division's codes and guidelines for
1611 design and construction.

1612 (c) A state entity to which project control is delegated under this section may not
1613 access, for the delegated project, the division's statewide contingency reserve and project
1614 reserve authorized in Section [63A-5b-609](#).

1615 (d) For a facility that will be owned, operated, maintained, and repaired by an entity
1616 that is not an agency and that is located on state property, the director may authorize the
1617 facility's owner to administer the design and construction of the project relating to that facility.

1618 (6) (a) A project for the construction of a new facility and a project for alterations,
1619 repairs, and improvements to an existing facility are not subject to Subsection (1) if the project:

1620 (i) occurs on property under the jurisdiction of the State Capitol Preservation Board;

1621 (ii) is within a designated research park at the University of Utah or Utah State

1622 University;
1623 (iii) occurs within the boundaries of This is the Place State Park and is administered by
1624 This is the Place Foundation; or
1625 (iv) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah
1626 Percent-for-Art Act.
1627 (b) Notwithstanding Subsection (6)(a)(iii), the This is the Place Foundation may
1628 request the director to administer the design and construction of a project within the boundaries
1629 of This is the Place State Park.
1630 (7) (a) The role of compliance agency under Title 15A, State Construction and Fire
1631 Codes Act, shall be filled by:
1632 (i) the director, for a project administered by the division;
1633 (ii) the entity designated by the State Capitol Preservation Board, for a project under
1634 Subsection (6)(a)(i);
1635 (iii) the local government, for a project that is:
1636 (A) not subject to the division's administration under Subsection (6)(a)(ii); or
1637 (B) administered by This is the Place Foundation under Subsection (6)(a)(iii);
1638 (iv) the compliance agency designated by the director, for a project under Subsection
1639 (2), (3), (4), or (5)(d); and
1640 (v) for the installation of art under Subsection (6)(a)(iv), the entity that is acting as the
1641 compliance officer for the balance of the project for which the art is being installed.
1642 (b) A local government acting as the compliance agency under Subsection (7)(a)(iii)
1643 may:
1644 (i) only review plans and inspect construction to enforce the state construction code or
1645 an approved code under Title 15A, State Construction and Fire Codes Act; and
1646 (ii) charge a building permit fee of no more than the amount the local government
1647 could have charged if the land upon which the improvements are located were not owned by
1648 the state.

1649 (8) (a) The zoning authority of a local government under Section 10-9a-305 or
1650 17-27a-305 does not apply to the use of state property or any improvements constructed on
1651 state property, including improvements constructed by an entity other than a state entity.

1652 (b) A state entity controlling the use of state property shall consider any input received
1653 from a local government in determining how the property is to be used.

1654 Section 39. Section **63A-5b-605**, which is renumbered from Section 63A-5-208 is
1655 renumbered and amended to read:

1656 **[63A-5-208]. 63A-5b-605. Requirement for bidders to list subcontractors**
1657 **-- Changing subcontractors -- Bidders as subcontractors.**

1658 (1) As used in this section:

1659 (a) "First-tier subcontractor" means a subcontractor who contracts directly with the
1660 prime contractor.

1661 (b) (i) "Subcontractor" means ~~[any]~~ a person ~~[or entity]~~ under contract with a
1662 contractor or another subcontractor to provide services or labor for the construction,
1663 installation, or repair of an improvement to real property.

1664 (ii) "Subcontractor" includes a trade contractor or specialty contractor.

1665 (iii) "Subcontractor" does not include ~~[suppliers who provide]~~ a supplier that provides
1666 only materials, equipment, or supplies to a contractor or subcontractor.

1667 (2) The director shall apply the provisions of this section to achieve fair and
1668 competitive bidding and to discourage bid-shopping by contractors.

1669 (3) (a) (i) (A) On ~~[each]~~ a public construction project, the director shall, except as
1670 provided in Subsection (3)(a)(ii), require the apparent lowest three bidders to submit a list of
1671 their first-tier subcontractors indicating each first-tier each subcontractor's name, bid amount,
1672 and other information required by rule.

1673 (B) ~~[Other bidders who are]~~ A bidder that is not one of the apparent lowest three
1674 bidders may also submit a list of ~~[their]~~ the bidder's first-tier subcontractors containing the
1675 information required by this Subsection (3).

1676 (ii) A bidder is not required to list a first-tier subcontractor if:
1677 (A) the bidder's total bid is less than \$500,000 and the first-tier subcontractor's bid is
1678 less than \$20,000; or
1679 (B) the bidder's total bid is \$500,000 or more and the first-tier subcontractor's bid is
1680 less than \$35,000.
1681 ~~[(C) The director may not consider any bid submitted by a bidder if the bidder fails to~~
1682 ~~submit a subcontractor list meeting the requirements of this section.]~~
1683 ~~[(ii) On projects where the contractor's total bid is less than \$500,000, subcontractors~~
1684 ~~whose bid is less than \$20,000 need not be listed.]~~
1685 ~~[(iii) On projects where the contractor's total bid is \$500,000 or more, subcontractors~~
1686 ~~whose bid is less than \$35,000 need not be listed.]~~
1687 (b) ~~[(i) The bidders]~~ A bidder shall submit [this] the list required under this section
1688 within 24 hours after the bid opening time, not including [Saturdays, Sundays, and state
1689 holidays] Saturday, Sunday, and any state holiday.
1690 ~~[(ii)]~~ (c) ~~[This]~~ A list submitted under this section does not limit the director's right to
1691 authorize a change in the listing of any subcontractor.
1692 (4) The director may not consider a bid submitted by a bidder that fails to submit a list
1693 meeting the requirements of this section.
1694 ~~[(c)]~~ (5) ~~[The bidders]~~ A bidder shall verify that all subcontractors listed as part of
1695 [their bids] the bidder's bid are licensed as required by state law.
1696 ~~[(d)]~~ (6) (a) ~~[Twenty-four]~~ After 24 hours after the bid opening, ~~[the contractor]~~ a
1697 bidder may change the [contractor's] bidder's subcontractors only after:
1698 (i) receiving permission from the director; and
1699 (ii) establishing ~~[that]~~:
1700 (A) that the change is in the best interest of the state; and
1701 (B) the ~~[contractor establishes]~~ reasons for the change that meet the standards
1702 established by the ~~[State Building Board]~~ director.

1703 ~~[(e)]~~ (b) If the director approves ~~[any changes]~~ a change in subcontractors that ~~[result]~~
1704 results in a net lower contract price for subcontracted work, the director may require the bidder
1705 to reduce the total of the prime contract ~~[may be reduced]~~ to reflect the ~~[changes]~~ change.

1706 ~~[(4)]~~ (7) (a) A bidder may list ~~[himself]~~ the bidder as a subcontractor ~~[when]~~ if:

1707 (i) the bidder is currently licensed to perform the portion of the work for which the
1708 bidder lists ~~[himself]~~ the bidder as a subcontractor ~~[and:]; and~~

1709 ~~[(i)]~~ (ii) (A) the bidder intends to perform the work of a subcontractor ~~[himself]~~; or

1710 ~~[(ii)]~~ (B) the bidder intends to obtain a subcontractor at a later date to perform the work
1711 ~~[at a later date]~~ because the bidder was unable to ~~[-(A)]~~ obtain a bid from a qualified
1712 subcontractor ~~[-or (B) obtain a bid]~~ or from a qualified subcontractor at a cost that the bidder
1713 considers to be reasonable.

1714 (b) (i) ~~[When]~~ If the bidder intends to perform the work of a subcontractor ~~[himself]~~,
1715 the director may, by written request, require that the bidder provide the director with
1716 information indicating the bidder's:

1717 (A) previous experience in the type of work to be performed; and

1718 (B) qualifications for performing the work.

1719 (ii) ~~[The bidder must]~~ A bidder shall respond in writing within five business days ~~[of]~~
1720 after receiving the director's written request under Subsection (7)(b)(i).

1721 (iii) If the ~~[bidder's submitted]~~ information a bidder submits under Subsection (7)(b)(ii)
1722 causes the director to reasonably believe that ~~[self-performance]~~ the bidder's performance of
1723 the portion of the work ~~[by the bidder]~~ is likely to ~~[yield]~~ result in a substandard finished
1724 product, the director shall:

1725 (A) require the bidder to use a subcontractor for the portion of the work in question and
1726 obtain the subcontractor bid under the supervision of the director; or

1727 (B) reject the bidder's bid.

1728 ~~[(e)-(i)]~~ (8) (a) ~~[When the]~~ If a bidder intends to obtain a subcontractor ~~[to perform the~~
1729 work at a later date] at a later date to perform work described in the bidder's bid, the bidder

1730 shall provide documentation with the subcontractor list required under this section:

1731 (i) describing~~[-(A)]~~ the bidder's efforts to obtain a bid of a qualified subcontractor at a
1732 reasonable cost; and

1733 ~~[(B)]~~ (ii) explaining why the bidder was unable to obtain a qualified subcontractor bid.

1734 ~~[(ii)]~~ (b) If ~~[the]~~ a bidder who intends to obtain a subcontractor at a later date to
1735 perform the work ~~[at a later date]~~ described in a bid is awarded a contract, the director:

1736 (i) shall supervise the bidder's efforts to obtain a qualified subcontractor bid~~[-];~~ and

1737 ~~[(iii)]~~ (ii) ~~[The director]~~ may not adjust the amount of the contract awarded in order to
1738 reflect the actual amount of the subcontractor's bid.

1739 ~~[(5)]~~ (9) The division may not disclose any subcontractor bid amounts obtained under
1740 this section until the division has awarded the project to a contractor.

1741 ~~[(6) (a) The director shall, in consultation with the State Building Board, prepare draft~~
1742 ~~rules establishing a process for resolving disputes involved with contracts under the division's~~
1743 ~~procurement authority.]~~

1744 ~~[(b) The director shall consider, and the rules may include:]~~

1745 ~~[(i) requirements regarding preliminary resolution efforts between the parties directly~~
1746 ~~involved with the dispute;]~~

1747 ~~[(ii) requirements for the filing of claims, including notification, timeframes, and~~
1748 ~~documentation;]~~

1749 ~~[(iii) identification of the types of costs eligible for allocation and a method for~~
1750 ~~allocating costs among the parties to the dispute;]~~

1751 ~~[(iv) required time periods, not to exceed 60 days, for the resolution of the claim;]~~

1752 ~~[(v) provision for an independent hearing officer, panel, or arbitrator to extend the time~~
1753 ~~period for resolution of the claim by not to exceed 60 additional days for good cause;]~~

1754 ~~[(vi) provision for the extension of required time periods if the claimant agrees;]~~

1755 ~~[(vii) requirements that decisions be issued in writing;]~~

1756 ~~[(viii) provisions for administrative appeals of the decision;]~~

1757 ~~[(ix) provisions for the timely payment of claims after resolution of the dispute,~~
1758 ~~including any appeals;]~~

1759 ~~[(x) a requirement that the final determination resulting from the dispute resolution~~
1760 ~~process provided for in the rules is a final agency action subject to judicial review as provided~~
1761 ~~in Sections 63G-4-401 and 63G-4-402;]~~

1762 ~~[(xi) a requirement that a claim or dispute that does not include a monetary claim~~
1763 ~~against the division or its agents is not limited to the dispute resolution process provided for in~~
1764 ~~this Subsection (6);]~~

1765 ~~[(xii) requirements for claims and disputes to be eligible for this dispute resolution~~
1766 ~~process;]~~

1767 ~~[(xiii) the use of an independent hearing officer, panel, arbitration, or mediation; and]~~
1768 ~~[(xiv) the circumstances under which a subcontractor may file a claim directly with the~~
1769 ~~division.]~~

1770 ~~[(e) Persons pursuing claims under the process required by this Subsection (6):]~~
1771 ~~[(i) are bound by the decision reached under this process unless the decision is properly~~
1772 ~~appealed; and]~~

1773 ~~[(ii) may not pursue claims or disputes under the dispute resolution process established~~
1774 ~~in Title 63G, Chapter 6a, Utah Procurement Code.]~~

1775 ~~[(7)] (10) In addition to all other reasons allowed by [law] statute or rule, the director~~
1776 ~~may reject all bids if [none] all of the bidders whose [bid is] bids are within the budget of the~~
1777 ~~project fail to submit a subcontractor list [that meets the requirements of] as required under this~~
1778 ~~section.~~

1779 ~~[(8) Any violation of this section, or any fraudulent misrepresentation by a contractor,~~
1780 ~~subcontractor, or supplier, may be grounds for:]~~

1781 ~~[(a) the contractor, subcontractor, or supplier to be suspended or debarred by the~~
1782 ~~director; or]~~

1783 ~~[(b) the contractor or subcontractor to be disciplined by the Division of Professional~~

1784 ~~and Occupational Licensing.]~~

1785 Section 40. Section **63A-5b-606** is enacted to read:

1786 **63A-5b-606. Dispute resolution process -- Penalties for fraud or bad faith claim.**

1787 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1788 director shall adopt rules for the division establishing a process for resolving disputes involved
1789 with contracts under the division's procurement authority.

1790 (2) The director shall consider, and the rules may include:

1791 (a) requirements regarding preliminary resolution efforts between the parties directly
1792 involved with the dispute;

1793 (b) requirements for the filing of a claim, including notification, time frames, and
1794 documentation;

1795 (c) identification of the types of costs eligible for allocation and a method for allocating
1796 costs among the parties to the dispute;

1797 (d) a required time period, not to exceed 60 days, for the resolution of the claim;

1798 (e) a provision for an independent hearing officer, panel, or arbitrator to extend the
1799 time period for resolution of the claim by not to exceed 60 additional days for good cause;

1800 (f) a provision for the extension of required time periods if the claimant agrees;

1801 (g) requirements that decisions be issued in writing;

1802 (h) provisions for an administrative appeal of a decision;

1803 (i) provisions for the timely payment of claims after resolution of the dispute, including
1804 any appeals;

1805 (j) a requirement that the final determination resulting from the dispute resolution
1806 process provided for in the rules is a final agency action subject to judicial review as provided
1807 in Sections [63G-4-401](#) and [63G-4-402](#);

1808 (k) a requirement that a claim or dispute that does not include a monetary claim against
1809 the division or an agent of the division is not limited to the dispute resolution process provided
1810 for in this section;

1811 (l) requirements for claims and disputes to be eligible for the dispute resolution process
1812 under this section;

1813 (m) the use of an independent hearing officer or panel or the use of arbitration or
1814 mediation; and

1815 (n) the circumstances under which a subcontractor may file a claim directly with the
1816 division.

1817 (3) A person pursuing a claim under the process established as provided in this section:

1818 (a) is bound by the decision reached under this process, subject to any modification of
1819 the decision on appeal; and

1820 (b) may not pursue a claim, protest, or dispute under the dispute resolution process
1821 established in Title 63G, Chapter 6a, Utah Procurement Code.

1822 (4) A fraudulent misrepresentation made by or bad faith claim pursued by a contractor,
1823 subcontractor, or supplier, may be grounds for:

1824 (a) the director to suspend or debar the contractor, subcontractor, or supplier; or

1825 (b) the contractor, subcontractor, or supplier to be disciplined by the Division of
1826 Professional and Occupational Licensing.

1827 Section 41. Section **63A-5b-607**, which is renumbered from Section 63A-5-205.5 is
1828 renumbered and amended to read:

1829 **[63A-5-205.5]. 63A-5b-607. Health insurance requirements -- Penalties.**

1830 (1) As used in this section:

1831 (a) "Aggregate amount" means the dollar sum of all contracts, change orders, and
1832 modifications [~~related to~~] for a single project.

1833 (b) "Change order" means the same as that term is defined in Section **63G-6a-103**.

1834 (c) [~~"Employee"~~] "Eligible employee" means an employee, as defined in Section
1835 **34A-2-104**, [~~an "employee," "worker," or "operative"~~] who:

1836 (i) works at least 30 hours per calendar week; and

1837 (ii) meets the employer eligibility waiting [~~requirements~~] period for qualified health

1838 ~~[care insurance, which may not exceed the first day of the calendar month following 60 days~~
1839 ~~after the day on which the individual is hired]~~ insurance coverage provided by the employer.

1840 ~~[(d) "Health benefit plan" means the same as that term is defined in Section~~

1841 ~~31A-1-301.]~~

1842 ~~[(e)]~~ (d) "Qualified health insurance coverage" means the same as that term is defined
1843 in Section 26-40-115.

1844 ~~[(f)]~~ (e) "Subcontractor" means the same as that term is defined in Section ~~[63A-5-208]~~

1845 63A-5b-605.

1846 (2) Except as provided in Subsection (3), the requirements of this section apply to:

1847 (a) a contractor of a design or construction contract ~~[entered into by]~~ with the division
1848 ~~[or the State Building Board on or after July 1, 2009;]~~ if the prime contract is in an aggregate
1849 amount ~~[equal to or greater than]~~ of \$2,000,000 or more; and

1850 (b) a subcontractor of a contractor of a design or construction contract ~~[entered into by]~~
1851 with the division ~~[or State Building Board on or after July 1, 2009;]~~ if the subcontract is in an
1852 aggregate amount ~~[equal to or greater than]~~ of \$1,000,000 or more.

1853 (3) The requirements of this section do not apply to a contractor or subcontractor
1854 ~~[described in Subsection (2)]~~ if:

1855 (a) the application of this section jeopardizes the division's receipt of federal funds;

1856 (b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

1857 (c) the contract is the result of an emergency procurement.

1858 (4) A person ~~[that]~~ who intentionally uses a change ~~[orders;]~~ order, contract
1859 ~~[modifications;]~~ modification, or multiple contracts to circumvent the requirements of this
1860 section is guilty of an infraction.

1861 (5) (a) A contractor that is subject to the requirements of this section shall ~~[demonstrate~~
1862 ~~to the director that the contractor has and will]~~:

1863 (i) make and maintain an offer of qualified health insurance coverage for the
1864 contractor's eligible employees and the eligible employees' dependents ~~[by submitting]~~; and

1865 (ii) submit to the director a written statement [that:] demonstrating that the contractor
1866 is in compliance with Subsection (5)(a)(i).

1867 ~~[(i) the contractor offers qualified health insurance coverage that complies with Section~~
1868 ~~26-40-115;]~~

1869 ~~[(ii) is from:]~~

1870 (b) A statement under Subsection (5)(a)(ii):

1871 (i) shall be from:

1872 (A) an actuary selected by the contractor or the contractor's insurer; or

1873 (B) an underwriter who is responsible for developing the employer group's premium
1874 rates; and

1875 ~~[(iii) was]~~ (ii) may not be created [within] more than one year before the day on which
1876 the [statement is submitted] contractor submits the statement to the director.

1877 ~~[(b)]~~ (6) (a) A contractor that is subject to the requirements of this section shall:

1878 (i) ~~[place a requirement in each of the contractor's subcontracts that a subcontractor~~
1879 ~~that is subject to the requirements of this section shall]~~ ensure that each contract the contractor
1880 enters with a subcontractor that is subject to the requirements of this section requires the
1881 subcontractor to obtain and maintain an offer of qualified health insurance coverage for the
1882 subcontractor's eligible employees and the eligible employees' dependents during the duration
1883 of the subcontract; and

1884 (ii) obtain from a subcontractor ~~[that is subject to the requirements of this section]~~
1885 referred to in Subsection (6)(a)(i) a written statement demonstrating that[:] the subcontractor
1886 offers qualified health insurance coverage to eligible employees and eligible employees'
1887 dependents.

1888 ~~[(A) the subcontractor offers qualified health insurance coverage that complies with~~
1889 ~~Section 26-40-115;]~~

1890 ~~[(B)]~~ (b) [is] A statement under Subsection (6)(a)(ii):

1891 (i) shall be from:

1892 (A) an actuary selected by the subcontractor or the subcontractor's insurer^[;]; or
 1893 (B) an underwriter who is responsible for developing the employer group's premium
 1894 rates; and

1895 ~~[(C)]~~ (ii) ~~[was]~~ may not be created ~~[within]~~ more than one year before the day on
 1896 which the contractor obtains the statement from the subcontractor.

1897 ~~[(c)-(i)-(A)]~~ (7) (a) (i) A contractor that fails to maintain an offer of qualified health
 1898 insurance coverage ~~[described in Subsection (5)(a)]~~ during the duration of the contract as
 1899 required in this section is subject to penalties in accordance with administrative rules adopted
 1900 by the division under ~~[Subsection (6)]~~ this section.

1901 ~~[(B)]~~ (ii) A contractor is not subject to penalties for the failure of a subcontractor to
 1902 obtain and maintain an offer of qualified health insurance coverage ~~[described in Subsection~~
 1903 ~~(5)(b)(i)]~~ as required in this section.

1904 ~~[(ii)-(A)]~~ (b) (i) A subcontractor that fails to obtain and maintain an offer of qualified
 1905 health insurance coverage ~~[described in Subsection (5)(b)(i)]~~ during the duration of the
 1906 subcontract as required in this section is subject to penalties in accordance with administrative
 1907 rules adopted by the division under ~~[Subsection (6)]~~ this section.

1908 ~~[(B)]~~ (ii) A subcontractor is not subject to penalties for the failure of a contractor to
 1909 maintain an offer of qualified health insurance coverage ~~[described in Subsection (5)(a)]~~ as
 1910 required in this section.

1911 ~~[(6)]~~ (8) The division shall adopt administrative rules:

1912 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1913 (b) in coordination with:

1914 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

1915 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

1916 (iii) a public transit district in accordance with Section 17B-2a-818.5;

1917 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

1918 (v) the Department of Transportation in accordance with Section 72-6-107.5; and

1919 (vi) the Legislature's Administrative Rules Review Committee; and
1920 (c) that establish:
1921 (i) the requirements and procedures for a contractor and a subcontractor ~~[shall follow]~~
1922 to demonstrate compliance with this section, including:
1923 (A) a provision that a contractor or subcontractor's compliance with this section is
1924 subject to an audit by the division or the Office of the Legislative Auditor General;
1925 (B) a provision that a contractor that is subject to the requirements of this section
1926 ~~[shall]~~ obtain a written statement ~~[described in Subsection (5)(a)]~~ as provided in Subsection
1927 (5); and
1928 (C) a provision that a subcontractor that is subject to the requirements of this section
1929 ~~[shall]~~ obtain a written statement ~~[described in Subsection (5)(b)(ii)]~~ as provided in Subsection
1930 (6);
1931 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
1932 violates the provisions of this section, which may include:
1933 (A) a three-month suspension of the contractor or subcontractor from entering into a
1934 future ~~[contracts]~~ contract with the state upon the first violation;
1935 (B) a six-month suspension of the contractor or subcontractor from entering into a
1936 future ~~[contracts]~~ contract with the state upon the second violation;
1937 (C) an action for debarment of the contractor or subcontractor in accordance with
1938 Section 63G-6a-904 upon the third or subsequent violation; and
1939 (D) monetary penalties which may not exceed 50% of the amount necessary to
1940 purchase qualified health insurance coverage for eligible employees and dependents of eligible
1941 employees of the contractor or subcontractor who were not offered qualified health insurance
1942 coverage during the duration of the contract; and
1943 (iii) a website ~~[on which]~~ for the department ~~[shall]~~ to post the commercially
1944 equivalent benchmark for the qualified health insurance coverage that is provided by the
1945 Department of Health in accordance with Subsection 26-40-115(2).

1946 ~~[(7)(a)]~~ (9) During the duration of a contract, the division may perform an audit to
 1947 verify a contractor or subcontractor's compliance with this section.

1948 ~~[(b)]~~ (10)(a) Upon the division's request, a contractor or subcontractor shall provide
 1949 the division:

1950 (i) a signed actuarial certification that the coverage the contractor or subcontractor
 1951 offers is qualified health insurance coverage; or

1952 (ii) all relevant documents and information necessary for the division to determine
 1953 compliance with this section.

1954 ~~[(c)]~~ (b) If a contractor or subcontractor provides the documents and information
 1955 described in Subsection ~~[(7)(b)(ii)]~~ (10)(a)(i), the Insurance Department shall assist the division
 1956 in determining if the coverage the contractor or subcontractor offers is qualified health
 1957 insurance coverage.

1958 ~~[(8)]~~ (11)(a)(i) In addition to the penalties imposed under Subsection ~~[(6)(c)(ii)]~~ (7), a
 1959 contractor or subcontractor that intentionally violates the provisions of this section is liable to
 1960 ~~[the]~~ an eligible employee for health care costs that would have been covered by qualified
 1961 health insurance coverage.

1962 (ii) An employer has an affirmative defense to a cause of action under Subsection ~~[(8)]~~
 1963 (11)(a)(i) if:

1964 (A) the employer relied in good faith on a written statement described in Subsection
 1965 ~~[(5)(a) or (5)(b)(ii)]~~ (5) or (6); or

1966 (B) the department determines that compliance with this section is not required under
 1967 the provisions of Subsection (3).

1968 (b) An eligible employee has a private right of action ~~[only]~~ against the employee's
 1969 employer ~~[to enforce the provisions of this Subsection (8)]~~ only as provided in this Subsection
 1970 (11).

1971 ~~[(9)]~~ (12) ~~[Any penalties imposed and collected]~~ The director shall cause money
 1972 collected from the imposition and collection of a penalty under this section ~~[shall]~~ to be

1973 deposited into the Medicaid Restricted Account created by Section 26-18-402.

1974 ~~[(10)]~~ (13) The failure of a contractor or subcontractor to provide qualified health
1975 insurance coverage as required by this section:

1976 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
1977 or contractor under:

1978 (i) Section 63G-6a-1602; or

1979 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

1980 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
1981 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
1982 or construction.

1983 (14) An employer's waiting period for an employee to become eligible for qualified
1984 health insurance coverage may not extend beyond the first day of the calendar month following
1985 60 days after the day on which the employee is hired.

1986 Section 42. Section **63A-5b-608**, which is renumbered from Section 63A-5-207 is
1987 renumbered and amended to read:

1988 ~~[63A-5-207]~~. **63A-5b-608. Obligations beyond authorized funding**
1989 **prohibited -- Exceptions.**

1990 (1) ~~[The]~~ Unless otherwise specifically instructed by the terms of the appropriation for
1991 a particular project, the director shall assure~~[, unless otherwise specifically instructed by the~~
1992 ~~terms of the appropriation of a particular project,]~~ that no obligations beyond the authorized
1993 funding are incurred in the construction of any project authorized by the Legislature.

1994 (2) The director may expend appropriations for statewide projects from funds provided
1995 by the Legislature for the purposes and within the guidelines established by the Legislature.

1996 ~~[(2)]~~ (3) The director may consent to the drafting of a plan or the awarding of a
1997 contract that will exceed in cost the funding currently available for the project ~~[in question]~~
1998 only if the Legislature has specifically provided for extending construction of a building or the
1999 completion of a project into future fiscal periods.

2000 Section 43. Section **63A-5b-609**, which is renumbered from Section 63A-5-209 is
2001 renumbered and amended to read:

2002 ~~[63A-5-209]~~. **63A-5b-609**. **Expenditure of appropriated funds supervised**
2003 **by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah**
2004 **Percent-for-Art Program.**

2005 (1) The director shall:

2006 (a) (i) supervise the expenditure of funds in providing plans, engineering
2007 specifications, sites, and construction of the buildings for which legislative appropriations are
2008 made; and

2009 (ii) specifically allocate money appropriated [~~when~~] if more than one project is
2010 included in any single appropriation without legislative directive;

2011 (b) (i) expend the amount necessary from appropriations for planning, engineering, and
2012 architectural work; and

2013 (ii) (A) allocate amounts from appropriations necessary to cover expenditures
2014 previously made from the planning fund under Section [~~63A-5-211~~] 63A-5b-503 in the
2015 preparation of plans, engineering, and specifications; and

2016 (B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

2017 (c) hold in a statewide contingency reserve the amount budgeted for contingencies:

2018 (i) in appropriations for the construction or remodeling of facilities; and

2019 (ii) [~~which may be~~] that are over and above all amounts obligated by contract for
2020 planning, engineering, architectural work, sites, and construction contracts.

2021 (2) (a) The director shall base the amount budgeted for contingencies on a sliding scale
2022 percentage of the construction cost ranging from:

2023 (i) 4-1/2% to 6-1/2% for new construction; and

2024 (ii) 6% to 9-1/2% for remodeling projects.

2025 (b) The director shall hold the statewide contingency funds to cover:

2026 (i) costs of change orders; and

2027 (ii) unforeseen, necessary costs beyond those specifically budgeted for the project.

2028 (c) (i) The Legislature shall annually review the percentage and the amount held in the
2029 statewide contingency reserve.

2030 (ii) The Legislature may reappropriate to other building needs, including the cost of
2031 administering building projects, any amount from the statewide contingency reserve that is in
2032 excess of the reserve required to meet future contingency needs.

2033 (3) (a) The director shall hold in a separate project reserve [~~those~~] state appropriated
2034 funds accrued through bid savings and project residual [~~as a project reserve~~].

2035 (b) The director shall account for the funds accrued under Subsection (3)(a) in separate
2036 accounts as follows:

2037 (i) bid savings and project residual from a capital improvement project, as defined in
2038 Section [~~63A-5-104~~] [63A-5b-401](#); and

2039 (ii) bid savings and project residual from a capital development project, as defined in
2040 Section [~~63A-5-104~~] [63A-5b-401](#).

2041 (c) The [~~State Building Board may authorize the use of~~] director may use project
2042 reserve funds in the account described in Subsection (3)(b)(i) for a capital improvement
2043 project:

2044 (i) approved under Section [~~63A-5-104~~] [63A-5b-405](#); and

2045 (ii) for which funds are not allocated.

2046 (d) The director may:

2047 (i) authorize the use of project reserve funds in the accounts described in Subsection
2048 (3)(b) for the award of contracts in excess of a project's construction budget if the use is
2049 required to meet the intent of the project;

2050 (ii) transfer money from the account described in Subsection (3)(b)(i) to the account
2051 described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction
2052 budget; and

2053 (iii) use project reserve funds for any emergency capital improvement project, whether

2054 or not the emergency capital improvement project is related to a project that has exceeded its
2055 construction budget.

2056 (e) The director shall report to the Office of the Legislative Fiscal Analyst within 30
2057 days:

2058 (i) an ~~[authorization]~~ expenditure under Subsection (3)(c); or

2059 (ii) a transfer under Subsection (3)(d).

2060 (f) The Legislature shall annually review the amount held in the project reserve for
2061 possible reallocation by the Legislature to other building needs, including the cost of
2062 administering building projects.

2063 (4) If any part of the appropriation for a building project, other than the part set aside
2064 for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art
2065 Act, remains unencumbered after the award of construction and professional service contracts
2066 and establishing a reserve for fixed and moveable equipment, the balance of the appropriation
2067 is dedicated to the project reserve and does not revert to the General Fund.

2068 (5) (a) One percent of the amount appropriated for the construction of any new state
2069 building or facility may be appropriated and set aside for the Utah Percent-for-Art Program
2070 administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art
2071 Act.

2072 (b) The director shall release to the Division of Fine Arts any funds included in an
2073 appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art
2074 Program.

2075 (c) Funds from appropriations for ~~[any]~~ a state building or facility ~~[of which]~~ may not
2076 be set aside:

2077 (i) if any part of the funds is derived from the issuance of bonds~~[-]~~; and

2078 (ii) to the extent ~~[it]~~ the set aside of funds would jeopardize the federal income tax
2079 exemption otherwise allowed for interest paid on bonds~~[-, may not be set aside]~~.

2080 Section 44. Section ~~63A-5b-610~~, which is renumbered from Section 63A-5-219 is

2081 renumbered and amended to read:

2082 ~~[63A-5-219].~~ **63A-5b-610.** **Transfer from project reserve money.**

2083 (1) With the approval of and through an appropriation by the Legislature, the division
2084 shall transfer at least \$100,000 annually from the project reserve money to the General Fund to
2085 pay for personal service expenses associated with the management of construction projects.

2086 (2) With the approval of and as directed by the Legislature, the division shall transfer
2087 additional money from the project reserve money to pay administrative costs associated with
2088 the management of construction projects and other division responsibilities.

2089 Section 45. Section **63A-5b-701** is enacted to read:

2090 **Part 7. Operation and Maintenance**

2091 **63A-5b-701.** **Operation and maintenance for state facilities.**

2092 (1) As used in this section, "maintenance functions" means all programs and activities
2093 related to the operation and maintenance of a state facility, including preventive maintenance
2094 and inspection.

2095 (2) (a) The director shall direct or delegate maintenance functions for an agency, except
2096 for:

2097 (i) the State Capitol Preservation Board; and

2098 (ii) an institution of higher education.

2099 (b) The director may delegate responsibility for maintenance functions to an agency
2100 only if:

2101 (i) the agency requests the responsibility; and

2102 (ii) the director determines that:

2103 (A) the agency has the necessary resources and skills to comply with maintenance
2104 functions standards approved by the director; and

2105 (B) the delegation would result in net cost savings to the state as a whole.

2106 (c) The State Capitol Preservation Board and an institution of higher education are
2107 exempt from division oversight of maintenance functions.

- 2108 (d) An institution of higher education shall comply with the division's facility
2109 maintenance functions standards.
- 2110 (3) (a) An institution of higher education shall annually report to the division, in a
2111 format required by the division, on the institution of higher education's compliance with the
2112 division's maintenance functions standards.
- 2113 (b) The division shall:
- 2114 (i) prescribe a standard format for reporting compliance with the division's
2115 maintenance functions standards;
- 2116 (ii) report to the Legislature on the compliance or noncompliance with the standards;
2117 and
- 2118 (iii) conduct periodic audits to ensure that institutions of higher education are
2119 complying with the standards and report the results of the audits to the Legislature.
- 2120 Section 46. Section **63A-5b-702** is enacted to read:
- 2121 **63A-5b-702. Standards and requirements for state facilities -- Life-cycle cost**
2122 **effectiveness.**
- 2123 (1) As used in this section:
- 2124 (a) "Life cycle cost-effective" means the most prudent cost of owning, operating, and
2125 maintaining a facility, including the initial cost, energy costs, operation and maintenance costs,
2126 repair costs, and the costs of energy conservation and renewable energy systems.
- 2127 (b) "Renewable energy system" means a system designed to use solar, wind,
2128 geothermal power, wood, or other replenishable energy source to heat, cool, or provide
2129 electricity to a building.
- 2130 (2) The director shall, in accordance with Title 63G, Chapter 3, Utah Administrative
2131 Rulemaking Act, make rules:
- 2132 (a) that establish standards and requirements for determining whether a state facility
2133 project is life cycle cost-effective;
- 2134 (b) for the monitoring of an agency's operation and maintenance expenditures for a

2135 state-owned facility;
2136 (c) to establish standards and requirements for utility metering;
2137 (d) that create an operation and maintenance program for an agency's facilities;
2138 (e) that establish a methodology for determining reasonably anticipated inflationary
2139 costs for each operation and maintenance program described in Subsection (2)(d);
2140 (f) that require an agency to report the amount the agency receives and expends on
2141 operation and maintenance; and
2142 (g) that provide for determining the actual cost for operation and maintenance requests
2143 for a new facility.
2144 (3) The director shall:
2145 (a) ensure that state-owned facilities, except for facilities under the control of the State
2146 Capitol Preservation Board, are life cycle cost-effective;
2147 (b) conduct ongoing facilities audits of state-owned facilities; and
2148 (c) monitor an agency's operation and maintenance expenditures for state-owned
2149 facilities as provided in rules made under Subsection (2)(b).
2150 (4) (a) An agency shall comply with the rules made under Subsection (2) for new
2151 facility requests submitted to the Legislature for a session of the Legislature after the 2017
2152 General Session.
2153 (b) The Office of the Legislative Fiscal Analyst and the Governor's Office of
2154 Management and Budget shall, for each agency with operation and maintenance expenses,
2155 ensure that each required budget for the agency is adjusted in accordance with the rules
2156 described in Subsection (2)(e).
2157 Section 47. Section **63A-5b-703** is enacted to read:
2158 **63A-5b-703. Agency lease payments.**
2159 (1) (a) Beginning July 1, 2020, the division shall implement a program to charge
2160 agencies, except institutions of higher education, lease payments for the agency's use and
2161 occupancy of space within a building.

2162 (b) Before July 1, 2020, the division shall:
2163 (i) conduct a market analysis of market lease rates for comparable space in buildings
2164 comparable to division-owned buildings; and
2165 (ii) establish lease rates for an agency's use and occupancy of a division-owned
2166 building.
2167 (c) The lease rates shall be:
2168 (i) consistent with market rates for comparable space in comparable buildings;
2169 (ii) calculated to cover:
2170 (A) an amortized amount for capital replacement;
2171 (B) an amount for capital improvements; and
2172 (C) operation and maintenance costs; and
2173 (iii) in proportion to legislative appropriations.
2174 (2) In making appropriations to cover lease payments under this section, the
2175 Legislature shall create a line item, as defined in Section [63J-1-102](#), for each agency to fund the
2176 lease payments.

2177 Section 48. Section **63A-5b-801** is enacted to read:

2178 **Part 8. Acquisitions of Real Property Interests**

2179 **63A-5b-801. Definitions.**

2180 As used in this part:

2181 (1) "Agency optional term" means an option that is exclusively exercisable by a leasing
2182 agency to extend the lease term.
2183 (2) "High-cost lease" means a real property lease that:
2184 (a) has an initial term including any agency optional term of 10 years or more; or
2185 (b) will require lease payments of more than \$5,000,000 over the term of the lease,
2186 including any agency optional term.
2187 (3) (a) "Leasing agency" means a department, commission, board, council, agency,
2188 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,

2189 unit, bureau, panel, or other administrative unit of the state.

2190 (b) "Leasing agency" does not include:

2191 (i) the legislative branch;

2192 (ii) the judicial branch; and

2193 (iii) an institution of higher education.

2194 (4) "Significant lease terms" includes the duration of the lease, the frequency of the

2195 periodic payments, a renewal clause, a purchase option, a cancellation clause, a repair and

2196 maintenance clause, and a restriction on use of the property.

2197 Section 49. Section **63A-5b-802**, which is renumbered from Section 63A-5-302 is

2198 renumbered and amended to read:

2199 ~~[63A-5-302].~~ **63A-5b-802. Leasing responsibilities of the director.**

2200 (1) The director shall:

2201 (a) prepare and submit a yearly request to the governor and Legislature for a designated

2202 amount of square footage by type of space to be leased by the division for that fiscal year;

2203 ~~[(a)]~~ (b) lease, in the name of the division, all real property space to be occupied by

2204 ~~[an]~~ a leasing agency;

2205 ~~[(b)]~~ (c) in leasing space~~[-comply with]:~~

2206 ~~[(i) Title 63G, Chapter 6a, Utah Procurement Code; and]~~

2207 (i) use a process consistent with the best interest of the state, the requirements of the

2208 leasing agency, and the anticipated use of the property; and

2209 (ii) comply with any legislative mandates contained in the appropriations act or other

2210 ~~[specific]~~ legislation;

2211 ~~[(e)]~~ (d) apply the criteria contained in Subsection (1)~~[(e)]~~(f) to prepare a report

2212 evaluating each high-cost lease at least 12 months before ~~[it]~~ the lease expires;

2213 ~~[(d)]~~ (e) evaluate each lease under the division's control and apply the criteria

2214 contained in Subsection ~~[(1)(e), when appropriate, to evaluate those leases]~~ (1)(f), as

2215 applicable, to evaluate the lease;

- 2216 ~~[(e)]~~ (f) in evaluating leases:
- 2217 (i) determine whether ~~[or not]~~ the lease is cost-effective when the needs of the leasing
- 2218 agency to be housed in the leased facilities are considered;
- 2219 (ii) determine whether ~~[or not]~~ another option such as construction, use of other
- 2220 state-owned space, or a lease-purchase agreement is more cost-effective than leasing;
- 2221 (iii) determine whether ~~[or not]~~ the significant lease terms are cost-effective and
- 2222 provide the state with sufficient flexibility and protection from liability;
- 2223 (iv) compare the proposed lease payments to the current market rates, and evaluate
- 2224 whether ~~[or not]~~ the proposed lease payments are reasonable under current market conditions;
- 2225 (v) compare proposed significant lease terms to the current market, and recommend
- 2226 whether ~~[or not]~~ these proposed terms are reasonable under current market conditions; and
- 2227 (vi) if applicable, recommend that the lease or modification to a lease be approved or
- 2228 disapproved;
- 2229 ~~[(f)]~~ (g) based upon the evaluation, include in the report recommendations that identify
- 2230 viable alternatives to:
- 2231 (i) make the lease cost-effective; or
- 2232 (ii) meet the leasing agency's needs when the lease expires; and
- 2233 ~~[(g)]~~ (h) upon request, provide the information included in the report to:
- 2234 (i) the leasing agency benefitted by the lease; and
- 2235 (ii) the Office of the Legislative Fiscal Analyst.
- 2236 (2) The director may:
- 2237 (a) subject to legislative appropriation, enter into a facility ~~[leases with terms]~~ lease
- 2238 with a term of up to 10 years ~~[when]~~ if the length of the lease's term is economically
- 2239 advantageous to the state; and
- 2240 (b) with the approval of the ~~[State Building Board]~~ board and subject to legislative
- 2241 appropriation, enter into a facility ~~[leases with terms]~~ lease with a term of more than 10 years
- 2242 ~~[when]~~ if the length of the lease's term is economically advantageous to the state.

2243 Section 50. Section **63A-5b-803**, which is renumbered from Section 63A-5-303 is
2244 renumbered and amended to read:

2245 ~~[63A-5-303].~~ **63A-5b-803. Reporting of leasing activity.**

2246 (1) The director shall:

2247 (a) prepare a standard form upon which ~~[agencies and other state institutions and~~
2248 ~~entities can report their]~~ a leasing agency and another state institution or entity can report the
2249 current and proposed lease activity of the leasing agency, institution, or entity, including any
2250 lease [renewals] renewal; and

2251 (b) develop procedures and mechanisms within the division to:

2252 (i) obtain and share information about each leasing agency's real property needs; and

2253 (ii) provide oversight and review of lessors and lessees during the term of each lease.

2254 (2) Each leasing agency, the Judicial Council, and the Board of Regents₂ for each
2255 institution of higher education₂ shall report all current and proposed lease activity on the
2256 standard form prepared by the division to:

2257 (a) the ~~[State Building Board]~~ division; and

2258 (b) the Office of the Legislative Fiscal Analyst.

2259 Section 51. Section **63A-5b-804**, which is renumbered from Section 63A-5-304 is
2260 renumbered and amended to read:

2261 ~~[63A-5-304].~~ **63A-5b-804. Leasing by the Administrative Office of the**
2262 **Courts -- Judicial Council approval required for high-cost lease -- Director's**
2263 **responsibilities.**

2264 (1) Before executing ~~[any]~~ a high-cost lease or a modification to a lease that results in a
2265 high-cost lease, the Administrative Office of the Courts shall submit a draft of the new lease or
2266 modification to:

2267 (a) the Judicial Council; and

2268 (b) the director ~~[of the Division of Facilities Construction and Management].~~

2269 (2) The director shall:

- 2270 (a) review the ~~[drafts]~~ draft submitted by the Administrative Office of the Courts; and
- 2271 (b) within 30 days after receiving the ~~[drafts from the office]~~ draft, submit a report on
- 2272 ~~[those drafts]~~ the draft to:
- 2273 (i) the Judicial Council; and
- 2274 (ii) the Office of the Legislative Fiscal Analyst.
- 2275 (3) ~~[The]~~ A report under Subsection (2)(b) shall contain:
- 2276 (a) the director's opinion about:
- 2277 (i) whether ~~[or not]~~ the lease or modification is cost-effective when the needs of the
- 2278 entity to be housed in the leased facility are considered;
- 2279 (ii) whether ~~[or not]~~ another option such as construction, use of other state-owned
- 2280 space, or a lease-purchase agreement is more cost-effective than leasing; and
- 2281 (iii) whether ~~[or not]~~ the significant lease terms are cost-effective and provide the state
- 2282 with sufficient flexibility and protection from liability;
- 2283 (b) a comparison of the proposed lease payments to the current market rates, and a
- 2284 recommendation as to whether ~~[or not]~~ the proposed lease payments are reasonable under
- 2285 current market conditions;
- 2286 (c) a comparison of proposed significant lease terms to the current market, and a
- 2287 recommendation as to whether ~~[these]~~ the proposed terms are reasonable under current market
- 2288 conditions; and
- 2289 (d) a recommendation from the director that the lease or modification to a lease be
- 2290 approved or disapproved.
- 2291 (4) (a) The Administrative Office of the Courts may not execute ~~[any]~~ a new high-cost
- 2292 ~~[leases or modifications to any]~~ lease or modification to an existing lease that will result in a
- 2293 high-cost lease unless ~~[that lease or those modifications are]~~ the lease or modification is
- 2294 approved by a majority vote of the Judicial Council.
- 2295 (b) The Judicial Council shall consider the recommendations of the director ~~[of the~~
- 2296 ~~division]~~ in determining whether ~~[or not]~~ to approve a high-cost ~~[leases and modifications]~~

2297 lease or modification resulting in a high-cost [~~leases~~] lease.

2298 Section 52. Section **63A-5b-805**, which is renumbered from Section 63A-5-305 is
2299 renumbered and amended to read:

2300 ~~[63A-5-305].~~ **63A-5b-805. Leasing by higher education institutions.**

2301 (1) The Board of Regents shall establish written policies and procedures governing
2302 leasing by an institution of higher education [~~institutions~~].

2303 (2) Except as provided in Sections **53B-2a-113** and **63M-2-602**, [~~a~~] an institution of
2304 higher education [~~institution~~] shall comply with the procedures and requirements of the Board
2305 of Regents' policies before signing or renewing a lease.

2306 Section 53. Section **63A-5b-806**, which is renumbered from Section 63A-5-401 is
2307 renumbered and amended to read:

2308 ~~[63A-5-401].~~ **63A-5b-806. Division rules on the value of property bought**
2309 **or exchanged -- Exception.**

2310 (1) [~~If the division buys, sells, or exchanges real property, the~~] The division shall, in
2311 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to
2312 ensure that, if the division buys or exchanges real property, the value of the real property is
2313 congruent with the proposed price and other terms of the purchase[~~, sale,~~] or exchange.

2314 (2) The rules:

2315 (a) shall establish procedures for determining the value of the real property;

2316 (b) may provide that an appraisal, as defined [~~under~~] in Section **61-2g-102**,
2317 demonstrates the real property's value; and

2318 (c) may require that the appraisal be completed by a state-certified general appraiser, as
2319 defined [~~under~~] in Section **61-2g-102**.

2320 (3) The rules adopted under Subsection (1) [~~does~~] do not apply to[~~:(a)~~] the purchase[~~,~~
2321 ~~sale,~~] or exchange of real property, or [~~to~~] an interest in real property, with a value of less than
2322 [~~\$100,000~~] \$250,000, as estimated by the division[~~, or~~].

2323 [~~(b) a transfer of ownership or lease of vacant division-owned property, as defined in~~

2324 Section ~~63A-5a-102~~, at below fair market value under Chapter 5a, Division-Owned Real
2325 Property Act.]

2326 Section 54. Section **63A-5b-901**, which is renumbered from Section 63A-5a-102 is
2327 renumbered and amended to read:

2328 **Part 9. Disposal of Division-Owned Property**

2329 ~~[63A-5a-102]~~. **63A-5b-901. Definitions.**

2330 As used in this [chapter] part:

2331 (1) "Applicant" means a person who submits a timely, qualified proposal to the
2332 division.

2333 [~~(2)~~] "~~Board~~" means the State Building Board, created in Section ~~63A-5-101~~.]

2334 [~~(3)~~] (2) "Condemnee" means the same as that term is defined in Section ~~78B-6-520.3~~.

2335 [~~(4)~~] (3) "Convey" means:

2336 (a) to provide for a primary state agency's occupancy or use of vacant division-owned
2337 property; or

2338 (b) to effect a transfer of ownership or lease of vacant division-owned property to a
2339 secondary state agency, local government entity, public purpose nonprofit entity, or private
2340 party.

2341 [~~(5)~~] "~~Director~~" means the division director, appointed under Section ~~63A-5-203~~.]

2342 [~~(6)~~] "~~Division~~" means the Division of Facilities Construction and Management, created
2343 in Section ~~63A-5-201~~.]

2344 [~~(7)~~] (4) "Division-owned property" means real property, including an interest in real
2345 property, to which the division holds title, regardless of who occupies or uses the real property.

2346 [~~(8)~~] (5) "Local government entity" means a county, city, town, metro township, local
2347 district, special service district, community development and renewal agency, conservation
2348 district, school district, or other political subdivision of the state.

2349 [~~(9)~~] (6) "Primary state agency" means a state agency for which the division holds title
2350 to real property that the state agency occupies or uses, as provided in Subsection

2351 [~~63A-5-204(2)(a)(iv)~~] [63A-5b-303\(1\)\(a\)\(iv\)](#).

2352 [~~(10)~~] (7) "Private party" means a person who is not a state agency, local government
2353 entity, or public purpose nonprofit entity.

2354 [~~(11)~~] (8) "Public purpose nonprofit entity" means a corporation, association,
2355 organization, or entity that:

2356 (a) is located within the state;

2357 (b) is not a state agency or local government entity;

2358 (c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
2359 Code; and

2360 (d) operates to fulfill a public purpose.

2361 [~~(12)~~] (9) "Qualified proposal" means a written proposal that:

2362 (a) meets the criteria established by the division by rule under Section [63A-5b-903](#);

2363 (b) if submitted by a local government entity or public purpose nonprofit entity,
2364 explains the public purpose for which the local government entity or public purpose nonprofit
2365 entity seeks a transfer of ownership or lease of the vacant division-owned property; and

2366 (c) the director determines will, if accepted and implemented, provide a material
2367 benefit to the state.

2368 [~~(13)~~] (10) "Secondary state agency" means a state agency:

2369 (a) that is authorized to hold title to real property that the state agency occupies or uses,
2370 as provided in Subsection [~~63A-5-204(6)~~] [63A-5b-303\(4\)](#); and

2371 (b) for which the division does not hold title to real property that the state agency
2372 occupies or uses.

2373 [~~(14)~~] (11) "State agency" means a department, division, office, entity, agency, or other
2374 unit of state government.

2375 [~~(15)~~] (12) "Transfer of ownership" includes a transfer of the ownership of vacant
2376 division-owned property that occurs as part of an exchange of the vacant division-owned
2377 property for another property.

2378 [~~(16)~~] (13) "Vacant division-owned property" means division-owned property that:

2379 (a) a primary state agency has discontinued to occupy or use; and

2380 (b) the director has determined should be made available for:

2381 (i) use or occupancy by a primary state agency; or

2382 (ii) a transfer of ownership or lease to a secondary state agency, local government
2383 entity, public purpose nonprofit entity, or private party.

2384 [~~(17)~~] (14) "Written proposal" means a brief statement in writing that explains:

2385 (a) the proposed use or occupancy, transfer of ownership, or lease of vacant
2386 division-owned property; and

2387 (b) how the state will benefit from the proposed use or occupancy, transfer of
2388 ownership, or lease.

2389 Section 55. Section **63A-5b-902**, which is renumbered from Section 63A-5a-103 is
2390 renumbered and amended to read:

2391 ~~[63A-5a-103].~~ **63A-5b-902. Application of part.**

2392 (1) The provisions of this [~~chapter~~] part, other than this section, do not apply to:

2393 (a) a conveyance, lease, or disposal under Subsection [~~63A-5-204(2)(a)(x)]~~

2394 ~~63A-5b-303(1)(a)(x);~~ or

2395 (b) the division's disposal or lease of division-owned property with a value under
2396 [~~\$100,000~~] \$250,000, as estimated by the division.

2397 (2) Nothing in Subsection (1)(b) may be construed to diminish or eliminate the
2398 division's responsibility to manage division-owned property in the best interests of the state.

2399 Section 56. Section **63A-5b-903**, which is renumbered from Section 63A-5a-104 is
2400 renumbered and amended to read:

2401 ~~[63A-5a-104].~~ **63A-5b-903. Rules adopted by the division.**

2402 The division may, in accordance with Title 63G, Chapter 3, Utah Administrative
2403 Rulemaking Act, make rules to:

2404 (1) establish criteria that a written proposal is required to satisfy in order to be a

2405 qualified proposal, including, if applicable, a minimum acceptable purchase price; and
2406 (2) define criteria that the director will consider in making a determination whether a
2407 proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property
2408 provides a material benefit to the state.

2409 Section 57. Section **63A-5b-904**, which is renumbered from Section 63A-5a-201 is
2410 renumbered and amended to read:

2411 ~~[63A-5a-201]~~. **63A-5b-904**. **Division authority with respect to vacant**
2412 **division-owned property -- Limitations.**

2413 (1) Subject to Section [~~63A-5a-206~~] 63A-5b-909, the division may, as provided in this
2414 [~~chapter~~] part:

2415 (a) provide for a primary state agency's occupancy or use of vacant division-owned
2416 property;

2417 (b) effect a transfer of ownership or lease of vacant division-owned property to a
2418 secondary state agency, local government entity, public purpose nonprofit entity, or private
2419 party; or

2420 (c) refer vacant division-owned property to the Department of Transportation for sale
2421 by auction, as provided in Section [~~63A-5a-205~~] 63A-5b-908.

2422 (2) The division may not effect a transfer of ownership or lease of vacant
2423 division-owned property without receiving fair market value in return unless:

2424 (a) the director determines that the transfer of ownership or lease is in the best interests
2425 of the state;

2426 (b) for a proposed transfer of ownership or lease to a local government entity, public
2427 purpose nonprofit entity, or private party, the director determines that the local government
2428 entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a
2429 public purpose;

2430 (c) the director requests and receives a recommendation on the proposed transfer of
2431 ownership or lease from the Legislative Executive Appropriations Committee;

2432 (d) the director communicates the Executive Appropriations Committee's
2433 recommendation to the executive director; and

2434 (e) the executive director approves the transfer of ownership or lease.

2435 (3) (a) If the division effects a transfer of ownership of vacant division-owned property
2436 without receiving fair market value in return, as provided in this [chapter] part, the division
2437 shall require the documents memorializing the transfer of ownership to preserve to the
2438 division:

2439 (i) in the case of a transfer of ownership of vacant division-owned property to a
2440 secondary state agency, local government entity, or public purpose nonprofit entity for no or
2441 nominal consideration, a right of reversion, providing for the ownership of the property to
2442 revert to the division if the property ceases to be used for the public benefit; or

2443 (ii) in the case of any other transfer of ownership of vacant division-owned property, a
2444 right of first refusal allowing the division to purchase the property from the transferee for the
2445 same price that the transferee paid to the division if the transferee wishes to transfer ownership
2446 of the former vacant division-owned property.

2447 (b) Subsection (3)(a) does not apply to the sale of vacant division-owned property at an
2448 auction under Section [~~63A-5a-205~~] 63A-5b-908.

2449 Section 58. Section **63A-5b-905**, which is renumbered from Section 63A-5a-202 is
2450 renumbered and amended to read:

2451 ~~[63A-5a-202]~~. **63A-5b-905. Notice required before division may convey**
2452 **division-owned property.**

2453 (1) Before the division may convey vacant division-owned property, the division shall
2454 give notice as provided in Subsection (2).

2455 (2) A notice required under Subsection (1) shall:

2456 (a) identify and describe the vacant division-owned property;

2457 (b) indicate the availability of the vacant division-owned property;

2458 (c) invite persons interested in the vacant division-owned property to submit a written

2459 proposal to the division;

2460 (d) indicate the deadline for submitting a written proposal;

2461 (e) be posted on the division's website for at least 60 consecutive days before the
2462 deadline for submitting a written proposal, in a location specifically designated for notices
2463 dealing with vacant division-owned property;

2464 (f) be posted on the Utah Public Notice Website created in Section [63F-1-701](#) for at
2465 least 60 consecutive days before the deadline for submitting a written proposal; and

2466 (g) be sent by email to each person who has previously submitted to the division a
2467 written request to receive notices under this section.

2468 Section 59. Section **63A-5b-906**, which is renumbered from Section 63A-5a-203 is
2469 renumbered and amended to read:

2470 ~~[63A-5a-203]~~. **63A-5b-906. Submitting a written proposal for vacant**
2471 **division-owned property.**

2472 (1) A person may submit to the division a written proposal:

2473 (a) in response to the division's notice under Section [~~63A-5a-202~~] 63A-5b-905; or

2474 (b) with respect to vacant division-owned property as to which the division has not
2475 given notice under Section [~~63A-5a-202~~] 63A-5b-905.

2476 (2) The division is not required to consider a written proposal or provide notice under
2477 Section [~~63A-5a-202~~] 63A-5b-905 if the director determines that the written proposal is not a
2478 qualified proposal.

2479 (3) If a person submits a qualified proposal to the division under Subsection (1)(b):

2480 (a) the division shall:

2481 (i) give notice as provided in Section [~~63A-5a-202~~] 63A-5b-905; and

2482 (ii) treat the qualified proposal as though it were submitted in response to the notice;

2483 and

2484 (b) the person may, within the time provided for the submission of written proposals,
2485 modify the qualified proposal to the extent necessary to address matters raised in the notice that

2486 were not addressed in the initial qualified proposal.

2487 (4) A person who fails to submit a qualified proposal to the division within 60 days
2488 after the date of the notice under Section [~~63A-5a-202~~] 63A-5b-905 may not be considered for
2489 the vacant division-owned property.

2490 Section 60. Section **63A-5b-907**, which is renumbered from Section 63A-5a-204 is
2491 renumbered and amended to read:

2492 ~~[63A-5a-204]~~. **63A-5b-907. Priorities for vacant division-owned property --**
2493 **Division to convey vacant division-owned property.**

2494 (1) (a) A state agency has priority for vacant division-owned property over a local
2495 government entity, a public purpose nonprofit entity, and a private party.

2496 (b) A local government entity and a public purpose nonprofit entity have:

2497 (i) priority for vacant division-owned property over a private party; and

2498 (ii) between them the same priority for vacant division-owned property.

2499 (2) If the division receives multiple timely qualified proposals from applicants with the
2500 highest and same priority, the division shall:

2501 (a) notify the board of:

2502 (i) the availability of the vacant division-owned property; and

2503 (ii) the applicants with the highest and same priority that have submitted qualified
2504 proposals; and

2505 (b) provide the board with a copy of the timely qualified proposals submitted by the
2506 applicants with the highest and same priority.

2507 (3) Within 30 days after being notified under Subsection (2), the board shall:

2508 (a) determine which applicant's qualified proposal is most likely to result in the highest
2509 and best public benefit; and

2510 (b) notify the division of the board's decision under Subsection (3)(a).

2511 (4) The division shall convey the vacant division-owned property to:

2512 (a) the applicant with the highest priority under Subsection (1), if the division receives

2513 a timely qualified proposal from a single applicant with the highest priority; or
2514 (b) the applicant whose qualified proposal was determined by the board under
2515 Subsection (3) to be most likely to result in the highest and best public benefit, if the division
2516 receives multiple timely qualified proposals from applicants with the highest and same priority.

2517 (5) (a) If the division leases vacant division-owned property to a private party, the
2518 division shall, within 30 days after a lease agreement is executed, provide written notice of the
2519 lease to:

2520 (i) the municipality in which the vacant division-owned property is located, if the
2521 vacant division-owned property is within a municipality; or

2522 (ii) the county in whose unincorporated area the vacant division-owned property is
2523 located, if the vacant division-owned property is not located within a municipality.

2524 (b) Nothing in this chapter may be used by a private party leasing division-owned
2525 property as a basis for not complying with applicable local land use ordinances and regulations.

2526 Section 61. Section **63A-5b-908**, which is renumbered from Section 63A-5a-205 is
2527 renumbered and amended to read:

2528 ~~[63A-5a-205]~~. **63A-5b-908**. **Referring vacant division-owned property to**
2529 **the Department of Transportation for auction.**

2530 (1) The division may refer vacant division-owned property to the Department of
2531 Transportation for a public auction if:

2532 (a) (i) the division has provided notice under Section [~~63A-5a-202~~] 63A-5b-905 with
2533 respect to the vacant division-owned property; and

2534 (ii) the division receives no qualified proposals in response to the notice under Section
2535 [~~63A-5a-202~~] 63A-5b-905;

2536 (b) the director determines that:

2537 (i) there is no reasonable likelihood that within the foreseeable future:

2538 (A) a primary state agency will use or occupy the vacant division-owned property; or

2539 (B) a secondary state agency, local government entity, or public purpose nonprofit

2540 entity will seek a transfer of ownership or lease of the vacant division-owned property; and
2541 (ii) disposing of the vacant division-owned property through a public auction is in the
2542 best interests of the state;

2543 (c) the director requests and receives a recommendation on the proposed public auction
2544 from the Legislative Executive Appropriations Committee;

2545 (d) the director communicates the Executive Appropriations Committee's
2546 recommendation to the executive director; and

2547 (e) the executive director approves the public auction.

2548 (2) If the division refers a vacant division-owned property to the Department of
2549 Transportation for public auction, the Department of Transportation shall publicly auction the
2550 vacant division-owned property under the same law and in the same manner that apply to a
2551 public auction of Department of Transportation property.

2552 (3) At a public auction conducted under Subsection (2), the Department of
2553 Transportation may, on behalf of the division, accept an offer to purchase the vacant
2554 division-owned property.

2555 (4) The division and the Department of Transportation shall coordinate together to:

2556 (a) manage the details of finalizing any sale of the vacant division-owned property at
2557 public auction; and

2558 (b) ensure that the buyer acquires proper title and that the division receives the net
2559 proceeds of the sale.

2560 (5) If a public auction under this section does not result in a sale of the vacant
2561 division-owned property, the Department of Transportation shall notify the division and refer
2562 the vacant division-owned property back to the division.

2563 Section 62. Section **63A-5b-909**, which is renumbered from Section 63A-5a-206 is
2564 renumbered and amended to read:

2565 ~~**63A-5a-206**~~. **63A-5b-909**. State real property subject to right of first
2566 refusal.

2567 (1) (a) If Section 78B-6-520.3 applies to vacant division-owned property, the division
2568 shall comply with Subsection 78B-6-520.3(3).

2569 (b) If a condemnee accepts the division's offer to sell the vacant division-owned
2570 property as provided in Section 78B-6-520.3, the division shall:

2571 (i) comply with the requirements of Section 78B-6-520.3; and

2572 (ii) terminate any process under this chapter to convey the vacant division-owned
2573 property.

2574 (c) A condemnee may waive rights and benefits afforded under Section 78B-6-520.3
2575 and instead seek a transfer of ownership or lease of vacant division-owned property under the
2576 provisions of this chapter in the same manner as any other person not entitled to the rights and
2577 benefits of Section 78B-6-520.3.

2578 (2) (a) If Section 78B-6-521 applies to the anticipated disposal of the vacant
2579 division-owned property, the division shall comply with the limitations and requirements of
2580 Subsection 78B-6-521(2).

2581 (b) If the original grantor or the original grantor's assignee accepts an offer for sale as
2582 provided in Subsection 78B-6-521(2)(a)(i), the division shall:

2583 (i) sell the vacant division-owned property to the original grantor or the original
2584 grantor's assignee, as provided in Section 78B-6-521; and

2585 (ii) terminate any process under this chapter to convey the vacant division-owned
2586 property.

2587 (c) An original grantor or the original grantor's assignee may waive rights afforded
2588 under Section 78B-6-521 and instead seek a transfer of ownership or lease of vacant
2589 division-owned property under the provisions of this chapter in the same manner as any other
2590 person seeking a transfer of ownership or lease of vacant division-owned property to which
2591 Section 78B-6-521 does not apply.

2592 Section 63. Section 63A-5b-910, which is renumbered from Section 63A-5-215 is
2593 renumbered and amended to read:

2594 ~~[63A-5-215].~~ **63A-5b-910.** **Disposition of proceeds received by division**
2595 **from sale of property.**

2596 (1) (a) Except as provided in Section 62A-5-206.7, the division shall pay into the state
2597 treasury the money received [by the division from the sale or other disposition of property shall
2598 be paid into the state treasury and] from the transfer of ownership or lease of division-owned
2599 property.

2600 (b) Money paid into the state treasury under Subsection (1)(a):

2601 (i) becomes a part of the funds provided by law for carrying out the building program
2602 of the state~~[-and are];~~ and

2603 (ii) is appropriated for [that] the purpose described in Subsection (1)(b)(i).

2604 (2) The proceeds from ~~[sales of]~~ the transfer of ownership or lease of division-owned
2605 property belonging to or used by a particular state agency shall, to the extent practicable, be
2606 expended for the construction of buildings or in the performance of other work for the benefit
2607 of that state agency.

2608 Section 64. Section **63A-5b-911**, which is renumbered from Section 63A-5-224 is
2609 renumbered and amended to read:

2610 ~~[63A-5-224].~~ **63A-5b-911.** **Authority to transfer land for commuter rail**
2611 **station and related development.**

2612 The division may transfer title to a parcel of land it owns in a county of the first class to
2613 a public transit district for the purpose of facilitating the development of a commuter rail transit
2614 station and associated transit oriented development if:

2615 (1) the parcel is within one mile of the proposed commuter rail transit station and
2616 associated transit oriented development; and

2617 (2) the division receives in return fair and adequate consideration.

2618 Section 65. Section **63A-5b-912**, which is renumbered from Section 63A-5-226 is
2619 renumbered and amended to read:

2620 ~~[63A-5-226].~~ **63A-5b-912.** **Report to Infrastructure and General**

- 2648 (b) "State facility" does not include:
- 2649 (i) an unoccupied structure that is a component of the state highway system;
- 2650 (ii) a privately owned structure that is located on property owned by the state, the
- 2651 state's departments, commissions, institutions, or agencies, or a state institution of higher
- 2652 education; or
- 2653 (iii) a structure that is located on land administered by the trust lands administration
- 2654 under a lease, permit, or contract with the trust lands administration.

2655 Section 67. Section **63A-5b-1002**, which is renumbered from Section 63A-5-701 is

2656 renumbered and amended to read:

2657 ~~[63A-5-701].~~ **63A-5b-1002. State Building Energy Efficiency Program.**

2658 ~~[(1) For purposes of this section:]~~

2659 ~~[(a) "Division" means the Division of Facilities Construction and Management~~

2660 ~~established in Section 63A-5-201.]~~

2661 ~~[(b) "Energy efficiency measure" means an action taken or initiated by a state agency~~

2662 ~~that:]~~

2663 ~~[(i) reduces the state agency's energy or fuel use or resource energy consumption, water~~

2664 ~~or other resource consumption, operation and maintenance costs, or cost of energy, fuel, water,~~

2665 ~~or other resource; or]~~

2666 ~~[(ii) increases the state agency's energy or fuel efficiency or resource consumption~~

2667 ~~efficiency.]~~

2668 ~~[(c) "Performance efficiency agreement" means an agreement entered into by a state~~

2669 ~~agency whereby the state agency implements one or more energy efficiency measures and~~

2670 ~~finances the costs associated with implementation of performance efficiency measures using~~

2671 ~~the stream of expected savings in costs resulting from implementation of the performance~~

2672 ~~efficiency measures as a funding source for repayment.]~~

2673 ~~[(d) "State agency" means each executive, legislative, and judicial branch department,~~

2674 ~~agency, board, commission, or division, and includes a state institution of higher education as~~

2675 defined in Section ~~53B-3-102~~.]

2676 [~~(e) "State Building Energy Efficiency Program" means a program established under~~
2677 ~~this section for the purpose of improving energy efficiency measures and reducing the energy~~
2678 ~~costs for state facilities.~~]

2679 [~~(f) (i) "State facility" means any building, structure, or other improvement that is~~
2680 ~~constructed on property owned by the state, its departments, commissions, institutions, or~~
2681 ~~agencies, or a state institution of higher education.~~]

2682 [~~(ii) "State facility" does not mean:~~]

2683 [~~(A) an unoccupied structure that is a component of the state highway system;~~]

2684 [~~(B) a privately owned structure that is located on property owned by the state, its~~
2685 ~~departments, commissions, institutions, or agencies, or a state institution of higher education;~~
2686 ~~or]~~

2687 [~~(C) a structure that is located on land administered by the School and Institutional~~
2688 ~~Trust Lands Administration under a lease, permit, or contract with the School and Institutional~~
2689 ~~Trust Lands Administration.~~]

2690 [~~(2)~~] (1) The division shall:

2691 (a) develop and administer the [~~state building~~] energy efficiency program, which shall
2692 include guidelines and procedures to improve energy efficiency in the maintenance and
2693 management of state facilities;

2694 (b) provide information and assistance to [~~state~~] agencies in their efforts to improve
2695 energy efficiency;

2696 (c) analyze energy consumption by [~~state~~] agencies to identify opportunities for
2697 improved energy efficiency;

2698 (d) establish an advisory group composed of representatives of [~~state~~] agencies to
2699 provide information and assistance in the development and implementation of the [~~state~~
2700 ~~building~~] energy efficiency program; and

2701 (e) submit to the governor and to the Infrastructure and General Government

2702 Appropriations Subcommittee of the Legislature an annual report that:

- 2703 (i) identifies strategies for long-term improvement in energy efficiency;
- 2704 (ii) identifies goals for energy conservation for the upcoming year; and
- 2705 (iii) details energy management programs and strategies that were undertaken in the
- 2706 previous year to improve the energy efficiency of [state] agencies and the energy savings
- 2707 achieved.

2708 ~~[(3)]~~ (2) Each [state] agency shall:

- 2709 (a) designate a staff member that is responsible for coordinating energy efficiency
- 2710 efforts within the agency;
- 2711 (b) provide energy consumption and costs information to the division;
- 2712 (c) develop strategies for improving energy efficiency and reducing energy costs; and
- 2713 (d) provide the division with information regarding the agency's energy efficiency and
- 2714 reduction strategies.

2715 ~~[(4) (a)]~~ (3) (a) ~~[A state]~~ An agency may enter into a performance efficiency agreement

2716 for a term of up to 20 years.

2717 (b) Before entering into a performance efficiency agreement, the [state] agency shall:

- 2718 (i) utilize the division to oversee the project unless the project is exempt from the
- 2719 division's oversight or the oversight is delegated to the agency under the provisions of Section
- 2720 ~~[63A-5-206]~~ [63A-5b-701](#);

2721 (ii) obtain the prior approval of the governor or the governor's designee; and

2722 (iii) provide the Office of the Legislative Fiscal Analyst with a copy of the proposed

2723 agreement before the agency enters into the agreement.

2724 (4) An agency may consult with the energy efficiency program manager within the

2725 division regarding:

2726 (a) the cost effectiveness of energy efficiency measures; and

2727 (b) ways to measure energy savings that take into account fluctuations in energy costs

2728 and temperature.

2729 (5) (a) Except as provided under Subsection (5)(b) and subject to future budget
2730 constraints, the Legislature may not remove energy savings from an agency's appropriation.

2731 (b) An agency shall use energy savings to:

2732 (i) fund the cost of the energy efficiency measures; and

2733 (ii) if funds are available after meeting the requirements of Subsection (5)(b)(i), fund
2734 and implement new energy efficiency measures.

2735 (c) The Legislature may remove energy savings if:

2736 (i) an agency has complied with Subsection (5)(b)(i); and

2737 (ii) no new cost-effective energy efficiency measure is available for implementation.

2738 Section 68. Section **63A-5b-1003**, which is renumbered from Section 63A-5-603 is
2739 renumbered and amended to read:

2740 ~~[63A-5-603].~~ **63A-5b-1003. State Facility Energy Efficiency Fund --**

2741 **Contents -- Use of fund money.**

2742 ~~[(1) As used in this section:]~~

2743 ~~[(a) "Board" means the State Building Board.]~~

2744 ~~[(b) "Division" means the Division of Facilities Construction and Management.]~~

2745 ~~[(c) "Fund" means the State Facility Energy Efficiency Fund created by this section.]~~

2746 ~~[(2)]~~ (1) There is created a revolving loan fund known as the "State Facility Energy
2747 Efficiency Fund."

2748 ~~[(3) To capitalize the fund, the Division of Finance shall, at the end of fiscal year~~
2749 ~~2007-08, transfer \$3,650,000 from the Stripper Well-Petroleum Violation Escrow Fund to the~~
2750 ~~fund.]~~

2751 ~~[(4)]~~ (2) The fund shall consist of:

2752 (a) money transferred [under Subsection (3)] from the Stripper Well-Petroleum
2753 Violation Escrow Fund;

2754 (b) money appropriated by the Legislature;

2755 (c) money received for the repayment of loans made from the fund; and

2756 (d) interest earned on the fund.

2757 [~~(5)~~] (3) The board shall make a loan from the fund to [~~a state~~] an agency to [~~wholly or~~
2758 ~~in part,~~] finance all or part of energy efficiency measures.

2759 [~~(6)~~] (4) (a) (i) [~~A state~~] An agency requesting a loan shall submit an application to the
2760 board in the form and containing the information that the board requires, including plans and
2761 specifications for the proposed energy efficiency measures.

2762 (ii) [~~A state~~] An agency may request a loan to fund all or part of the cost of energy
2763 efficiency measures.

2764 (b) If the board rejects the application, the board shall notify the applicant stating the
2765 reasons for the rejection.

2766 [~~(7)~~] (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2767 Act, the board shall make rules establishing:

2768 (i) criteria to determine:

2769 (A) loan eligibility;

2770 (B) energy efficiency measures priority; and

2771 (C) ways to measure energy savings that take into account fluctuations in energy costs
2772 and temperature; and

2773 (ii) a method of monitoring actual savings resulting from energy efficiency measures
2774 implemented using loan money from the fund, using objective and verifiable post-construction
2775 measures, if available.

2776 (b) In making rules that establish prioritization criteria for energy efficiency measures,
2777 the board may consider:

2778 (i) possible additional sources of revenue;

2779 (ii) the feasibility and practicality of the energy efficiency measures;

2780 (iii) the energy savings attributable to eligible energy efficiency measures;

2781 (iv) the annual energy savings;

2782 (v) the projected energy cost payback of eligible energy efficiency measures;

2783 (vi) other benefits to the state attributable to eligible energy efficiency measures;
2784 (vii) the availability of federal funds for the energy efficiency measures; and
2785 (viii) whether to require ~~[a state]~~ an agency to provide matching funds for the energy
2786 efficiency measures.

2787 ~~[(8)]~~ (6) (a) In reviewing energy efficiency measures for possible funding, the board
2788 shall:

2789 (i) review the loan application and the plans and specifications for the energy
2790 efficiency measures;

2791 (ii) determine whether to grant the loan by applying the loan eligibility criteria; and

2792 (iii) if the loan is granted, prioritize funding of the energy efficiency measures by
2793 applying the prioritization criteria.

2794 (b) The board may condition approval of a loan application and the availability of
2795 funds on assurances from the ~~[state]~~ agency that the board considers necessary to ensure that
2796 the ~~[state]~~ agency:

2797 (i) uses the proceeds to pay the cost of the energy efficiency measures; and

2798 (ii) implements the energy efficiency measures.

2799 ~~[(9)]~~ (7) The division shall annually report to the Government Operations Interim
2800 Committee of the Legislature the actual savings resulting from energy efficiency measures
2801 implemented using loan money from the fund, as monitored pursuant to rules adopted under
2802 Subsection ~~[(7)]~~ (5)(a)(ii).

2803 ~~[(10)]~~ (8) The ~~[State Building Energy Efficiency Program]~~ manager of the energy
2804 efficiency program shall provide staff support when the board performs the duties established
2805 in this section.

2806 Section 69. Section **63A-5b-1101** is enacted to read:

2807 **Part 11. Miscellaneous Provisions**

2808 **63A-5b-1101. Gifts, grants, and donations.**

2809 (1) (a) The state or the division may receive a gift, grant, or donation to further the

2810 purposes of this part.

2811 (b) A gift, grant, or donation described in Subsection (1)(a) may not revert to the
2812 General Fund.

2813 (2) (a) This Subsection (2) applies if:

2814 (i) a donor donates land to an institution of higher education and commits to construct
2815 a building or buildings on the land; and

2816 (ii) the institution of higher education:

2817 (A) agrees to provide funds for the operation and maintenance costs of the building or
2818 buildings from sources other than state funds; and

2819 (B) agrees that the building or buildings will not be eligible for state capital
2820 improvement funding.

2821 (b) Notwithstanding any other provision of this chapter, an institution of higher
2822 education that receives a donation described in Subsection (2)(a) may:

2823 (i) oversee and manage a construction project on the donated land without
2824 involvement, oversight, or management from the division; or

2825 (ii) arrange for oversight and management of the construction project by the division.

2826 (c) The role of compliance agency on a construction project on the donated land shall
2827 be provided by:

2828 (i) the institution of higher education, for a construction project that the institution of
2829 higher education oversees and manages under Subsection (2)(b); or

2830 (ii) the director, for a construction project that the division oversees and manages under
2831 Subsection (2)(b)(ii).

2832 Section 70. Section **63A-5b-1102**, which is renumbered from Section 63A-5-801 is
2833 renumbered and amended to read:

2834 ~~[63A-5-801].~~ **63A-5b-1102. Memorials by the state or state agencies.**

2835 (1) As used in this section:

2836 (a) [~~"State]~~ "Authorizing agency" means [~~any of the following of the state]~~ an agency

2837 that holds title to state land[.];

2838 [~~(i) a department;~~]

2839 [~~(ii) a division;~~]

2840 [~~(iii) a board;~~]

2841 [~~(iv) an institution of higher education; or~~]

2842 [~~(v) for the judicial branch, the state court administrator.]~~]

2843 (b) [~~"State~~] "Authorizing agency" does not mean a local district under Title 17B,

2844 Limited Purpose Local Government Entities - Local Districts, or a special service district under
2845 Title 17D, Chapter 1, Special Service District Act.

2846 (2) The Legislature, the governor, or [~~a state~~] an authorizing agency may authorize the
2847 use or donation of state land for the purpose of maintaining, erecting, or contributing to the
2848 erection or maintenance of a memorial to commemorate [~~those~~] individuals who have:

2849 (a) participated in or have given their lives in any of the one or more wars or military
2850 conflicts in which the United States of America has been a participant; or

2851 (b) given their lives in association with public service on behalf of the state, including
2852 firefighters, peace officers, highway patrol officers, or other public servants.

2853 (3) The use or donation of state land in relation to a memorial described in Subsection
2854 (2) may include:

2855 (a) using or appropriating public funds for the purchase, development, improvement, or
2856 maintenance of state land on which a memorial is located or established;

2857 (b) using or appropriating public funds for the erection, improvement, or maintenance
2858 of a memorial;

2859 (c) donating or selling state land for use in relation to a memorial; or

2860 (d) authorizing the use of state land for a memorial that is funded or maintained in part
2861 or in full by another public or private entity.

2862 (4) The Legislature, the governor, or [~~a state~~] an authorizing agency may specify the
2863 form, placement, and design of a memorial that is subject to this section if the Legislature, the

2864 governor, or the ~~[state]~~ authorizing agency holds title to, has authority over, or donates the land
2865 on which a memorial is established.

2866 (5) ~~[Memorials]~~ A memorial within the definition of a capital development project, as
2867 defined in Section ~~[63A-5-104 must]~~ 63A-5b-401, is required to be approved as provided for in
2868 Section ~~[63A-5-104]~~ 63A-5b-402.

2869 (6) Nothing in this section ~~[shall]~~ may be construed as a prohibition of ~~[memorials]~~ a
2870 memorial, including ~~[those for purposes]~~ a memorial for a purpose not covered by this section,
2871 ~~[which have been]~~ that:

2872 (a) is erected within the approval requirements in effect at the time of ~~[their]~~ the
2873 memorial's erection; or

2874 (b) ~~[which]~~ may be duly authorized through other legal means.

2875 Section 71. Section **63A-5b-1103** is enacted to read:

2876 **63A-5b-1103. Making keys to buildings of state, political subdivisions, or colleges**
2877 **and universities without permission prohibited.**

2878 (1) As used in this section:

2879 (a) "Applicable government entity" means a state agency, a political subdivision of the
2880 state, the Board of Regents, or any college or university supported in whole or in part by the
2881 state.

2882 (b) "Government facility" means a building, laboratory, facility, room, dormitory, hall,
2883 or other structure owned, licensed as a licensee, leased as a tenant, or lawfully occupied by an
2884 applicable government entity.

2885 (2) An individual may not knowingly make or cause to be made any key or duplicate
2886 key for a government facility without the prior written consent of the applicable government
2887 entity.

2888 (3) A person who violates this section is guilty of a class B misdemeanor.

2889 Section 72. Section **63A-5b-1104** is enacted to read:

2890 **63A-5b-1104. Notification to local governments for construction or modification**

2891 **of certain facilities.**

2892 (1) (a) The director or the director's designee shall notify in writing the elected
2893 representatives of a local government entity directly and substantively affected by any
2894 diagnostic, treatment, parole, probation, or other secured facility project exceeding \$250,000,
2895 if:

2896 (i) the nature of the project has been significantly altered since an earlier notification;

2897 (ii) the project would significantly change the nature of the functions presently
2898 conducted at the location; or

2899 (iii) the project is new construction.

2900 (b) At the request of the state entity or the local government entity, representatives
2901 from the state entity and the affected local entity shall conduct or participate in a local public
2902 hearing or hearings to discuss the issues described in Subsection (1)(a).

2903 (2) (a) (i) Before beginning the construction of student housing on property owned by
2904 the state or an institution of higher education, the director shall provide written notice of the
2905 proposed construction, as provided in Subsection (2)(a)(ii), if any of the proposed student
2906 housing buildings is within 300 feet of privately owned residential property.

2907 (ii) Each notice under Subsection (2)(a)(i) shall be provided to the legislative body and,
2908 if applicable, the mayor of:

2909 (A) the county in whose unincorporated area the privately owned residential property is
2910 located; or

2911 (B) the municipality in whose boundary the privately owned residential property is
2912 located.

2913 (b) (i) Within 21 days after receiving the notice required by Subsection (2)(a)(i), a
2914 county or municipality entitled to the notice may submit a written request to the director for a
2915 public hearing on the proposed student housing construction.

2916 (ii) If a county or municipality requests a hearing under Subsection (2)(b)(i), the
2917 director and the county or municipality shall jointly hold a public hearing to provide

2918 information to the public and to allow the director and the county or municipality to receive
2919 input from the public about the proposed student housing construction.

2920 Section 73. Section **63A-5b-1105** is enacted to read:

2921 **63A-5b-1105. Testing and inspection firm requirements.**

2922 The director shall ensure that any person performing testing and inspection work
2923 governed by the American Society for Testing Materials Standard E-329 on a public building
2924 under the director's supervision:

2925 (1) fully complies with the American Society for Testing Materials standard
2926 specifications for an agency engaged in the testing and inspection of materials known as ASTM
2927 E-329; and

2928 (2) carries a minimum of \$1,000,000 of errors and omissions insurance.

2929 Section 74. Section **63A-5b-1106**, which is renumbered from Section 63A-5-222 is
2930 renumbered and amended to read:

2931 ~~[63A-5-222].~~ **63A-5b-1106. Critical land near state prison -- Definitions --**
2932 **Preservation as open land -- Management and use of land -- Restrictions on transfer --**
2933 **Wetlands development -- Conservation easement.**

2934 (1) For purposes of this section:

2935 (a) "Corrections" means the Department of Corrections created under Section [64-13-2](#).

2936 (b) "Critical land" means:

2937 (i) a parcel of approximately 250 acres of land owned by the division and located on
2938 the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake
2939 County, approximately the southern half of whose eastern boundary abuts the Denver and Rio
2940 Grande Western Railroad right-of-way; and

2941 (ii) any parcel acquired in a transaction authorized under Subsection (3)(c) as a
2942 replacement for a portion of the parcel described in Subsection (1)(b)(i) that is conveyed as part
2943 of the transaction.

2944 (c) (i) "Open land" means land that is:

2945 (A) preserved in or restored to a predominantly natural, open, and undeveloped
2946 condition; and

2947 (B) used for:

2948 (I) wildlife habitat;

2949 (II) cultural or recreational use;

2950 (III) watershed protection; or

2951 (IV) another use consistent with the preservation of the land in or restoration of the
2952 land to a predominantly natural, open, and undeveloped condition.

2953 (ii) (A) "Open land" does not include land whose predominant use is as a developed
2954 facility for active recreational activities, including baseball, tennis, soccer, golf, or other
2955 sporting or similar activity.

2956 (B) The condition of land does not change from a natural, open, and undeveloped
2957 condition because of the development or presence on the land of facilities, including trails,
2958 waterways, and grassy areas, that:

2959 (I) enhance the natural, scenic, or aesthetic qualities of the land; or

2960 (II) facilitate the public's access to or use of the land for the enjoyment of its natural,
2961 scenic, or aesthetic qualities and for compatible recreational activities.

2962 (2) (a) (i) The critical land shall be preserved in perpetuity as open land.

2963 (ii) The long-term ownership and management of the critical land should eventually be
2964 turned over to the Department of Natural Resources created under Section [79-2-201](#) or another
2965 agency or entity that is able to accomplish the purposes and intent of this section.

2966 (b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions
2967 should be taken on or with respect to the critical land, including:

2968 (i) the development and implementation of a program to eliminate noxious vegetation
2969 and restore and facilitate the return of natural vegetation on the critical land;

2970 (ii) the development of a system of trails through the critical land that is compatible
2971 with the preservation of the critical land as open land;

2972 (iii) the development and implementation of a program to restore the natural features of
2973 and improve the flows of the Jordan River as it crosses the critical land;

2974 (iv) the preservation of the archeological site discovered on the critical land and the
2975 development of an interpretive site in connection with the archeological discovery;

2976 (v) in restoring features on the critical land, the adoption of methods and plans that will
2977 enhance the critical land's function as a wildlife habitat;

2978 (vi) taking measures to reduce safety risks on the critical land; and

2979 (vii) the elimination or rehabilitation of a prison dump site on the critical land.

2980 (3) (a) Except as provided in Subsections (3)(b) and (c), no interest in the critical land
2981 may be sold, assigned, leased, or otherwise transferred unless measures are taken to ensure that
2982 the critical land that is transferred will be preserved as open land in perpetuity.

2983 (b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to
2984 resolve boundary disputes with adjacent property owners and easements may be granted for
2985 trails and other purposes consistent with Subsection (2)(b) and with the preservation of the
2986 critical land as open land.

2987 (c) The Department of Natural Resources may transfer title to a portion of the critical
2988 land described in Subsection (1)(b)(i) in exchange for a parcel of land if:

2989 (i) the parcel being acquired is:

2990 (A) open land; and

2991 (B) located within one mile of the portion of critical land being transferred; and

2992 (ii) the purpose of the exchange is to facilitate the development of a commuter rail
2993 transit station and associated transit oriented development.

2994 (4) The division shall use the funds remaining from the appropriation under Laws of
2995 Utah 1998, Chapter 399, for the purposes of:

2996 (a) determining the boundaries and legal description of the critical land;

2997 (b) determining the boundaries and legal description of the adjacent property owned by
2998 the division;

2999 (c) fencing the critical land and adjacent land owned by the division where appropriate
3000 and needed; and

3001 (d) assisting to carry out the intent of this section.

3002 (5) (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the
3003 critical land may develop or allow a public agency or private entity to develop more wetlands
3004 on the critical land than exist naturally or existed previously.

3005 (b) (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title
3006 may transfer jurisdiction of all or a portion of the critical land to a public agency or private
3007 entity to provide for the development and management of wetlands and designated wetland
3008 buffer areas.

3009 (ii) Before transferring jurisdiction of any part of the critical land under Subsection
3010 (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to
3011 obtain approval from the appropriate federal agency to allow mitigation credits in connection
3012 with the critical land to be used for impacts occurring anywhere along the Wasatch Front.

3013 (6) Notwithstanding any other provision of this section, corrections shall have access to
3014 the cooling pond located on the critical land as long as that access to and use of the cooling
3015 pond are not inconsistent with the preservation of the critical land as open land.

3016 (7) [~~The Department of~~] Corrections, the division, and all other state departments,
3017 divisions, or agencies shall cooperate together to carry out the intent of this section.

3018 (8) In order to ensure that the land referred to in this section is preserved as open land,
3019 the division shall, as soon as practicable, place the land under a perpetual conservation
3020 easement in favor of an independent party such as a reputable land conservation organization or
3021 a state or local government agency with experience in conservation easements.

3022 Section 75. Section **63A-5b-1107**, which is renumbered from Section 63A-5-225 is
3023 renumbered and amended to read:

3024 ~~[63A-5-225]~~. **63A-5b-1107. Development of new correctional facilities.**

3025 (1) As used in this section:

3026 (a) "Committee" means the Legislative Management Committee created in Section
3027 36-12-6.

3028 (b) "New correctional facilities" means a new prison and related facilities to be
3029 constructed to replace the state prison located in Draper.

3030 (c) "Prison project" means all aspects of a project for the design and construction of
3031 new correctional facilities on the selected site, including:

3032 (i) the acquisition of land, interests in land, easements, or rights-of-way;

3033 (ii) site improvement; and

3034 (iii) the acquisition, construction, equipping, or furnishing of facilities, structures,
3035 infrastructure, roads, parking facilities, utilities, and improvements, whether on or off the
3036 selected site, that are necessary, incidental, or convenient to the development of new
3037 correctional facilities on the selected site.

3038 (d) "Selected site" means the site selected [~~under Subsection 63C-15-203(2)~~] as the site
3039 for new correctional facilities.

3040 (2) In consultation with the committee, the division shall oversee the prison project, as
3041 provided in this section.

3042 (3) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this
3043 section, the division shall:

3044 (i) enter into contracts with persons providing professional and construction services
3045 for the prison project;

3046 (ii) provide reports to the committee regarding the prison project, as requested by the
3047 [~~commission~~] committee; and

3048 (iii) consider input from the committee on the prison project, subject to Subsection
3049 (3)(b).

3050 (b) The division may not consult with or receive input from the committee regarding:

3051 (i) the evaluation of proposals from persons seeking to provide professional and
3052 construction services for the prison project; or

3053 (ii) the selection of persons to provide professional and construction services for the
3054 prison project.

3055 (c) A contract with a project manager or person with a comparable position on the
3056 prison project shall include a provision that requires the project manager or other person to
3057 provide reports to the committee regarding the prison project, as requested by the committee.

3058 (4) All contracts associated with the design or construction of new correctional
3059 facilities shall be awarded and managed by the division in accordance with Title 63G, Chapter
3060 6a, Utah Procurement Code, and this section.

3061 (5) The division shall coordinate with the Department of Corrections, created in
3062 Section 64-13-2, and the State Commission on Criminal and Juvenile Justice, created in
3063 Section 63M-7-201, during the prison project to help ensure that the design and construction of
3064 new correctional facilities are conducive to and consistent with, and help to implement any
3065 reforms of or changes to, the state's corrections system and corrections programs.

3066 (6) (a) There is created within the General Fund a restricted account known as the
3067 "Prison Development Restricted Account."

3068 (b) The account created in Subsection (6)(a) is funded by legislative appropriations.

3069 (c) (i) The account shall earn interest or other earnings.

3070 (ii) The Division of Finance shall deposit interest or other earnings derived from the
3071 investment of account funds into the account.

3072 (d) Upon appropriation from the Legislature, money from the account shall be used to
3073 fund the Prison Project Fund created in Subsection (7).

3074 (7) (a) There is created a capital projects fund known as the "Prison Project Fund."

3075 (b) The fund consists of:

3076 (i) money appropriated to the fund by the Legislature; and

3077 (ii) proceeds from the issuance of bonds authorized in Section 63B-25-101 to provide
3078 funding for the prison project.

3079 (c) (i) The fund shall earn interest or other earnings.

3080 (ii) The Division of Finance shall deposit interest or other earnings derived from the
3081 investment of fund money into the fund.

3082 (d) Money in the fund shall be used by the division to fund the prison project.

3083 Section 76. Section **63B-1-304** is amended to read:

3084 **63B-1-304. State Building Ownership Authority created -- Members --**
3085 **Compensation -- Location in Department of Administrative Services.**

3086 (1) There is created a body politic and corporate to be known as the State Building
3087 Ownership Authority composed of:

3088 (a) the governor;

3089 (b) the state treasurer; and

3090 (c) the chair of the [~~State Building Board~~] state building board created under Section
3091 [~~63A-5-101~~] 63A-5b-201.

3092 (2) A member may not receive compensation or benefits for the member's service, but
3093 may receive per diem and travel expenses in accordance with:

3094 (a) Section 63A-3-106;

3095 (b) Section 63A-3-107; and

3096 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
3097 63A-3-107.

3098 (3) (a) Upon request, the division shall provide staff support to the State Building
3099 Ownership Authority.

3100 (b) The State Building Ownership Authority may seek and obtain independent financial
3101 advice, support, and information from the state financial advisor created under Section
3102 67-4-16.

3103 Section 77. Section **63B-2-301** is amended to read:

3104 **63B-2-301. Legislative intent -- Additional projects.**

3105 It is the intent of the Legislature that:

3106 (1) The Department of Employment Security use money in the special administrative

3107 fund to plan, design, and construct a Davis County facility under the supervision of the director
3108 of the Division of Facilities Construction and Management unless supervisory authority is
3109 delegated by him as authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3110 (2) The University of Utah may use donated funds to plan, design, and construct the
3111 Nora Eccles Harrison addition under the supervision of the director of the Division of Facilities
3112 Construction and Management unless supervisory authority is delegated by him as authorized
3113 by Section [~~63A-5-206~~] [63A-5b-604](#).

3114 (3) The University of Utah may use hospital funds to plan, design, and construct the
3115 West Patient Services Building under the supervision of the director of the Division of
3116 Facilities Construction and Management unless supervisory authority is delegated by him as
3117 authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3118 (4) The University of Utah may use federal funds to plan, design, and construct the
3119 Computational Science Building under the supervision of the director of the Division of
3120 Facilities Construction and Management unless supervisory authority is delegated by him as
3121 authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3122 (5) The Board of Regents may issue revenue bonds to provide:

3123 (a) \$6,700,000 to plan, design, and construct single student housing at Utah State
3124 University under the supervision of the director of the Division of Facilities Construction and
3125 Management unless supervisory authority is delegated by him as authorized by Section
3126 [~~63A-5-206~~] [63A-5b-604](#); and

3127 (b) additional money necessary to:

3128 (i) pay costs incident to the issuance and sale of the bonds;

3129 (ii) pay interest on the bonds that accrues during construction and acquisition of the
3130 project and for up to one year after construction is completed; and

3131 (iii) fund any reserve requirements for the bonds.

3132 (6) Utah State University may use federal funds to plan, design, and construct the
3133 Natural Resources Lab addition under the supervision of the director of the Division of

3134 Facilities Construction and Management unless supervisory authority is delegated by him as
3135 authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3136 (7) Utah State University may use funds derived from property sales to plan, design,
3137 and construct emergency relocation facilities for the Farmington Botanical Gardens under the
3138 supervision of the director of the Division of Facilities Construction and Management unless
3139 supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3140 (8) Utah State University may use institutional funds to plan, design, and construct an
3141 institutional residence for the president under the supervision of the director of the Division of
3142 Facilities Construction and Management unless supervisory authority is delegated by him as
3143 authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3144 (9) Weber State University may use discretionary funds to construct a remodel and
3145 expansion of the stores building and mail service facilities under the supervision of the director
3146 of the Division of Facilities Construction and Management unless supervisory authority is
3147 delegated by him as authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3148 (10) Weber State University may use fees and auxiliary revenue to plan, design, and
3149 construct a remodel and expansion of the Shepherd Student Union Building under the
3150 supervision of the director of the Division of Facilities Construction and Management unless
3151 supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3152 (11) Southern Utah University may use donated funds to plan, design, and construct an
3153 alumni house under the supervision of the director of the Division of Facilities Construction
3154 and Management unless supervisory authority is delegated by him as authorized by Section
3155 [~~63A-5-206~~] [63A-5b-604](#).

3156 (12) Utah State University Eastern may use auxiliary revenues and other fees to:

3157 (a) make lease or other payments;

3158 (b) redeem revenue bonds or repay loans issued on behalf of the college; and

3159 (c) plan, design, and construct a 200 person residence hall under the supervision of the
3160 director of the Division of Facilities Construction and Management unless supervisory

3161 authority is delegated by him as authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3162 (13) The Sevier Valley Applied Technology Center may use private and Community
3163 Impact Board funds, if approved, to plan, design, and construct a performing arts/multi-use
3164 facility under the supervision of the director of the Division of Facilities Construction and
3165 Management unless supervisory authority is delegated by him as authorized by Section
3166 [~~63A-5-206~~] [63A-5b-604](#).

3167 (14) Ogden City and Weber County may have offices and related space for their
3168 attorneys included in the Ogden Courts building if the city and county are able to provide
3169 upfront funding to cover all costs associated with the design and construction of that space. In
3170 addition, the city and county shall cover their proportionate share of all operations and
3171 maintenance costs of their facility, including future major repairs to the building.

3172 (15) If the Legislature authorizes the Division of Facilities Construction and
3173 Management to enter into a lease purchase agreement for the Department of Human Services
3174 facility at 1385 South State Street in Salt Lake City or for the State Board of Education facility
3175 and adjacent space in Salt Lake City, or for both of those facilities, the State Building
3176 Ownership Authority, at the reasonable rates and amounts it may determine, and with technical
3177 assistance from the state treasurer, the director of the Division of Finance, and the executive
3178 director of the Governor's Office of Management and Budget, may seek out the most cost
3179 effective lease purchase plans available to the state and may, pursuant to Title 63B, Chapter 1,
3180 Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the
3181 authority pertaining to:

3182 (a) the lease purchase obligation; or

3183 (b) lease rental payments under the lease purchase obligation.

3184 (16) Salt Lake Community College may use donated funds to plan, design, and
3185 construct an amphitheater under the supervision of the director of the Division of Facilities
3186 Construction and Management unless supervisory authority is delegated by him as authorized
3187 by Section [~~63A-5-206~~] [63A-5b-604](#).

3188 (17) For the Tax Commission building, that:

3189 (a) All costs associated with the construction and furnishing of the Tax Commission
3190 building that are incurred before the issuance of the 1993 general obligation bonds be
3191 reimbursed by bond proceeds.

3192 (b) The maximum amount of cost that may be reimbursed from the 1993 general
3193 obligation bond proceeds for the Tax Commission building and furnishings may not exceed
3194 \$14,230,000.

3195 (c) This intent statement for Subsection (17) constitutes a declaration of official intent
3196 under Section 1.103-18 of the U.S. Treasury Regulations.

3197 Section 78. Section **63B-4-201** is amended to read:

3198 **63B-4-201. Legislative intent statements -- Capital facilities.**

3199 (1) (a) It is the intent of the Legislature that the University of Utah use institutional and
3200 other funds to plan, design, and construct two campus child care centers under the supervision
3201 of the director of the Division of Facilities Construction and Management unless supervisory
3202 authority is delegated by the director.

3203 (b) The university shall work with Salt Lake City and the surrounding neighborhood to
3204 ensure site compatibility for future recreational development by the city.

3205 (2) It is the intent of the Legislature that the University of Utah use institutional funds
3206 to plan, design, and construct:

3207 (a) the Union Parking structure under the supervision of the director of the Division of
3208 Facilities Construction and Management unless supervisory authority is delegated by the
3209 director;

3210 (b) the stadium renovation under the supervision of the director of the Division of
3211 Facilities Construction and Management unless supervisory authority is delegated by the
3212 director;

3213 (c) the Huntsman Cancer Institute under the supervision of the director of the Division
3214 of Facilities Construction and Management unless supervisory authority is delegated by the

3215 director;

3216 (d) the Business Case Method Building under the supervision of the director of the
3217 Division of Facilities Construction and Management unless supervisory authority is delegated
3218 by the director; and

3219 (e) the Fine Arts Museum expansion under the supervision of the director of the
3220 Division of Facilities Construction and Management unless supervisory authority is delegated
3221 by the director.

3222 (3) It is the intent of the Legislature that Utah State University use institutional funds to
3223 plan, design, and construct:

3224 (a) a student health services facility under the supervision of the director of the
3225 Division of Facilities Construction and Management unless supervisory authority is delegated
3226 by the director;

3227 (b) a women's softball field under the supervision of the director of the Division of
3228 Facilities Construction and Management unless supervisory authority is delegated by the
3229 director;

3230 (c) an addition to the Nutrition and Food Services Building under the supervision of
3231 the director of the Division of Facilities Construction and Management unless supervisory
3232 authority is delegated by the director; and

3233 (d) a Human Resource Research Center under the supervision of the director of the
3234 Division of Facilities Construction and Management unless supervisory authority is delegated
3235 by the director.

3236 (4) It is the intent of the Legislature that Weber State University use institutional funds
3237 to plan, design, and construct:

3238 (a) a track renovation under the supervision of the director of the Division of Facilities
3239 Construction and Management unless supervisory authority is delegated by the director; and

3240 (b) the Dee Events Center offices under the supervision of the director of the Division
3241 of Facilities Construction and Management unless supervisory authority is delegated by the

3242 director.

3243 (5) It is the intent of the Legislature that Southern Utah University use:

3244 (a) institutional funds to plan, design, and construct an institutional residence under the
3245 supervision of the director of the Division of Facilities Construction and Management unless
3246 supervisory authority is delegated by the director; and

3247 (b) project revenues and other funds to plan, design, and construct the Shakespearean
3248 Festival support facilities under the supervision of the director of the Division of Facilities
3249 Construction and Management unless supervisory authority is delegated by the director.

3250 (6) It is the intent of the Legislature that Dixie College use institutional funds to plan,
3251 design, and construct an institutional residence under the supervision of the director of the
3252 Division of Facilities Construction and Management unless supervisory authority is delegated
3253 by the director.

3254 (7) It is the intent of the Legislature that the Division of Forestry, Fire, and State Lands
3255 use federal and other funds to plan, design, and construct a wetlands enhancement facility
3256 under the supervision of the director of the Division of Facilities Construction and
3257 Management unless supervisory authority is delegated by the director.

3258 (8) (a) As provided in Subsection [~~63A-5-209(2)~~] 63A-5b-609(2), the funds
3259 appropriated to the Project Reserve Fund may only be used for the award of contracts in excess
3260 of the construction budget if these funds are required to meet the intent of the project.

3261 (b) It is the intent of the Legislature that:

3262 (i) up to \$2,000,000 of the amount may be used to award the construction contract for
3263 the Ogden Court Building; and

3264 (ii) the need for any funds remaining as of December 31, 1995 be reviewed by the 1996
3265 Legislature.

3266 (9) (a) It is the intent of the Legislature that the State Building Ownership Authority,
3267 under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue
3268 or execute obligations or enter into or arrange for a lease purchase agreement in which

3269 participation interests may be created to provide up to \$539,700 for the purchase and
3270 demolition of the Keyston property and construction of parking facilities adjacent to the State
3271 Board of Education building in Salt Lake City, with additional amounts necessary to:

- 3272 (i) pay costs of issuance;
- 3273 (ii) pay capitalized interest; and
- 3274 (iii) fund any debt service reserve requirements.

3275 (b) It is the intent of the Legislature that the authority seek out the most cost effective
3276 and prudent lease purchase plan available with technical assistance from the state treasurer, the
3277 director of the Division of Finance, and the executive director of the Governor's Office of
3278 Management and Budget.

3279 (10) (a) It is the intent of the Legislature that the money appropriated for Phase One of
3280 the Remodeling/Life Safety Upgrades of the Browning Fine Arts Center at Weber State
3281 University is to include design of full code compliance, life safety, space necessary to maintain
3282 required programs, and seismic upgrades.

3283 (b) The design shall identify the full scope and cost of Phase Two of the remodeling for
3284 funding consideration in the fiscal year 1997 budget cycle.

3285 (11) It is the intent of the Legislature that:

3286 (a) the fiscal year 1996 appropriation for the Davis County Higher Education land
3287 purchase includes up to \$250,000 for planning purposes;

3288 (b) the Division of Facilities Construction and Management, the Board of Regents, and
3289 the assigned institution of higher education work jointly to ensure the following elements are
3290 part of the planning process:

- 3291 (i) projections of student enrollment and programmatic needs for the next 10 years;
- 3292 (ii) review and make recommendations for better use of existing space, current
3293 technologies, public/private partnerships, and other alternatives as a means to reduce the need
3294 for new facilities and still accommodate the projected student needs; and
- 3295 (iii) use of a master plan that includes issues of utilities, access, traffic circulation,

3296 drainage, rights of way, future developments, and other infrastructure items considered
3297 appropriate; and

3298 (c) every effort is used to minimize expenditures for this part until a definitive decision
3299 has been made by BRACC relative to Hill Air Force Base.

3300 (12) (a) It is the intent of the Legislature that the State Building Ownership Authority,
3301 under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue
3302 or execute obligations or enter into or arrange for a lease purchase agreement in which
3303 participation interests may be created, to provide up to \$7,400,000 for the acquisition and
3304 improvement of the Human Services Building located at 120 North 200 West, Salt Lake City,
3305 Utah, with associated parking for the Department of Human Services together with additional
3306 amounts necessary to:

- 3307 (i) pay costs of issuance;
- 3308 (ii) pay capitalized interest; and
- 3309 (iii) fund any debt service reserve requirements.

3310 (b) It is the intent of the Legislature that the authority seek out the most cost effective
3311 and prudent lease purchase plan available with technical assistance from the state treasurer, the
3312 director of the Division of Finance, and the executive director of the Governor's Office of
3313 Management and Budget.

3314 (13) (a) It is the intent of the Legislature that the State Building Ownership Authority,
3315 under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue
3316 or execute obligations or enter into or arrange for a lease purchase agreement in which
3317 participation interests may be created to provide up to \$63,218,600 for the construction of a
3318 Salt Lake Courts Complex together with additional amounts necessary to:

- 3319 (i) pay costs of issuance;
- 3320 (ii) pay capitalized interest; and
- 3321 (iii) fund any debt service reserve requirements.

3322 (b) It is the intent of the Legislature that the authority seek out the most cost effective

3323 and prudent lease purchase plan available with technical assistance from the state treasurer, the
3324 director of the Division of Finance, and the executive director of the Governor's Office of
3325 Management and Budget.

3326 (c) It is the intent of the Legislature that the Division of Facilities Construction and
3327 Management lease land to the State Building Ownership Authority for the construction of a
3328 Salt Lake Courts Complex.

3329 (14) It is the intent of the Legislature that:

3330 (a) the Board of Regents use the higher education design project money to design no
3331 more than two higher education projects from among the following projects:

3332 (i) Utah State University Eastern - Student Center;

3333 (ii) Snow College - Noyes Building;

3334 (iii) University of Utah - Gardner Hall;

3335 (iv) Utah State University - Widtsoe Hall; or

3336 (v) Southern Utah University - Physical Education Building; and

3337 (b) the higher education institutions that receive approval from the Board of Regents to
3338 design projects under this chapter design those projects under the supervision of the director of
3339 the Division of Facilities Construction and Management unless supervisory authority is
3340 delegated by the director.

3341 (15) It is the intent of the Legislature that:

3342 (a) the Board of Regents may authorize the University of Utah to use institutional
3343 funds and donated funds to design Gardner Hall; and

3344 (b) if authorized by the Board of Regents, the University of Utah may use institutional
3345 funds and donated funds to design Gardner Hall under the supervision of the director of the
3346 Division of Facilities Construction and Management unless supervisory authority is delegated
3347 by the director.

3348 (16) It is the intent of the Legislature that the Division of Facilities Construction and
3349 Management use up to \$250,000 of the capital improvement money to fund the site

3350 improvements required at the San Juan campus of the Utah State University Eastern.

3351 Section 79. Section **63B-9-103** is amended to read:

3352 **63B-9-103. Other capital facility authorizations and intent language.**

3353 (1) It is the intent of the Legislature that:

3354 (a) Utah State University use institutional funds to plan, design, and construct a
3355 renovation and expansion of the Edith Bowen School under the direction of the director of the
3356 Division of Facilities Construction and Management unless supervisory authority has been
3357 delegated;

3358 (b) no state funds be used for any portion of this project; and

3359 (c) the university may request state funds for operations and maintenance to the extent
3360 that the university is able to demonstrate to the Board of Regents that the facility meets
3361 approved academic and training purposes under Board of Regents policy R710.

3362 (2) It is the intent of the Legislature that:

3363 (a) the University of Utah use institutional funds to plan, design, and construct a
3364 College of Science Math Center under the direction of the director of the Division of Facilities
3365 Construction and Management unless supervisory authority has been delegated;

3366 (b) no state funds be used for any portion of this project; and

3367 (c) the university may request state funds for operations and maintenance to the extent
3368 that the university is able to demonstrate to the Board of Regents that the facility meets
3369 approved academic and training purposes under Board of Regents policy R710.

3370 (3) It is the intent of the Legislature that:

3371 (a) the University of Utah use institutional funds to plan, design, and construct a
3372 Burbidge Athletics and Academics Building under the direction of the director of the Division
3373 of Facilities Construction and Management unless supervisory authority has been delegated;

3374 (b) no state funds be used for any portion of this project; and

3375 (c) the university may not request state funds for operations and maintenance.

3376 (4) It is the intent of the Legislature that:

3377 (a) the University of Utah use institutional funds to plan, design, and construct an
3378 expansion to the bookstore under the direction of the director of the Division of Facilities
3379 Construction and Management unless supervisory authority has been delegated;

3380 (b) no state funds be used for any portion of this project; and

3381 (c) the university may not request state funds for operations and maintenance.

3382 (5) It is the intent of the Legislature that:

3383 (a) the University of Utah use institutional funds to plan, design, and construct a Health
3384 Sciences/Basic Sciences Building under the direction of the director of the Division of
3385 Facilities Construction and Management unless supervisory authority has been delegated;

3386 (b) no state funds be used for any portion of this project; and

3387 (c) the university may request state funds for operations and maintenance to the extent
3388 that the university is able to demonstrate to the Board of Regents that the facility meets
3389 approved academic and training purposes under Board of Regents policy R710.

3390 (6) It is the intent of the Legislature that:

3391 (a) Weber State University use institutional funds to plan, design, and construct an
3392 expansion to the stadium under the direction of the director of the Division of Facilities
3393 Construction and Management unless supervisory authority has been delegated;

3394 (b) no state funds be used for any portion of this project; and

3395 (c) the university may not request state funds for operations and maintenance.

3396 (7) It is the intent of the Legislature that:

3397 (a) Utah Valley State College use institutional funds to plan, design, and construct a
3398 baseball stadium under the direction of the director of the Division of Facilities Construction
3399 and Management unless supervisory authority has been delegated;

3400 (b) no state funds be used for any portion of this project; and

3401 (c) the college may not request state funds for operations and maintenance.

3402 (8) It is the intent of the Legislature that:

3403 (a) Southern Utah University use institutional funds to plan, design, and construct a

3404 weight training room under the direction of the director of the Division of Facilities
3405 Construction and Management unless supervisory authority has been delegated;
3406 (b) no state funds be used for any portion of this project; and
3407 (c) the university may not request state funds for operations and maintenance.
3408 (9) It is the intent of the Legislature that:
3409 (a) Snow College may lease land at the Snow College Richfield campus to a private
3410 developer for the construction and operation of student housing;
3411 (b) the oversight and inspection of the construction comply with Section [[63A-5-206](#)]
3412 [63A-5b-604](#);
3413 (c) no state funds be used for any portion of this project; and
3414 (d) the college may not request state funds for operations and maintenance.
3415 (10) It is the intent of the Legislature that:
3416 (a) Salt Lake Community College may lease land at the Jordan campus to Jordan
3417 School District for the construction and operation of an Applied Technology Education Center;
3418 (b) the oversight and inspection of the construction comply with Section [[63A-5-206](#)]
3419 [63A-5b-604](#);
3420 (c) no state funds be used for any portion of this project; and
3421 (d) the college may not request state funds for operations and maintenance.
3422 (11) It is the intent of the Legislature that:
3423 (a) the Department of Transportation exchange its maintenance station at Kimball
3424 Junction for property located near Highway 40 in Summit County; and
3425 (b) the Department of Transportation use federal funds, rent paid by the Salt Lake
3426 Organizing Committee for the use of the maintenance station, and any net proceeds resulting
3427 from the exchange of property to construct a replacement facility under the direction of the
3428 director of the Division of Facilities Construction and Management unless supervisory
3429 authority has been delegated.
3430 (12) It is the intent of the Legislature that:

3431 (a) the Department of Transportation sell surplus property in Utah County;
3432 (b) the Department of Transportation use funds from that sale to remodel existing
3433 space and add an addition to the Region 3 Complex; and
3434 (c) the project cost not exceed the funds received through sale of property.
3435 (13) It is the intent of the Legislature that the Department of Workforce Services use
3436 proceeds from property sales to purchase additional property adjacent to its state-owned facility
3437 in Logan.

3438 (14) (a) It is the intent of the Legislature that, because only partial funding is provided
3439 for the Heat Plant/Infrastructure Project at Utah State University, the balance necessary to
3440 complete this project be addressed by future Legislatures, either through appropriations or
3441 through the issuance of bonds.

3442 (b) (i) In compliance with Section [~~63A-5-207~~] [63A-5b-608](#), the division may enter
3443 into contracts for amounts not to exceed the anticipated full project funding but may not allow
3444 work to be performed on those contracts in excess of the funding already authorized by the
3445 Legislature.

3446 (ii) Those contracts shall contain a provision for termination of the contract for the
3447 convenience of the state.

3448 (c) It is also the intent of the Legislature that this authorization to the division does not
3449 bind future Legislatures to fund the Heat Plant/Infrastructure Project at Utah State University.

3450 Section 80. Section **63B-16-201** is amended to read:

3451 **63B-16-201. Revenue bond authorizations -- State Building Ownership**
3452 **Authority.**

3453 (1) It is the intent of the Legislature that:

3454 (a) the State Building Ownership Authority, under the authority of Title 63B, Chapter
3455 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
3456 into or arrange for a lease-purchase agreement in which participation interests may be created,
3457 to provide up to \$5,662,000 for the acquisition and construction of three stores for the

3458 Department of Alcoholic Beverage Control, together with additional amounts necessary to pay
3459 costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

3460 (b) the stores to be addressed through this authorization are:

3461 (i) expansion of the North Temple store in Salt Lake County;

3462 (ii) expansion of the Taylorsville store in Salt Lake County; and

3463 (iii) reconstruction of the Bountiful store in Davis County;

3464 (c) increased sales revenues be used as the primary revenue source for repayment of
3465 any obligation created under authority of this section; and

3466 (d) the Department of Alcoholic Beverage Control may request operation and
3467 maintenance funding from sales revenues.

3468 (2) It is the intent of the Legislature that:

3469 (a) the State Building Ownership Authority, under the authority of Title 63B, Chapter
3470 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
3471 into or arrange for a lease-purchase agreement in which participation interests may be created,
3472 to provide up to \$1,476,000 for the acquisition and construction of a production warehouse for
3473 Utah Correctional Industries, together with additional amounts necessary to pay costs of
3474 issuance, pay capitalized interest, and fund any debt service reserve requirements;

3475 (b) Utah Correctional Industries' revenues be used as the primary revenue source for
3476 repayment of any obligation created under authority of this section;

3477 (c) Utah Correctional Industries may plan, design, and construct the production
3478 warehouse subject to requirements in Section ~~[63A-5-206]~~ [63A-5b-604](#); and

3479 (d) Utah Correctional Industries may not request state funds for operation and
3480 maintenance costs or capital improvements.

3481 Section 81. Section **63B-16-202** is amended to read:

3482 **63B-16-202. Revenue bond authorizations -- Board of Regents.**

3483 (1) It is the intent of the Legislature that:

3484 (a) when the University of Utah certifies to the Board of Regents that the university has

3485 obtained reliable commitments, convertible to cash, of \$10,000,000 or more in nonstate funds
3486 to construct an on-campus student life center, the Board of Regents, on behalf of the University
3487 of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the
3488 University of Utah to borrow money on the credit, revenues, and reserves of the University of
3489 Utah, other than appropriations from the Legislature, to finance the cost of constructing an
3490 on-campus student life center;

3491 (b) student recreation fees and non-student fees be used as the primary revenue source
3492 for repayment of any obligation created under authority of this section;

3493 (c) the University of Utah may increase student recreation fees to not more than \$60
3494 per semester for not more than 20 years, and use those revenues, together with the \$15,000,000
3495 collected under Subsection (1)(a), to service the student life center revenue bond debt;

3496 (d) the bonds or other evidences of indebtedness authorized by this section may
3497 provide up to \$42,500,000, together with other amounts necessary to pay costs of issuance, pay
3498 capitalized interest, and fund any debt service reserve requirements;

3499 (e) the University of Utah may plan, design, and construct the on-campus student life
3500 center subject to requirements in Section [~~63A-5-206~~] 63A-5b-604; and

3501 (f) the university may not request state funds for operation and maintenance costs or
3502 capital improvements.

3503 (2) It is the intent of the Legislature that:

3504 (a) the Board of Regents, on behalf of Southern Utah University, may issue, sell, and
3505 deliver revenue bonds or other evidences of indebtedness of Southern Utah University to
3506 borrow money on the credit, revenues, and reserves of Southern Utah University, other than
3507 appropriations of the Legislature, to finance the cost of constructing on-campus student
3508 dormitories;

3509 (b) student housing rental fees be used as the primary revenue source for repayment of
3510 any obligation created under authority of this section;

3511 (c) the bonds or other evidences of indebtedness authorized by this section may provide

3512 up to \$17,500,000, together with other amounts necessary to pay costs of issuance, pay
3513 capitalized interest, and fund any debt service reserve requirements;

3514 (d) Southern Utah University may plan, design, and construct the on-campus student
3515 dormitories subject to requirements in Section [~~63A-5-206~~] 63A-5b-604; and

3516 (e) the university may not request state funds for operation and maintenance costs or
3517 capital improvements.

3518 Section 82. Section **63B-16-301** is amended to read:

3519 **63B-16-301. Authorizations to construct capital facilities using institutional or**
3520 **agency funds.**

3521 (1) It is the intent of the Legislature that:

3522 (a) Utah State University may, subject to requirements in Section [~~63A-5-206~~]
3523 63A-5b-604, plan, design, and construct a classroom building funded and owned by Tooele
3524 County on the university's Tooele campus;

3525 (b) no state funds be used for any portion of this project, including for future purchase
3526 or otherwise acquiring the building from Tooele County;

3527 (c) the university may not request state funds for operation and maintenance costs or
3528 capital improvements while the building is not owned by the university; and

3529 (d) the university may request state funds for operations and maintenance costs and
3530 capital improvements if the building is donated to the university and if the university is able to
3531 demonstrate to the Board of Regents that the facility meets approved academic and training
3532 purposes under Board of Regents policy R710.

3533 (2) It is the intent of the Legislature that:

3534 (a) Weber State University may, subject to requirements in Section [~~63A-5-206~~]
3535 63A-5b-604, use donations and other institutional funds to plan, design, and construct a
3536 Lifelong Learning Center;

3537 (b) no state funds be used for any portion of this project; and

3538 (c) the university may request state funds for operations and maintenance costs and

3539 capital improvements to the extent that the university is able to demonstrate to the Board of
3540 Regents that the facility meets approved academic and training purposes under Board of
3541 Regents policy R710.

3542 (3) It is the intent of the Legislature that:

3543 (a) Salt Lake Community College may, subject to requirements in Section [~~63A-5-206~~]
3544 63A-5b-604, use institutional funds to plan, design, and construct a Facilities/Security/Parking
3545 Services Building;

3546 (b) no state funds be used for any portion of this project; and

3547 (c) the college may request state funds for operations and maintenance costs and capital
3548 improvements to the extent that the college is able to demonstrate to the Board of Regents that
3549 the facility meets approved academic and training purposes under Board of Regents policy
3550 R710.

3551 Section 83. Section **63B-17-201** is amended to read:

3552 **63B-17-201. Revenue bond authorizations -- State Building Ownership**

3553 **Authority.**

3554 (1) The Legislature intends that:

3555 (a) the State Building Ownership Authority, under the authority of Title 63B, Chapter
3556 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
3557 into or arrange for a lease purchase agreement in which participation interests may be created,
3558 to provide up to \$90,000,000 for the acquisition and construction of phase II-B of a cancer
3559 clinical research hospital facility adjacent to the University of Utah Medical Center, together
3560 with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund
3561 any debt service reserve requirements;

3562 (b) the University of Utah use institutional funds as the primary revenue source for
3563 repayment of any obligation created under authority of this section;

3564 (c) the university may plan, design, and construct phase II-B of a cancer clinical
3565 research hospital facility subject to the requirements of Section [~~63A-5-206~~] 63A-5b-604; and

3566 (d) the university may not request state funds for operation and maintenance costs or
3567 capital improvements.

3568 (2) The Legislature intends that:

3569 (a) the State Building Ownership Authority, under the authority of Title 63B, Chapter
3570 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
3571 into or arrange for a lease-purchase agreement in which participation interests may be created,
3572 to provide up to \$23,700,000 for the acquisition and construction of five stores for the
3573 Department of Alcoholic Beverage Control, together with additional amounts necessary to pay
3574 costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

3575 (b) the stores to be addressed through this authorization are:

3576 (i) the replacement of a liquor store in Cedar City;

3577 (ii) a new Utah County North liquor store;

3578 (iii) a new Utah County South liquor store;

3579 (iv) a new Washington County South liquor store; and

3580 (v) a new Wasatch County Heber/Midway liquor store;

3581 (c) the Department of Alcoholic Beverage Control use increased sales revenues as the
3582 primary revenue source for repayment of any obligation created under authority of this section;
3583 and

3584 (d) the Department of Alcoholic Beverage Control may request operation and
3585 maintenance funding from sales revenues.

3586 Section 84. Section **63B-17-202** is amended to read:

3587 **63B-17-202. Revenue bond authorizations -- Board of Regents.**

3588 (1) The Legislature intends that:

3589 (a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and
3590 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
3591 money on the credit, revenues, and reserves of the university, other than appropriations of the
3592 Legislature, to finance the cost of constructing a northwest campus parking structure;

3593 (b) the University of Utah use parking fees and donations as the primary revenue
3594 source for repayment of any obligation created under authority of this section;

3595 (c) the maximum amount of revenue bonds or other evidences of indebtedness
3596 authorized by this section is \$21,280,000, together with other amounts necessary to pay costs
3597 of issuance, pay capitalized interest, and fund any debt service reserve requirements;

3598 (d) the university may plan, design, and construct the northwest campus parking
3599 structure subject to the requirements of Section [~~63A-5-206~~] [63A-5b-604](#); and

3600 (e) the university may not request state funds for operation and maintenance costs or
3601 capital improvements.

3602 (2) The Legislature intends that:

3603 (a) the Board of Regents, on behalf of Utah State University, may issue, sell, and
3604 deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow
3605 money on the credit, revenues, and reserves of the university, other than appropriations of the
3606 Legislature, to finance the cost of constructing an early childhood education research center;

3607 (b) Utah State University use institutional funds as the primary revenue source for
3608 repayment of any obligation created under authority of this section;

3609 (c) the maximum amount of revenue bonds or other evidences of indebtedness
3610 authorized by this section is \$15,828,000, together with other amounts necessary to pay costs
3611 of issuance, pay capitalized interest, and fund any debt service reserve requirements;

3612 (d) the university may plan, design, and construct the early childhood education
3613 research center subject to the requirements of Section [~~63A-5-206~~] [63A-5b-604](#); and

3614 (e) the university may request state funds for operation and maintenance costs and
3615 capital improvements to the extent that the university is able to demonstrate to the Board of
3616 Regents that the facility meets approved academic and training purposes under Board of
3617 Regents policy R710.

3618 (3) It is the intent of the Legislature that:

3619 (a) the Board of Regents, on behalf of Southern Utah University, may issue, sell, and

3620 deliver revenue bonds or other evidences of indebtedness of Southern Utah University to
3621 borrow money on the credit, revenues, and reserves of the university, other than appropriations
3622 of the Legislature, to finance the cost of constructing a Shakespearean theater;

3623 (b) Southern Utah University institutional funds be used as the primary revenue source
3624 for repayment of any obligation created under authority of this section;

3625 (c) the bonds or other evidences of indebtedness authorized by this section may provide
3626 up to \$5,000,000, together with other amounts necessary to pay costs of issuance, pay
3627 capitalized interest, and fund any debt service reserve requirements;

3628 (d) the university may plan, design, and construct the theater subject to the
3629 requirements of Section [[63A-5-206](#)] [63A-5b-604](#); and

3630 (e) the university may request state funds for operation and maintenance costs and
3631 capital improvements to the extent that the university is able to demonstrate to the Board of
3632 Regents that the facility meets approved academic and training purposes under Board of
3633 Regents policy R710.

3634 Section 85. Section **63B-17-301** is amended to read:

3635 **63B-17-301. Authorizations to construct capital facilities using institutional or**
3636 **agency funds.**

3637 (1) The Legislature intends that:

3638 (a) the University of Utah may, subject to requirements in Section [[63A-5-206](#)]
3639 [63A-5b-604](#), use clinical fees and donations to plan, design, and construct a neuropsychiatric
3640 institute expansion;

3641 (b) no state funds be used for any portion of this project; and

3642 (c) the university may not request state funds for operation and maintenance costs or
3643 capital improvements.

3644 (2) The Legislature intends that:

3645 (a) the University of Utah may, subject to the requirements of Section [[63A-5-206](#)]
3646 [63A-5b-604](#), use donations to plan, design, and construct an arboretum visitor center addition;

3647 (b) no state funds be used for any portion of this project; and
3648 (c) the university may request state funds for operation and maintenance costs and
3649 capital improvements to the extent that the university is able to demonstrate to the Board of
3650 Regents that the facility meets approved academic and training purposes under Board of
3651 Regents policy R710.

3652 (3) The Legislature intends that:

3653 (a) Utah State University may, subject to the requirements of Section [~~63A-5-206~~]
3654 [63A-5b-604](#), use donations to plan, design, and construct a business building addition;

3655 (b) no state funds be used for any portion of this project; and

3656 (c) the university may request state funds for operation and maintenance costs and
3657 capital improvements to the extent that the university is able to demonstrate to the Board of
3658 Regents that the facility meets approved academic and training purposes under Board of
3659 Regents policy R710.

3660 (4) The Legislature intends that:

3661 (a) Utah State University may, subject to the requirements of Section [~~63A-5-206~~]
3662 [63A-5b-604](#), use donations to plan, design, and construct a Vernal entrepreneurship and energy
3663 research center;

3664 (b) no state funds be used for any portion of this project; and

3665 (c) the university may request state funds for operation and maintenance costs and
3666 capital improvements to the extent that the university is able to demonstrate to the Board of
3667 Regents that the facility meets approved academic and training purposes under Board of
3668 Regents policy R710.

3669 (5) The Legislature intends that:

3670 (a) Utah State University may, subject to the requirements of Section [~~63A-5-206~~]
3671 [63A-5b-604](#), use research grants and other institutional funds to plan, design, and construct a
3672 hydraulics laboratory addition to the water laboratory;

3673 (b) no state funds be used for any portion of this project; and

3674 (c) the university may not request state funds for operation and maintenance costs or
3675 capital improvements.

3676 (6) The Legislature intends that:

3677 (a) Utah State University may, subject to the requirements of Section [~~63A-5-206~~]
3678 [63A-5b-604](#), use insurance claim funds and other institutional funds to plan, design, and
3679 construct a structures laboratory enclosure;

3680 (b) no state funds be used for any portion of this project; and

3681 (c) the university may not request state funds for operation and maintenance costs or
3682 capital improvements.

3683 (7) The Legislature intends that:

3684 (a) Utah Valley University may, subject to the requirements of Section [~~63A-5-206~~]
3685 [63A-5b-604](#), use donations to plan, design, and construct a children's theater;

3686 (b) no state funds be used for any portion of this project; and

3687 (c) the university may request state funds for operation and maintenance costs and
3688 capital improvements to the extent that the university is able to demonstrate to the Board of
3689 Regents that the facility meets approved academic and training purposes under Board of
3690 Regents policy R710.

3691 (8) The Legislature intends that:

3692 (a) Southern Utah University may, subject to the requirements of Section [~~63A-5-206~~]
3693 [63A-5b-604](#), use donations to plan and design a science center addition;

3694 (b) this authorization and the existence of plans and designs do not guarantee nor
3695 improve the chances for legislative approval of the remainder of the building in any subsequent
3696 year; and

3697 (c) no state funds be used for any portion of this planning and design.

3698 Section 86. Section **63B-23-101** is amended to read:

3699 **63B-23-101. Revenue bond authorizations -- Board of Regents.**

3700 (1) The Legislature intends that:

3701 (a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and
3702 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
3703 money on the credit, revenues, and reserves of the university, other than appropriations of the
3704 Legislature, to finance the cost of constructing the Lasonde Living Center;

3705 (b) the University of Utah use student fees and rents as the primary revenue sources for
3706 repayment of any obligation created under authority of this Subsection (1);

3707 (c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
3708 this Subsection (1) is \$45,238,000, together with other amounts necessary to pay costs of
3709 issuance, pay capitalized interest, and fund any debt service reserve requirements;

3710 (d) the university shall plan, design, and construct the Lasonde Living Center subject
3711 to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities
3712 Construction and Management; and

3713 (e) the university may not request state funds for operation and maintenance costs or
3714 capital improvements.

3715 (2) The Legislature intends that:

3716 (a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and
3717 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
3718 money on the credit, revenues, and reserves of the university, except as provided in Subsection
3719 (2)(f), other than appropriations of the Legislature, to finance the cost of replacing the
3720 University of Utah's utility distribution infrastructure;

3721 (b) the University of Utah impose a power bill surcharge as the primary revenue source
3722 for the repayment of any obligation created under authority of this Subsection (2);

3723 (c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
3724 this Subsection (2) is \$32,000,000 together with other amounts necessary to pay costs of
3725 issuance, pay capitalized interest, and fund any debt service reserve requirements;

3726 (d) the revenue bonds or evidences of indebtedness authorized by this Subsection (2)
3727 may not mature later than 10 years after the date of issuance;

3728 (e) the university shall plan, design, and construct the University of Utah's replacement
3729 utility distribution infrastructure subject to the requirements of Title 63A, Chapter 5, State
3730 Building Board - Division of Facilities Construction and Management; and

3731 (f) until July 1, 2024, the Division of Facilities Construction and Management annually
3732 allocate up to \$1,500,000 of the capital improvement funding allocation given to the University
3733 of Utah under Section [~~63A-5-228~~] 63A-5b-405 to be used to pay the debt service on the bonds
3734 authorized under this Subsection (2).

3735 Section 87. Section **63B-25-101** is amended to read:

3736 **63B-25-101. General obligation bonds for prison project -- Maximum amount --**
3737 **Use of proceeds.**

3738 (1) As used in this section:

3739 (a) "Prison project" means the same as that term is defined in Section [~~63A-5-225~~]
3740 63A-5b-1107.

3741 (b) "Prison project fund" means the capital projects fund created in Subsection
3742 [~~63A-5-225(7)~~] 63A-5b-1107(7).

3743 (2) The commission may issue general obligation bonds as provided in this section.

3744 (3) (a) The total amount of bonds to be issued under this section may not exceed
3745 \$570,000,000 for acquisition and construction proceeds, plus additional amounts necessary to
3746 pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve
3747 requirements, with the total amount of the bonds not to exceed \$575,700,000.

3748 (b) The maturity of bonds issued under this section may not exceed 10 years.

3749 (4) The commission shall ensure that proceeds from the issuance of bonds under this
3750 section are deposited into the Prison Project Fund for use by the division to pay all or part of
3751 the cost of the prison project, including:

3752 (a) interest estimated to accrue on the bonds authorized in this section until the
3753 completion of construction of the prison project, plus a period of 12 months after the end of
3754 construction; and

3755 (b) all related engineering, architectural, and legal fees.

3756 (5) (a) The division may enter into agreements related to the prison project before the
3757 receipt of proceeds of bonds issued under this section.

3758 (b) The division shall make those expenditures from unexpended and unencumbered
3759 building funds already appropriated to the Prison Project Fund.

3760 (c) The division shall reimburse the Prison Project Fund upon receipt of the proceeds
3761 of bonds issued under this chapter.

3762 (d) The state intends to use proceeds of tax-exempt bonds to reimburse itself for
3763 expenditures for costs of the prison project.

3764 (6) Before issuing bonds authorized under this section, the commission shall request
3765 and consider a recommendation from the Legislative Management Committee, created in
3766 Section [36-12-6](#), regarding the timing and amount of the issuance.

3767 Section 88. Section **63C-9-403** is amended to read:

3768 **63C-9-403. Contracting power of executive director -- Health insurance coverage.**

3769 (1) As used in this section:

3770 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
3771 related to a single project.

3772 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

3773 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
3774 "operative" who:

3775 (i) works at least 30 hours per calendar week; and

3776 (ii) meets employer eligibility waiting requirements for health care insurance, which
3777 may not exceed the first of the calendar month following 60 days after the day on which the
3778 individual is hired.

3779 (d) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

3780 (e) "Qualified health insurance coverage" means the same as that term is defined in
3781 Section [26-40-115](#).

3782 (f) "Subcontractor" means the same as that term is defined in Section [~~63A-5-208~~
3783 [63A-5b-605](#)].

3784 (2) Except as provided in Subsection (3), the requirements of this section apply to:

3785 (a) a contractor of a design or construction contract entered into by the board, or on
3786 behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount
3787 equal to or greater than \$2,000,000; and

3788 (b) a subcontractor of a contractor of a design or construction contract entered into by
3789 the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an
3790 aggregate amount equal to or greater than \$1,000,000.

3791 (3) The requirements of this section do not apply to a contractor or subcontractor
3792 described in Subsection (2) if:

3793 (a) the application of this section jeopardizes the receipt of federal funds;

3794 (b) the contract is a sole source contract; or

3795 (c) the contract is an emergency procurement.

3796 (4) A person that intentionally uses change orders, contract modifications, or multiple
3797 contracts to circumvent the requirements of this section is guilty of an infraction.

3798 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
3799 executive director that the contractor has and will maintain an offer of qualified health
3800 insurance coverage for the contractor's employees and the employees' dependents during the
3801 duration of the contract by submitting to the executive director a written statement that:

3802 (i) the contractor offers qualified health insurance coverage that complies with Section
3803 [26-40-115](#);

3804 (ii) is from:

3805 (A) an actuary selected by the contractor or the contractor's insurer; or

3806 (B) an underwriter who is responsible for developing the employer group's premium
3807 rates; and

3808 (iii) was created within one year before the day on which the statement is submitted.

3809 (b) A contractor that is subject to the requirements of this section shall:

3810 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that

3811 is subject to the requirements of this section shall obtain and maintain an offer of qualified

3812 health insurance coverage for the subcontractor's employees and the employees' dependents

3813 during the duration of the subcontract; and

3814 (ii) obtain from a subcontractor that is subject to the requirements of this section a

3815 written statement that:

3816 (A) the subcontractor offers qualified health insurance coverage that complies with

3817 Section [26-40-115](#);

3818 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an

3819 underwriter who is responsible for developing the employer group's premium rates; and

3820 (C) was created within one year before the day on which the contractor obtains the

3821 statement.

3822 (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance

3823 coverage as described in Subsection (5)(a) during the duration of the contract is subject to

3824 penalties in accordance with administrative rules adopted by the division under Subsection (6).

3825 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain

3826 and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

3827 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health

3828 insurance coverage described in Subsection (5)(b)(i) during the duration of the subcontract is

3829 subject to penalties in accordance with administrative rules adopted by the department under

3830 Subsection (6).

3831 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain

3832 an offer of qualified health insurance coverage described in Subsection (5)(a).

3833 (6) The department shall adopt administrative rules:

3834 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

3835 (b) in coordination with:

- 3836 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);
- 3837 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);
- 3838 (iii) the State Building Board in accordance with Section [~~[63A-5-205.5](#)~~] [63A-5b-607](#);
- 3839 (iv) a public transit district in accordance with Section [17B-2a-818.5](#);
- 3840 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and
- 3841 (vi) the Legislature's Administrative Rules Review Committee; and
- 3842 (c) that establish:
 - 3843 (i) the requirements and procedures a contractor and a subcontractor shall follow to
 - 3844 demonstrate compliance with this section, including:
 - 3845 (A) that a contractor or subcontractor's compliance with this section is subject to an
 - 3846 audit by the department or the Office of the Legislative Auditor General;
 - 3847 (B) that a contractor that is subject to the requirements of this section shall obtain a
 - 3848 written statement described in Subsection (5)(a); and
 - 3849 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
 - 3850 written statement described in Subsection (5)(b)(ii);
 - 3851 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
 - 3852 violates the provisions of this section, which may include:
 - 3853 (A) a three-month suspension of the contractor or subcontractor from entering into
 - 3854 future contracts with the state upon the first violation;
 - 3855 (B) a six-month suspension of the contractor or subcontractor from entering into future
 - 3856 contracts with the state upon the second violation;
 - 3857 (C) an action for debarment of the contractor or subcontractor in accordance with
 - 3858 Section [63G-6a-904](#) upon the third or subsequent violation; and
 - 3859 (D) monetary penalties which may not exceed 50% of the amount necessary to
 - 3860 purchase qualified health insurance coverage for employees and dependents of employees of
 - 3861 the contractor or subcontractor who were not offered qualified health insurance coverage
 - 3862 during the duration of the contract; and

3863 (iii) a website on which the department shall post the commercially equivalent
3864 benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is
3865 provided by the Department of Health, in accordance with Subsection [26-40-115](#)(2).

3866 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
3867 or subcontractor who intentionally violates the provisions of this section is liable to the
3868 employee for health care costs that would have been covered by qualified health insurance
3869 coverage.

3870 (ii) An employer has an affirmative defense to a cause of action under Subsection
3871 (7)(a)(i) if:

3872 (A) the employer relied in good faith on a written statement described in Subsection
3873 (5)(a) or (5)(b)(ii); or

3874 (B) the department determines that compliance with this section is not required under
3875 the provisions of Subsection (3).

3876 (b) An employee has a private right of action only against the employee's employer to
3877 enforce the provisions of this Subsection (7).

3878 (8) Any penalties imposed and collected under this section shall be deposited into the
3879 Medicaid Restricted Account created in Section [26-18-402](#).

3880 (9) The failure of a contractor or subcontractor to provide qualified health insurance
3881 coverage as required by this section:

3882 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
3883 or contractor under:

3884 (i) Section [63G-6a-1602](#); or

3885 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

3886 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
3887 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
3888 or construction.

3889 Section 89. Section **63G-6a-103** is amended to read:

3890 **63G-6a-103. Definitions.**

3891 As used in this chapter:

3892 (1) "Applicable rulemaking authority" means:

3893 (a) for a legislative procurement unit, the Legislative Management Committee;

3894 (b) for a judicial procurement unit, the Judicial Council;

3895 (c) (i) only to the extent of the procurement authority expressly granted to the
3896 procurement unit by statute:

3897 (A) for the building board or the Division of Facilities Construction and Management,
3898 created in Section [~~63A-5-201~~] 63A-5b-301, the building board;

3899 (B) for the Office of the Attorney General, the attorney general; and

3900 (C) for the Department of Transportation created in Section 72-1-201, the executive
3901 director of the Department of Transportation; and

3902 (ii) for each other executive branch procurement unit, the board;

3903 (d) for a local government procurement unit:

3904 (i) the legislative body of the local government procurement unit; or

3905 (ii) an individual or body designated by the legislative body of the local government
3906 procurement unit;

3907 (e) for a school district or a public school, the board, except to the extent of a school
3908 district's own nonadministrative rules that do not conflict with the provisions of this chapter;

3909 (f) for a state institution of higher education described in:

3910 (i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or

3911 (ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of
3912 Trustees;

3913 (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the
3914 State Board of Education;

3915 (h) for a public transit district, the chief executive of the public transit district;

3916 (i) for a local district other than a public transit district or for a special service district:

- 3917 (i) before January 1, 2015, the board of trustees of the local district or the governing
3918 body of the special service district; or
- 3919 (ii) on or after January 1, 2015, the board, except to the extent that the board of trustees
3920 of the local district or the governing body of the special service district makes its own rules:
- 3921 (A) with respect to a subject addressed by board rules; or
3922 (B) that are in addition to board rules;
- 3923 (j) for the Utah Educational Savings Plan, created in Section [53B-8a-103](#), the board of
3924 directors of the Utah Educational Savings Plan;
- 3925 (k) for the School and Institutional Trust Lands Administration, created in Section
3926 [53C-1-201](#), the School and Institutional Trust Lands Board of Trustees;
- 3927 (l) for the School and Institutional Trust Fund Office, created in Section [53D-1-201](#),
3928 the School and Institutional Trust Fund Board of Trustees;
- 3929 (m) for the Utah Communications Authority, established in Section [63H-7a-201](#), the
3930 Utah Communications Authority Board, created in Section [63H-7a-203](#); or
- 3931 (n) for any other procurement unit, the board.
- 3932 (2) "Approved vendor" means a person who has been approved for inclusion on an
3933 approved vendor list through the approved vendor list process.
- 3934 (3) "Approved vendor list" means a list of approved vendors established under Section
3935 [63G-6a-507](#).
- 3936 (4) "Approved vendor list process" means the procurement process described in
3937 Section [63G-6a-507](#).
- 3938 (5) "Bidder" means a person who submits a bid or price quote in response to an
3939 invitation for bids.
- 3940 (6) "Bidding process" means the procurement process described in Part 6, Bidding.
- 3941 (7) "Board" means the Utah State Procurement Policy Board, created in Section
3942 [63G-6a-202](#).
- 3943 (8) "Building board" means the State Building Board, created in Section [[63A-5-101](#)]

3944 [63A-5b-201](#).

3945 (9) "Change directive" means a written order signed by the procurement officer that
3946 directs the contractor to suspend work or make changes, as authorized by contract, without the
3947 consent of the contractor.

3948 (10) "Change order" means a written alteration in specifications, delivery point, rate of
3949 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual
3950 agreement of the parties to the contract.

3951 (11) "Chief procurement officer" means the chief procurement officer appointed under
3952 Subsection [63G-6a-302\(1\)](#).

3953 (12) "Conducting procurement unit" means a procurement unit that conducts all
3954 aspects of a procurement:

3955 (a) except:

3956 (i) reviewing a solicitation to verify that it is in proper form; and

3957 (ii) causing the publication of a notice of a solicitation; and

3958 (b) including:

3959 (i) preparing any solicitation document;

3960 (ii) appointing an evaluation committee;

3961 (iii) conducting the evaluation process, except as provided in Subsection

3962 [63G-6a-707\(6\)\(b\)](#) relating to scores calculated for costs of proposals;

3963 (iv) selecting and recommending the person to be awarded a contract;

3964 (v) negotiating the terms and conditions of a contract, subject to the issuing
3965 procurement unit's approval; and

3966 (vi) contract administration.

3967 (13) "Conservation district" means the same as that term is defined in Section
3968 [17D-3-102](#).

3969 (14) "Construction":

3970 (a) means services, including work, and supplies for a project for the construction,

3971 renovation, alteration, improvement, or repair of a public facility on real property; and
3972 (b) does not include services and supplies for the routine, day-to-day operation, repair,
3973 or maintenance of an existing public facility.

3974 (15) "Construction manager/general contractor":

3975 (a) means a contractor who enters into a contract:

3976 (i) for the management of a construction project; and

3977 (ii) that allows the contractor to subcontract for additional labor and materials that are
3978 not included in the contractor's cost proposal submitted at the time of the procurement of the
3979 contractor's services; and

3980 (b) does not include a contractor whose only subcontract work not included in the
3981 contractor's cost proposal submitted as part of the procurement of the contractor's services is to
3982 meet subcontracted portions of change orders approved within the scope of the project.

3983 (16) "Construction subcontractor":

3984 (a) means a person under contract with a contractor or another subcontractor to provide
3985 services or labor for the design or construction of a construction project;

3986 (b) includes a general contractor or specialty contractor licensed or exempt from
3987 licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

3988 (c) does not include a supplier who provides only materials, equipment, or supplies to a
3989 contractor or subcontractor for a construction project.

3990 (17) "Contract" means an agreement for a procurement.

3991 (18) "Contract administration" means all functions, duties, and responsibilities
3992 associated with managing, overseeing, and carrying out a contract between a procurement unit
3993 and a contractor, including:

3994 (a) implementing the contract;

3995 (b) ensuring compliance with the contract terms and conditions by the conducting
3996 procurement unit and the contractor;

3997 (c) executing change orders;

- 3998 (d) processing contract amendments;
- 3999 (e) resolving, to the extent practicable, contract disputes;
- 4000 (f) curing contract errors and deficiencies;
- 4001 (g) terminating a contract;
- 4002 (h) measuring or evaluating completed work and contractor performance;
- 4003 (i) computing payments under the contract; and
- 4004 (j) closing out a contract.
- 4005 (19) "Contractor" means a person who is awarded a contract with a procurement unit.
- 4006 (20) "Cooperative procurement" means procurement conducted by, or on behalf of:
 - 4007 (a) more than one procurement unit; or
 - 4008 (b) a procurement unit and a cooperative purchasing organization.
- 4009 (21) "Cooperative purchasing organization" means an organization, association, or
- 4010 alliance of purchasers established to combine purchasing power in order to obtain the best
- 4011 value for the purchasers by engaging in procurements in accordance with Section [63G-6a-2105](#).
- 4012 (22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the
- 4013 contractor is paid a percentage of the total actual expenses or costs in addition to the
- 4014 contractor's actual expenses or costs.
- 4015 (23) "Cost-reimbursement contract" means a contract under which a contractor is
- 4016 reimbursed for costs which are allowed and allocated in accordance with the contract terms and
- 4017 the provisions of this chapter, and a fee, if any.
- 4018 (24) "Days" means calendar days, unless expressly provided otherwise.
- 4019 (25) "Definite quantity contract" means a fixed price contract that provides for a
- 4020 specified amount of supplies over a specified period, with deliveries scheduled according to a
- 4021 specified schedule.
- 4022 (26) "Design professional" means:
 - 4023 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects
 - 4024 Licensing Act;

4025 (b) an individual licensed as a professional engineer or professional land surveyor
4026 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing
4027 Act; or

4028 (c) an individual certified as a commercial interior designer under Title 58, Chapter 86,
4029 State Certification of Commercial Interior Designers Act.

4030 (27) "Design professional procurement process" means the procurement process
4031 described in Part 15, Design Professional Services.

4032 (28) "Design professional services" means:

4033 (a) professional services within the scope of the practice of architecture as defined in
4034 Section [58-3a-102](#);

4035 (b) professional engineering as defined in Section [58-22-102](#);

4036 (c) master planning and programming services; or

4037 (d) services within the scope of the practice of commercial interior design, as defined
4038 in Section [58-86-102](#).

4039 (29) "Design-build" means the procurement of design professional services and
4040 construction by the use of a single contract.

4041 (30) "Director" means the director of the division.

4042 (31) "Division" means the Division of Purchasing and General Services, created in
4043 Section [63A-2-101](#).

4044 (32) "Educational procurement unit" means:

4045 (a) a school district;

4046 (b) a public school, including a local school board or a charter school;

4047 (c) the Utah Schools for the Deaf and the Blind;

4048 (d) the Utah Education and Telehealth Network;

4049 (e) an institution of higher education of the state described in Section [53B-1-102](#); or

4050 (f) the State Board of Education.

4051 (33) "Established catalogue price" means the price included in a catalogue, price list,

4052 schedule, or other form that:

4053 (a) is regularly maintained by a manufacturer or contractor;

4054 (b) is published or otherwise available for inspection by customers; and

4055 (c) states prices at which sales are currently or were last made to a significant number
4056 of any category of buyers or buyers constituting the general buying public for the supplies or
4057 services involved.

4058 (34) "Executive branch procurement unit" means a department, division, office,
4059 bureau, agency, or other organization within the state executive branch.

4060 (35) "Fixed price contract" means a contract that provides a price, for each
4061 procurement item obtained under the contract, that is not subject to adjustment except to the
4062 extent that:

4063 (a) the contract provides, under circumstances specified in the contract, for an
4064 adjustment in price that is not based on cost to the contractor; or

4065 (b) an adjustment is required by law.

4066 (36) "Fixed price contract with price adjustment" means a fixed price contract that
4067 provides for an upward or downward revision of price, precisely described in the contract, that:

4068 (a) is based on the consumer price index or another commercially acceptable index,
4069 source, or formula; and

4070 (b) is not based on a percentage of the cost to the contractor.

4071 (37) "Grant" means an expenditure of public funds or other assistance, or an agreement
4072 to expend public funds or other assistance, for a public purpose authorized by law, without
4073 acquiring a procurement item in exchange.

4074 (38) "Head of a procurement unit" means:

4075 (a) for a legislative procurement unit, any person designated by rule made by the
4076 applicable rulemaking authority;

4077 (b) for an executive branch procurement unit:

4078 (i) the director of the division; or

- 4079 (ii) any other person designated by the board, by rule;
- 4080 (c) for a judicial procurement unit:
- 4081 (i) the Judicial Council; or
- 4082 (ii) any other person designated by the Judicial Council, by rule;
- 4083 (d) for a local government procurement unit:
- 4084 (i) the legislative body of the local government procurement unit; or
- 4085 (ii) any other person designated by the local government procurement unit;
- 4086 (e) for a local district other than a public transit district, the board of trustees of the
- 4087 local district or a designee of the board of trustees;
- 4088 (f) for a special service district, the governing body of the special service district or a
- 4089 designee of the governing body;
- 4090 (g) for a local building authority, the board of directors of the local building authority
- 4091 or a designee of the board of directors;
- 4092 (h) for a conservation district, the board of supervisors of the conservation district or a
- 4093 designee of the board of supervisors;
- 4094 (i) for a public corporation, the board of directors of the public corporation or a
- 4095 designee of the board of directors;
- 4096 (j) for a school district or any school or entity within a school district, the board of the
- 4097 school district, or the board's designee;
- 4098 (k) for a charter school, the individual or body with executive authority over the charter
- 4099 school, or the individual's or body's designee;
- 4100 (l) for an institution of higher education described in Section [53B-2-101](#), the president
- 4101 of the institution of higher education, or the president's designee;
- 4102 (m) for a public transit district, the board of trustees or a designee of the board of
- 4103 trustees;
- 4104 (n) for the State Board of Education, the State Board of Education or a designee of the
- 4105 State Board of Education; or

4106 (o) for the Utah Communications Authority, established in Section [63H-7a-201](#), the
4107 executive director of the Utah Communications Authority or a designee of the executive
4108 director.

4109 (39) "Immaterial error":

4110 (a) means an irregularity or abnormality that is:

4111 (i) a matter of form that does not affect substance; or

4112 (ii) an inconsequential variation from a requirement of a solicitation that has no, little,
4113 or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

4114 (b) includes:

4115 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a
4116 professional license, bond, or insurance certificate;

4117 (ii) a typographical error;

4118 (iii) an error resulting from an inaccuracy or omission in the solicitation; and

4119 (iv) any other error that the chief procurement officer or the head of a procurement unit
4120 with independent procurement authority reasonably considers to be immaterial.

4121 (40) "Indefinite quantity contract" means a fixed price contract that:

4122 (a) is for an indefinite amount of procurement items to be supplied as ordered by a
4123 procurement unit; and

4124 (b) (i) does not require a minimum purchase amount; or

4125 (ii) provides a maximum purchase limit.

4126 (41) "Independent procurement authority" means authority granted to a procurement
4127 unit under Subsection [63G-6a-106\(4\)\(a\)](#).

4128 (42) "Invitation for bids":

4129 (a) means a document used to solicit:

4130 (i) bids to provide a procurement item to a procurement unit; or

4131 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and

4132 (b) includes all documents attached to or incorporated by reference in a document

4133 described in Subsection (42)(a).

4134 (43) "Issuing procurement unit" means a procurement unit that:

4135 (a) reviews a solicitation to verify that it is in proper form;

4136 (b) causes the notice of a solicitation to be published; and

4137 (c) negotiates and approves the terms and conditions of a contract.

4138 (44) "Judicial procurement unit" means:

4139 (a) the Utah Supreme Court;

4140 (b) the Utah Court of Appeals;

4141 (c) the Judicial Council;

4142 (d) a state judicial district; or

4143 (e) an office, committee, subcommittee, or other organization within the state judicial

4144 branch.

4145 (45) "Labor hour contract" is a contract under which:

4146 (a) the supplies and materials are not provided by, or through, the contractor; and

4147 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and

4148 profit for a specified number of labor hours or days.

4149 (46) "Legislative procurement unit" means:

4150 (a) the Legislature;

4151 (b) the Senate;

4152 (c) the House of Representatives;

4153 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or

4154 (e) a committee, subcommittee, commission, or other organization:

4155 (i) within the state legislative branch; or

4156 (ii) (A) that is created by statute to advise or make recommendations to the Legislature;

4157 (B) the membership of which includes legislators; and

4158 (C) for which the Office of Legislative Research and General Counsel provides staff

4159 support.

4160 (47) "Local building authority" means the same as that term is defined in Section
4161 17D-2-102.

4162 (48) "Local district" means the same as that term is defined in Section 17B-1-102.

4163 (49) "Local government procurement unit" means:

4164 (a) a county or municipality, and each office or agency of the county or municipality,
4165 unless the county or municipality adopts its own procurement code by ordinance;

4166 (b) a county or municipality that has adopted this entire chapter by ordinance, and each
4167 office or agency of that county or municipality; or

4168 (c) a county or municipality that has adopted a portion of this chapter by ordinance, to
4169 the extent that a term in the ordinance is used in the adopted portion of this chapter, and each
4170 office or agency of that county or municipality.

4171 (50) "Multiple award contracts" means the award of a contract for an indefinite
4172 quantity of a procurement item to more than one person.

4173 (51) "Multiyear contract" means a contract that extends beyond a one-year period,
4174 including a contract that permits renewal of the contract, without competition, beyond the first
4175 year of the contract.

4176 (52) "Municipality" means a city, town, or metro township.

4177 (53) "Nonadopting local government procurement unit" means:

4178 (a) a county or municipality that has not adopted Part 16, Protests, Part 17,
4179 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,
4180 General Provisions Related to Protest or Appeal; and

4181 (b) each office or agency of a county or municipality described in Subsection (53)(a).

4182 (54) "Offeror" means a person who submits a proposal in response to a request for
4183 proposals.

4184 (55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference
4185 under the requirements of this chapter.

4186 (56) "Procure" means to acquire a procurement item through a procurement.

- 4187 (57) "Procurement":
- 4188 (a) means a procurement unit's acquisition of a procurement item through an
- 4189 expenditure of public funds, or an agreement to expend public funds, including an acquisition
- 4190 through a public-private partnership;
- 4191 (b) includes all functions that pertain to the acquisition of a procurement item,
- 4192 including:
- 4193 (i) preparing and issuing a solicitation; and
- 4194 (ii) (A) conducting a standard procurement process; or
- 4195 (B) conducting a procurement process that is an exception to a standard procurement
- 4196 process under Part 8, Exceptions to Procurement Requirements; and
- 4197 (c) does not include a grant.
- 4198 (58) "Procurement item" means a supply, a service, or construction.
- 4199 (59) "Procurement officer" means:
- 4200 (a) for a procurement unit with independent procurement authority:
- 4201 (i) the head of the procurement unit;
- 4202 (ii) a designee of the head of the procurement unit; or
- 4203 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 4204 (b) for the division or a procurement unit without independent procurement authority,
- 4205 the chief procurement officer.
- 4206 (60) "Procurement unit":
- 4207 (a) means:
- 4208 (i) a legislative procurement unit;
- 4209 (ii) an executive branch procurement unit;
- 4210 (iii) a judicial procurement unit;
- 4211 (iv) an educational procurement unit;
- 4212 (v) the Utah Communications Authority, established in Section [63H-7a-201](#);
- 4213 (vi) a local government procurement unit;

- 4214 (vii) a local district;
- 4215 (viii) a special service district;
- 4216 (ix) a local building authority;
- 4217 (x) a conservation district;
- 4218 (xi) a public corporation; or
- 4219 (xii) a public transit district; and
- 4220 (b) does not include a political subdivision created under Title 11, Chapter 13,
- 4221 Interlocal Cooperation Act.
- 4222 (61) "Professional service" means labor, effort, or work that requires an elevated
- 4223 degree of specialized knowledge and discretion, including labor, effort, or work in the field of:
- 4224 (a) accounting;
- 4225 (b) administrative law judge service;
- 4226 (c) architecture;
- 4227 (d) construction design and management;
- 4228 (e) engineering;
- 4229 (f) financial services;
- 4230 (g) information technology;
- 4231 (h) the law;
- 4232 (i) medicine;
- 4233 (j) psychiatry; or
- 4234 (k) underwriting.
- 4235 (62) "Protest officer" means:
- 4236 (a) for the division or a procurement unit with independent procurement authority:
- 4237 (i) the head of the procurement unit;
- 4238 (ii) the head of the procurement unit's designee who is an employee of the procurement
- 4239 unit; or
- 4240 (iii) a person designated by rule made by the applicable rulemaking authority; or

4241 (b) for a procurement unit without independent procurement authority, the chief
4242 procurement officer or the chief procurement officer's designee who is an employee of the
4243 division.

4244 (63) "Public corporation" means the same as that term is defined in Section [63E-1-102](#).

4245 (64) "Public entity" means any government entity of the state or political subdivision of
4246 the state, including:

4247 (a) a procurement unit;

4248 (b) a municipality or county, regardless of whether the municipality or county has
4249 adopted this chapter or any part of this chapter; and

4250 (c) any other government entity located in the state that expends public funds.

4251 (65) "Public facility" means a building, structure, infrastructure, improvement, or other
4252 facility of a public entity.

4253 (66) "Public funds" means money, regardless of its source, including from the federal
4254 government, that is owned or held by a procurement unit.

4255 (67) "Public transit district" means a public transit district organized under Title 17B,
4256 Chapter 2a, Part 8, Public Transit District Act.

4257 (68) "Public-private partnership" means an arrangement or agreement, occurring on or
4258 after January 1, 2017, between a procurement unit and one or more contractors to provide for a
4259 public need through the development or operation of a project in which the contractor or
4260 contractors share with the procurement unit the responsibility or risk of developing, owning,
4261 maintaining, financing, or operating the project.

4262 (69) "Qualified vendor" means a vendor who:

4263 (a) is responsible; and

4264 (b) submits a responsive statement of qualifications under Section [63G-6a-410](#) that
4265 meets the minimum mandatory requirements, evaluation criteria, and any applicable score
4266 thresholds set forth in the request for statement of qualifications.

4267 (70) "Real property" means land and any building, fixture, improvement, appurtenance,

4268 structure, or other development that is permanently affixed to land.

4269 (71) "Request for information" means a nonbinding process through which a
4270 procurement unit requests information relating to a procurement item.

4271 (72) "Request for proposals" means a document used to solicit proposals to provide a
4272 procurement item to a procurement unit, including all other documents that are attached to that
4273 document or incorporated in that document by reference.

4274 (73) "Request for proposals process" means the procurement process described in Part
4275 7, Request for Proposals.

4276 (74) "Request for statement of qualifications" means a document used to solicit
4277 information about the qualifications of a person interested in responding to a potential
4278 procurement, including all other documents attached to that document or incorporated in that
4279 document by reference.

4280 (75) "Requirements contract" means a contract:

4281 (a) under which a contractor agrees to provide a procurement unit's entire requirements
4282 for certain procurement items at prices specified in the contract during the contract period; and

4283 (b) that:

4284 (i) does not require a minimum purchase amount; or

4285 (ii) provides a maximum purchase limit.

4286 (76) "Responsible" means being capable, in all respects, of:

4287 (a) meeting all the requirements of a solicitation; and

4288 (b) fully performing all the requirements of the contract resulting from the solicitation,
4289 including being financially solvent with sufficient financial resources to perform the contract.

4290 (77) "Responsive" means conforming in all material respects to the requirements of a
4291 solicitation.

4292 (78) "Sealed" means manually or electronically secured to prevent disclosure.

4293 (79) "Service":

4294 (a) means labor, effort, or work to produce a result that is beneficial to a procurement

4295 unit;

4296 (b) includes a professional service; and

4297 (c) does not include labor, effort, or work provided under an employment agreement or
4298 a collective bargaining agreement.

4299 (80) "Small purchase process" means the procurement process described in Section
4300 [63G-6a-506](#).

4301 (81) "Sole source contract" means a contract resulting from a sole source procurement.

4302 (82) "Sole source procurement" means a procurement without competition pursuant to
4303 a determination under Subsection [63G-6a-802\(1\)\(a\)](#) that there is only one source for the
4304 procurement item.

4305 (83) "Solicitation" means an invitation for bids, request for proposals, request for
4306 statement of qualifications, or request for information.

4307 (84) "Solicitation response" means:

4308 (a) a bid submitted in response to an invitation for bids;

4309 (b) a proposal submitted in response to a request for proposals; or

4310 (c) a statement of qualifications submitted in response to a request for statement of
4311 qualifications.

4312 (85) "Special service district" means the same as that term is defined in Section
4313 [17D-1-102](#).

4314 (86) "Specification" means any description of the physical or functional characteristics
4315 or of the nature of a procurement item included in an invitation for bids or a request for
4316 proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

4317 (a) a requirement for inspecting or testing a procurement item; or

4318 (b) preparing a procurement item for delivery.

4319 (87) "Standard procurement process" means:

4320 (a) the bidding process;

4321 (b) the request for proposals process;

- 4322 (c) the approved vendor list process;
- 4323 (d) the small purchase process; or
- 4324 (e) the design professional procurement process.
- 4325 (88) "State cooperative contract" means a contract awarded by the division for and in
- 4326 behalf of all public entities.
- 4327 (89) "Statement of qualifications" means a written statement submitted to a
- 4328 procurement unit in response to a request for statement of qualifications.
- 4329 (90) "Subcontractor":
- 4330 (a) means a person under contract to perform part of a contractual obligation under the
- 4331 control of the contractor, whether the person's contract is with the contractor directly or with
- 4332 another person who is under contract to perform part of a contractual obligation under the
- 4333 control of the contractor; and
- 4334 (b) includes a supplier, distributor, or other vendor that furnishes supplies or services
- 4335 to a contractor.
- 4336 (91) "Supply" means a good, material, technology, piece of equipment, or any other
- 4337 item of personal property.
- 4338 (92) "Tie bid" means that the lowest responsive bids of responsible bidders are
- 4339 identical in price.
- 4340 (93) "Time and materials contract" means a contract under which the contractor is paid:
- 4341 (a) the actual cost of direct labor at specified hourly rates;
- 4342 (b) the actual cost of materials and equipment usage; and
- 4343 (c) an additional amount, expressly described in the contract, to cover overhead and
- 4344 profit, that is not based on a percentage of the cost to the contractor.
- 4345 (94) "Transitional costs":
- 4346 (a) means the costs of changing:
- 4347 (i) from an existing provider of a procurement item to another provider of that
- 4348 procurement item; or

- 4349 (ii) from an existing type of procurement item to another type;
- 4350 (b) includes:
- 4351 (i) training costs;
- 4352 (ii) conversion costs;
- 4353 (iii) compatibility costs;
- 4354 (iv) costs associated with system downtime;
- 4355 (v) disruption of service costs;
- 4356 (vi) staff time necessary to implement the change;
- 4357 (vii) installation costs; and
- 4358 (viii) ancillary software, hardware, equipment, or construction costs; and
- 4359 (c) does not include:
- 4360 (i) the costs of preparing for or engaging in a procurement process; or
- 4361 (ii) contract negotiation or drafting costs.
- 4362 (95) "Trial use contract" means a contract for a procurement item that the procurement
- 4363 unit acquires for a trial use or testing to determine whether the procurement item will benefit
- 4364 the procurement unit.
- 4365 (96) "Vendor":
- 4366 (a) means a person who is seeking to enter into a contract with a procurement unit to
- 4367 provide a procurement item; and
- 4368 (b) includes:
- 4369 (i) a bidder;
- 4370 (ii) an offeror;
- 4371 (iii) an approved vendor;
- 4372 (iv) a design professional; and
- 4373 (v) a person who submits an unsolicited proposal under Section [63G-6a-712](#).
- 4374 Section 90. Section **63H-6-102** is amended to read:
- 4375 **63H-6-102. Definitions.**

4376 As used in this chapter:

4377 (1) "Board" means the board of directors of the corporation.

4378 (2) "Business related experience" means at least three years of professional experience
4379 in business administration, marketing, advertising, economic development, or a related field.

4380 (3) "Capital [~~developments~~] development" means the same as [~~that term is~~] capital
4381 development project, as defined in Section [~~63A-5-104~~] 63A-5b-401.

4382 (4) "Capital improvements" means the same as that term is defined in Section
4383 [~~63A-5-104~~] 63A-5b-401.

4384 (5) "Corporation" means the Utah State Fair Corporation created by this chapter.

4385 (6) "Corporation bond" means a bond issued by the corporation in accordance with Part
4386 2, Bonding Authority.

4387 (7) "Division" means the Division of Facilities Construction and Management created
4388 in Section [~~63A-5-201~~] 63A-5b-301.

4389 (8) "Executive director" means the executive director hired by the board in accordance
4390 with Section 63H-6-105.

4391 (9) (a) "State fair park" means the property owned by the state located at:

4392 (i) 155 North 1000 West, Salt Lake City, Utah, consisting of approximately 50 acres;

4393 (ii) 1139 West North Temple, Salt Lake City, Utah, consisting of approximately 10.5
4394 acres; and

4395 (iii) 1220 West North Temple, Salt Lake City, Utah, consisting of approximately two
4396 acres.

4397 (b) "State fair park" includes each building and each improvement on the property
4398 described in Subsection (9)(a) that is owned by the state.

4399 Section 91. Section **63H-6-103** is amended to read:

4400 **63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.**

4401 (1) There is created an independent public nonprofit corporation known as the "Utah
4402 State Fair Corporation."

4403 (2) The board shall file articles of incorporation for the corporation with the Division
4404 of Corporations and Commercial Code.

4405 (3) The corporation, subject to this chapter, has all powers and authority permitted
4406 nonprofit corporations by law.

4407 (4) The corporation shall:

4408 (a) manage, supervise, and control:

4409 (i) all activities relating to the annual exhibition described in Subsection (4)(j); and

4410 (ii) except as otherwise provided by statute, all state expositions, including setting the
4411 time, place, and purpose of any state exposition;

4412 (b) for public entertainment, displays, and exhibits or similar events:

4413 (i) provide, sponsor, or arrange the events;

4414 (ii) publicize and promote the events; and

4415 (iii) secure funds to cover the cost of the exhibits from:

4416 (A) private contributions;

4417 (B) public appropriations;

4418 (C) admission charges; and

4419 (D) other lawful means;

4420 (c) acquire and designate exposition sites;

4421 (d) use generally accepted accounting principles in accounting for the corporation's
4422 assets, liabilities, and operations;

4423 (e) seek corporate sponsorships for the state fair park or for individual buildings or
4424 facilities within the fair park;

4425 (f) work with county and municipal governments, the Salt Lake Convention and
4426 Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote
4427 expositions and the use of the state fair park;

4428 (g) develop and maintain a marketing program to promote expositions and the use of
4429 the state fair park;

4430 (h) in accordance with provisions of this part, operate and maintain the state fair park,
4431 including the physical appearance and structural integrity of the state fair park and the
4432 buildings located at the state fair park;

4433 (i) prepare an economic development plan for the state fair park;

4434 (j) hold an annual exhibition that:

4435 (i) is called the state fair or a similar name;

4436 (ii) promotes and highlights agriculture throughout the state;

4437 (iii) includes expositions of livestock, poultry, agricultural, domestic science,
4438 horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic
4439 animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and
4440 educational pursuits and the sharing of talents among the people of Utah;

4441 (iv) includes the award of premiums for the best specimens of the exhibited articles
4442 and animals;

4443 (v) permits competition by livestock exhibited by citizens of other states and territories
4444 of the United States; and

4445 (vi) is arranged according to plans approved by the board;

4446 (k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j);
4447 and

4448 (l) publish a list of premiums that will be awarded at the annual exhibition described in
4449 Subsection (4)(j) for the best specimens of exhibited articles and animals.

4450 (5) In addition to the annual exhibition described in Subsection (4)(j), the corporation
4451 may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural,
4452 floricultural, mineral and industrial products, manufactured articles, and domestic animals that,
4453 in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational
4454 pursuits and the sharing of talents among the people of Utah.

4455 (6) The corporation may:

4456 (a) employ advisers, consultants, and agents, including financial experts and

- 4457 independent legal counsel, and fix their compensation;
- 4458 (b) (i) participate in the state's Risk Management Fund created under Section
4459 [63A-4-201](#); or
- 4460 (ii) procure insurance against any loss in connection with the corporation's property
4461 and other assets, including mortgage loans;
- 4462 (c) receive and accept aid or contributions of money, property, labor, or other things of
4463 value from any source, including any grants or appropriations from any department, agency, or
4464 instrumentality of the United States or Utah;
- 4465 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the
4466 purposes of the corporation, subject to the conditions, if any, upon which the aid and
4467 contributions were made;
- 4468 (e) enter into management agreements with any person or entity for the performance of
4469 the corporation's functions or powers;
- 4470 (f) establish whatever accounts and procedures as necessary to budget, receive, and
4471 disburse, account for, and audit all funds received, appropriated, or generated;
- 4472 (g) subject to Subsection (8), lease any of the facilities at the state fair park;
- 4473 (h) sponsor events as approved by the board; and
- 4474 (i) enter into one or more agreements to develop the state fair park.
- 4475 (7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the
4476 corporation is exempt from:
- 4477 (i) Title 51, Chapter 5, Funds Consolidation Act;
- 4478 (ii) Title 51, Chapter 7, State Money Management Act;
- 4479 (iii) Title 63A, Utah Administrative Services Code;
- 4480 (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 4481 (v) Title 67, Chapter 19, Utah State Personnel Management Act.
- 4482 (b) The board shall adopt policies parallel to and consistent with:
- 4483 (i) Title 51, Chapter 5, Funds Consolidation Act;

- 4484 (ii) Title 51, Chapter 7, State Money Management Act;
- 4485 (iii) Title 63A, Utah Administrative Services Code; and
- 4486 (iv) Title 63J, Chapter 1, Budgetary Procedures Act.
- 4487 (c) The corporation shall comply with:
- 4488 (i) Title 52, Chapter 4, Open and Public Meetings Act;
- 4489 (ii) Title 63G, Chapter 2, Government Records Access and Management Act;
- 4490 (iii) the provisions of Title 63A, Chapter 1, Part 2, Utah Public Finance Website;
- 4491 (iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:
- 4492 (A) entertainment provided at the state fair park;
- 4493 (B) judges for competitive exhibits; or
- 4494 (C) sponsorship of an event at the state fair park; and
- 4495 (v) the legislative approval requirements for new facilities established in ~~Subsection~~
- 4496 ~~63A-5-104(3)]~~ Section 63A-5b-404.
- 4497 (8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a
- 4498 term of 10 or more years, the corporation shall:
- 4499 (i) submit the proposed lease to the State Building Board for the State Building Board's
- 4500 approval or rejection; and
- 4501 (ii) if the State Building Board approves the proposed lease, submit the proposed lease
- 4502 to the Executive Appropriations Committee for the Executive Appropriation Committee's
- 4503 review and recommendation in accordance with Subsection (8)(b).
- 4504 (b) The Executive Appropriations Committee shall review a proposed lease submitted
- 4505 in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:
- 4506 (i) execute the proposed sublease; or
- 4507 (ii) reject the proposed sublease.
- 4508 Section 92. Section **63I-1-263** is amended to read:
- 4509 **63I-1-263. Repeal dates, Titles 63A to 63N.**
- 4510 (1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

- 4511 (a) Subsection [63A-1-201](#)(1) is repealed;
- 4512 (b) Subsection [63A-1-202](#)(2)(c), the language that states "using criteria established by
4513 the board" is repealed;
- 4514 (c) Section [63A-1-203](#) is repealed;
- 4515 (d) Subsections [63A-1-204](#)(1) and (2), the language that states "After consultation with
4516 the board, and" is repealed; and
- 4517 (e) Subsection [63A-1-204](#)(1)(b), the language that states "using the standards provided
4518 in Subsection [63A-1-203](#)(3)(c)" is repealed.
- 4519 (2) Subsection [~~[63A-5-228](#)~~(2)(h)] [63A-5b-405](#)(5), relating to prioritizing and allocating
4520 capital improvement funding, is repealed on July 1, 2024.
- 4521 (3) Section [~~[63A-5-603](#)~~] [63A-5b-1003](#), State Facility Energy Efficiency Fund, is
4522 repealed July 1, 2023.
- 4523 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
4524 1, 2028.
- 4525 (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
4526 2025.
- 4527 (6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1,
4528 2020.
- 4529 (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
4530 repealed July 1, 2021.
- 4531 (8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1,
4532 2023.
- 4533 (9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
4534 2025.
- 4535 (10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
4536 2020.
- 4537 (11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

- 4538 (a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;
- 4539 (b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;
- 4540 (c) in Subsection 63H-6-104(2)(e), the language that states ", of whom only one may
4541 be a legislator, in accordance with Subsection (3)(e)," is repealed;
- 4542 (d) Subsection 63H-6-104(3)(a)(i) is amended to read:
- 4543 "(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under
4544 Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the
4545 year that the board member was appointed.";
- 4546 (e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states "the
4547 president of the Senate, the speaker of the House, the governor," is repealed and replaced with
4548 "the governor"; and
- 4549 (f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is
4550 repealed.
- 4551 (12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 4552 (13) Section 63M-7-212 is repealed on December 31, 2019.
- 4553 (14) On July 1, 2025:
- 4554 (a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource
4555 Development Coordinating Committee," is repealed;
- 4556 (b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed
4557 sites for the transplant of species to local government officials having jurisdiction over areas
4558 that may be affected by a transplant.";
- 4559 (c) in Subsection 23-14-21(3), the language that states "and the Resource Development
4560 Coordinating Committee" is repealed;
- 4561 (d) in Subsection 23-21-2.3(1), the language that states "the Resource Development
4562 Coordinating Committee created in Section 63J-4-501 and" is repealed;
- 4563 (e) in Subsection 23-21-2.3(2), the language that states "the Resource Development
4564 Coordinating Committee and" is repealed;

4565 (f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered
4566 accordingly;

4567 (g) Subsections 63J-4-401(5)(a) and (c) are repealed;

4568 (h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the
4569 word "and" is inserted immediately after the semicolon;

4570 (i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

4571 (j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;

4572 and

4573 (k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are
4574 renumbered accordingly.

4575 (15) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed
4576 July 1, 2026.

4577 (16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage
4578 Commission, is repealed July 1, 2023.

4579 (17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed
4580 July 1, 2022.

4581 (18) (a) Subsection 63J-1-602.1(53), relating to the Utah Statewide Radio System
4582 Restricted Account, is repealed July 1, 2022.

4583 (b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and
4584 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make
4585 necessary changes to subsection numbering and cross references.

4586 (19) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is
4587 repealed January 1, 2025.

4588 (20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January
4589 1, 2023, is amended to read:

4590 "(1) On or before October 1, the board shall provide an annual written report to the
4591 Social Services Appropriations Subcommittee and the Economic Development and Workforce

4592 Services Interim Committee."

4593 (21) In relation to the Utah Substance Use and Mental Health Advisory Council, on
4594 January 1, 2023:

4595 (a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are
4596 repealed;

4597 (b) Section 63M-7-305, the language that states "council" is replaced with
4598 "commission";

4599 (c) Subsection 63M-7-305(1) is repealed and replaced with:

4600 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

4601 (d) Subsection 63M-7-305(2) is repealed and replaced with:

4602 "(2) The commission shall:

4603 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
4604 Drug-Related Offenses Reform Act; and

4605 (b) coordinate the implementation of Section 77-18-1.1 and related provisions in
4606 Subsections 77-18-1(5)(b)(iii) and (iv)."

4607 (22) The Crime Victim Reparations and Assistance Board, created in Section
4608 63M-7-504, is repealed July 1, 2027.

4609 (23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

4610 (24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed
4611 on January 1, 2023.

4612 (25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

4613 (26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is
4614 repealed January 1, 2021.

4615 (b) Subject to Subsection (26)(c), Sections 59-7-610 and 59-10-1007 regarding tax
4616 credits for certain persons in recycling market development zones, are repealed for taxable
4617 years beginning on or after January 1, 2021.

4618 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

4619 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
4620 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

4621 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
4622 the expenditure is made on or after January 1, 2021.

4623 (d) Notwithstanding Subsections (26)(b) and (c), a person may carry forward a tax
4624 credit in accordance with Section 59-7-610 or 59-10-1007 if:

4625 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

4626 (ii) (A) for the purchase price of machinery or equipment described in Section
4627 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
4628 2020; or

4629 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
4630 expenditure is made on or before December 31, 2020.

4631 (27) Section 63N-2-512 is repealed on July 1, 2021.

4632 (28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
4633 January 1, 2021.

4634 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
4635 calendar years beginning on or after January 1, 2021.

4636 (c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in
4637 accordance with Section 59-9-107 if:

4638 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
4639 31, 2020; and

4640 (ii) the qualified equity investment that is the basis of the tax credit is certified under
4641 Section 63N-2-603 on or before December 31, 2023.

4642 (29) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

4643 (30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed
4644 July 1, 2023.

4645 (31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program,

4646 is repealed January 1, 2023.

4647 (32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

4648 (a) Subsection 63N-10-201(2)(a) is amended to read:

4649 "(2) (a) The governor shall appoint five commission members with the advice and
4650 consent of the Senate.";

4651 (b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

4652 (c) in Subsection 63N-10-201(3)(a), the language that states ", president, or speaker,
4653 respectively," is repealed; and

4654 (d) Subsection 63N-10-201(3)(d) is amended to read:

4655 "(d) The governor may remove a commission member for any reason and replace the
4656 commission member in accordance with this section."

4657 (33) In relation to the Talent Ready Utah Board, on January 1, 2023:

4658 (a) Subsection 9-22-102(16) is repealed;

4659 (b) in Subsection 9-22-114(2), the language that states "Talent Ready Utah," is
4660 repealed; and

4661 (c) in Subsection 9-22-114(5), the language that states "representatives of Talent Ready
4662 Utah," is repealed.

4663 (34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1,
4664 2023.

4665 Section 93. Section 63J-1-201 (Superseded 07/01/20) is amended to read:

4666 **63J-1-201 (Superseded 07/01/20). Governor's proposed budget to Legislature --**
4667 **Contents -- Preparation -- Appropriations based on current tax laws and not to exceed**
4668 **estimated revenues.**

4669 (1) The governor shall deliver, not later than 30 days before the date the Legislature
4670 convenes in the annual general session, a confidential draft copy of the governor's proposed
4671 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
4672 requirements of this section.

4673 (2) (a) When submitting a proposed budget, the governor shall, within the first three
4674 days of the annual general session of the Legislature, submit to the presiding officer of each
4675 house of the Legislature:

4676 (i) a proposed budget for the ensuing fiscal year;

4677 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,
4678 with each change clearly itemized and classified; and

4679 (iii) as applicable, a document showing proposed changes in estimated revenues that
4680 are based on changes in state tax laws or rates.

4681 (b) The proposed budget shall include:

4682 (i) a projection of:

4683 (A) estimated revenues by major tax type;

4684 (B) 15-year trends for each major tax type;

4685 (C) estimated receipts of federal funds;

4686 (D) 15-year trends for federal fund receipts; and

4687 (E) appropriations for the next fiscal year;

4688 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
4689 federal grants or assistance programs included in the budget;

4690 (iii) changes to debt service;

4691 (iv) a plan of proposed changes to appropriations and estimated revenues for the next
4692 fiscal year that is based upon the current fiscal year state tax laws and rates and considers
4693 projected changes in federal grants or assistance programs included in the budget;

4694 (v) an itemized estimate of the proposed changes to appropriations for:

4695 (A) the Legislative Department as certified to the governor by the president of the
4696 Senate and the speaker of the House;

4697 (B) the Executive Department;

4698 (C) the Judicial Department as certified to the governor by the state court
4699 administrator;

4700 (D) changes to salaries payable by the state under the Utah Constitution or under law
4701 for lease agreements planned for the next fiscal year; and

4702 (E) all other changes to ongoing or one-time appropriations, including dedicated
4703 credits, restricted funds, nonlapsing balances, grants, and federal funds;

4704 (vi) for each line item, the average annual dollar amount of staff funding associated
4705 with all positions that were vacant during the last fiscal year;

4706 (vii) deficits or anticipated deficits;

4707 (viii) the recommendations for each state agency for new full-time employees for the
4708 next fiscal year, which shall also be provided to the [~~State Building Board~~] director of the
4709 Division of Facilities Construction and Management as required by Subsection [~~63A-5-103(5)~~]
4710 63A-5b-501(3);

4711 (ix) a written description and itemized report submitted by a state agency to the
4712 Governor's Office of Management and Budget under Section 63J-1-220, including:

4713 (A) a written description and an itemized report provided at least annually detailing the
4714 expenditure of the state money, or the intended expenditure of any state money that has not
4715 been spent; and

4716 (B) a final written itemized report when all the state money is spent;

4717 (x) any explanation that the governor may desire to make as to the important features
4718 of the budget and any suggestion as to methods for the reduction of expenditures or increase of
4719 the state's revenue; and

4720 (xi) information detailing certain fee increases as required by Section 63J-1-504.

4721 (3) For the purpose of preparing and reporting the proposed budget:

4722 (a) The governor shall require the proper state officials, including all public and higher
4723 education officials, all heads of executive and administrative departments and state institutions,
4724 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the
4725 state money, and all institutions applying for state money and appropriations, to provide
4726 itemized estimates of changes in revenues and appropriations.

4727 (b) The governor may require the persons and entities subject to Subsection (3)(a) to
4728 provide other information under these guidelines and at times as the governor may direct,
4729 which may include a requirement for program productivity and performance measures, where
4730 appropriate, with emphasis on outcome indicators.

4731 (c) The governor may require representatives of public and higher education, state
4732 departments and institutions, and other institutions or individuals applying for state
4733 appropriations to attend budget meetings.

4734 (4) (a) The Governor's Office of Management and Budget shall provide to the Office of
4735 Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the
4736 Legislature convenes in the annual general session, data, analysis, or requests used in preparing
4737 the governor's budget recommendations, notwithstanding the restrictions imposed on such
4738 recommendations by available revenue.

4739 (b) The information under Subsection (4)(a) shall include:

4740 (i) actual revenues and expenditures for the fiscal year ending the previous June 30;

4741 (ii) estimated or authorized revenues and expenditures for the current fiscal year;

4742 (iii) requested revenues and expenditures for the next fiscal year;

4743 (iv) detailed explanations of any differences between the amounts appropriated by the
4744 Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and
4745 (iii);

4746 (v) a statement of agency and program objectives, effectiveness measures, and program
4747 size indicators; and

4748 (vi) other budgetary information required by the Legislature in statute.

4749 (c) The budget information under Subsection (4)(a) shall cover:

4750 (i) all items of appropriation, funds, and accounts included in appropriations acts for
4751 the current and previous fiscal years; and

4752 (ii) any new appropriation, fund, or account items requested for the next fiscal year.

4753 (d) The information provided under Subsection (4)(a) may be provided as a shared

4754 record under Section 63G-2-206 as considered necessary by the Governor's Office of
4755 Management and Budget.

4756 (5) (a) In submitting the budget for the Department of Public Safety, the governor shall
4757 include a separate recommendation in the governor's budget for maintaining a sufficient
4758 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to
4759 or below the number specified in Subsection 32B-1-201(2).

4760 (b) If the governor does not include in the governor's budget an amount sufficient to
4761 maintain the number of alcohol-related law enforcement officers described in Subsection
4762 (5)(a), the governor shall include a message to the Legislature regarding the governor's reason
4763 for not including that amount.

4764 (6) (a) The governor may revise all estimates, except those relating to the Legislative
4765 Department, the Judicial Department, and those providing for the payment of principal and
4766 interest to the state debt and for the salaries and expenditures specified by the Utah
4767 Constitution or under the laws of the state.

4768 (b) The estimate for the Judicial Department, as certified by the state court
4769 administrator, shall also be included in the budget without revision, but the governor may make
4770 separate recommendations on the estimate.

4771 (7) The total appropriations requested for expenditures authorized by the budget may
4772 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
4773 fiscal year.

4774 (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity
4775 does not affect the budget itself or any other item in it.

4776 Section 94. Section 63J-1-201 (Effective 07/01/20) is amended to read:

4777 **63J-1-201 (Effective 07/01/20). Governor's proposed budget to Legislature --**
4778 **Contents -- Preparation -- Appropriations based on current tax laws and not to exceed**
4779 **estimated revenues.**

4780 (1) The governor shall deliver, not later than 30 days before the date the Legislature

4781 convenes in the annual general session, a confidential draft copy of the governor's proposed
4782 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
4783 requirements of this section.

4784 (2) (a) When submitting a proposed budget, the governor shall, within the first three
4785 days of the annual general session of the Legislature, submit to the presiding officer of each
4786 house of the Legislature:

4787 (i) a proposed budget for the ensuing fiscal year;

4788 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,
4789 with each change clearly itemized and classified; and

4790 (iii) as applicable, a document showing proposed changes in estimated revenues that
4791 are based on changes in state tax laws or rates.

4792 (b) The proposed budget shall include:

4793 (i) a projection of:

4794 (A) estimated revenues by major tax type;

4795 (B) 15-year trends for each major tax type;

4796 (C) estimated receipts of federal funds;

4797 (D) 15-year trends for federal fund receipts; and

4798 (E) appropriations for the next fiscal year;

4799 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
4800 federal grants or assistance programs included in the budget;

4801 (iii) changes to debt service;

4802 (iv) a plan of proposed changes to appropriations and estimated revenues for the next
4803 fiscal year that is based upon the current fiscal year state tax laws and rates and considers
4804 projected changes in federal grants or assistance programs included in the budget;

4805 (v) an itemized estimate of the proposed changes to appropriations for:

4806 (A) the Legislative Department as certified to the governor by the president of the
4807 Senate and the speaker of the House;

4808 (B) the Executive Department;

4809 (C) the Judicial Department as certified to the governor by the state court

4810 administrator;

4811 (D) changes to salaries payable by the state under the Utah Constitution or under law

4812 for lease agreements planned for the next fiscal year; and

4813 (E) all other changes to ongoing or one-time appropriations, including dedicated

4814 credits, restricted funds, nonlapsing balances, grants, and federal funds;

4815 (vi) for each line item, the average annual dollar amount of staff funding associated

4816 with all positions that were vacant during the last fiscal year;

4817 (vii) deficits or anticipated deficits;

4818 (viii) the recommendations for each state agency for new full-time employees for the

4819 next fiscal year, which shall also be provided to the [~~State Building Board~~] director of the

4820 Division of Facilities Construction and Management as required by Subsection [~~63A-5-103(5)~~]

4821 63A-5b-501(3);

4822 (ix) a written description and itemized report submitted by a state agency to the

4823 Governor's Office of Management and Budget under Section 63J-1-220, including:

4824 (A) a written description and an itemized report provided at least annually detailing the

4825 expenditure of the state money, or the intended expenditure of any state money that has not

4826 been spent; and

4827 (B) a final written itemized report when all the state money is spent;

4828 (x) any explanation that the governor may desire to make as to the important features

4829 of the budget and any suggestion as to methods for the reduction of expenditures or increase of

4830 the state's revenue; and

4831 (xi) information detailing certain fee increases as required by Section 63J-1-504.

4832 (3) For the purpose of preparing and reporting the proposed budget:

4833 (a) The governor shall require the proper state officials, including all public and higher

4834 education officials, all heads of executive and administrative departments and state institutions,

4835 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the
4836 state money, and all institutions applying for state money and appropriations, to provide
4837 itemized estimates of changes in revenues and appropriations.

4838 (b) The governor may require the persons and entities subject to Subsection (3)(a) to
4839 provide other information under these guidelines and at times as the governor may direct,
4840 which may include a requirement for program productivity and performance measures, where
4841 appropriate, with emphasis on outcome indicators.

4842 (c) The governor may require representatives of public and higher education, state
4843 departments and institutions, and other institutions or individuals applying for state
4844 appropriations to attend budget meetings.

4845 (4) (a) The Governor's Office of Management and Budget shall provide to the Office of
4846 Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the
4847 Legislature convenes in the annual general session, data, analysis, or requests used in preparing
4848 the governor's budget recommendations, notwithstanding the restrictions imposed on such
4849 recommendations by available revenue.

4850 (b) The information under Subsection (4)(a) shall include:

4851 (i) actual revenues and expenditures for the fiscal year ending the previous June 30;

4852 (ii) estimated or authorized revenues and expenditures for the current fiscal year;

4853 (iii) requested revenues and expenditures for the next fiscal year;

4854 (iv) detailed explanations of any differences between the amounts appropriated by the
4855 Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and
4856 (iii);

4857 (v) a statement of:

4858 (A) agency and program objectives, effectiveness measures, and program size
4859 indicators;

4860 (B) the final status of the program objectives, effectiveness measures, and program size
4861 indicators included in the appropriations act for the fiscal year ending the previous June 30; and

4862 (C) the current status of the program objectives, effectiveness measures, and program
4863 size indicators included in the appropriations act for the current fiscal year; and

4864 (vi) other budgetary information required by the Legislature in statute.

4865 (c) The budget information under Subsection (4)(a) shall cover:

4866 (i) all items of appropriation, funds, and accounts included in appropriations acts for
4867 the current and previous fiscal years; and

4868 (ii) any new appropriation, fund, or account items requested for the next fiscal year.

4869 (d) The information provided under Subsection (4)(a) may be provided as a shared
4870 record under Section 63G-2-206 as considered necessary by the Governor's Office of
4871 Management and Budget.

4872 (5) (a) In submitting the budget for the Department of Public Safety, the governor shall
4873 include a separate recommendation in the governor's budget for maintaining a sufficient
4874 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to
4875 or below the number specified in Subsection 32B-1-201(2).

4876 (b) If the governor does not include in the governor's budget an amount sufficient to
4877 maintain the number of alcohol-related law enforcement officers described in Subsection
4878 (5)(a), the governor shall include a message to the Legislature regarding the governor's reason
4879 for not including that amount.

4880 (6) (a) The governor may revise all estimates, except those relating to the Legislative
4881 Department, the Judicial Department, and those providing for the payment of principal and
4882 interest to the state debt and for the salaries and expenditures specified by the Utah
4883 Constitution or under the laws of the state.

4884 (b) The estimate for the Judicial Department, as certified by the state court
4885 administrator, shall also be included in the budget without revision, but the governor may make
4886 separate recommendations on the estimate.

4887 (7) The total appropriations requested for expenditures authorized by the budget may
4888 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing

4889 fiscal year.

4890 (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity
4891 does not affect the budget itself or any other item in it.

4892 Section 95. Section **63J-1-206** is amended to read:

4893 **63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures --**
4894 **Transfer of funds -- Exclusion.**

4895 (1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly
4896 exempted in the appropriating act:

4897 (i) all money appropriated by the Legislature is appropriated upon the terms and
4898 conditions set forth in this chapter; and

4899 (ii) any department, agency, or institution that accepts money appropriated by the
4900 Legislature does so subject to the requirements of this chapter.

4901 (b) This section does not apply to:

4902 (i) the Legislature and its committees; and

4903 (ii) the Investigation Account of the Water Resources Construction Fund, which is
4904 governed by Section [73-10-8](#).

4905 (2) (a) Each item of appropriation is to be expended subject to any schedule of
4906 programs and any restriction attached to the item of appropriation, as designated by the
4907 Legislature.

4908 (b) Each schedule of programs or restriction attached to an appropriation item:

4909 (i) is a restriction or limitation upon the expenditure of the respective appropriation
4910 made;

4911 (ii) does not itself appropriate any money; and

4912 (iii) is not itself an item of appropriation.

4913 (c) (i) Except as provided in Subsection (2)(c)(ii), an appropriation or any surplus of
4914 any appropriation may not be diverted from any department, agency, institution, division, or
4915 line item to any other department, agency, institution, division, or line item.

4916 (ii) The state superintendent may transfer money appropriated for the Minimum School
4917 Program between line items in accordance with Section [53F-2-205](#).

4918 (iii) If the money appropriated to an agency to pay lease payments under the program
4919 established in [~~Subsection [63A-5-228\(3\)](#)] Section [63A-5b-703](#) exceeds the amount required for
4920 the agency's lease payments to the Division of Facilities Construction and Management, the
4921 agency may:~~

4922 (A) transfer money from the lease payments line item to other line items within the
4923 agency; and

4924 (B) retain and use the excess money for other purposes.

4925 (d) The money appropriated subject to a schedule of programs or restriction may be
4926 used only for the purposes authorized.

4927 (e) In order for a department, agency, or institution to transfer money appropriated to it
4928 from one program to another program within a line item, the department, agency, or institution
4929 shall revise its budget execution plan as provided in Section [63J-1-209](#).

4930 (f) (i) The procedures for transferring money between programs within a line item as
4931 provided by Subsection (2)(e) do not apply to money appropriated to the State Board of
4932 Education for the Minimum School Program or capital outlay programs created in Title 53F,
4933 Chapter 3, State Funding -- Capital Outlay Programs.

4934 (ii) The state superintendent may transfer money appropriated for the programs
4935 specified in Subsection (2)(f)(i) only as provided by Section [53F-2-205](#).

4936 Section 96. Section **63J-1-602.2** is amended to read:

4937 **63J-1-602.2. List of nonlapsing appropriations to programs.**

4938 Appropriations made to the following programs are nonlapsing:

4939 (1) The Legislature and its committees.

4940 (2) The Percent-for-Art Program created in Section [9-6-404](#).

4941 (3) The LeRay McAllister Critical Land Conservation Program created in Section
4942 [11-38-301](#).

- 4943 (4) Dedicated credits accrued to the Utah Marriage Commission as provided under
4944 Subsection [17-16-21\(2\)\(d\)\(ii\)](#).
- 4945 (5) The Trip Reduction Program created in Section [19-2a-104](#).
- 4946 (6) The Division of Wildlife Resources for the appraisal and purchase of lands under
4947 the Pelican Management Act, as provided in Section [23-21a-6](#).
- 4948 (7) The primary care grant program created in Section [26-10b-102](#).
- 4949 (8) Sanctions collected as dedicated credits from Medicaid provider under Subsection
4950 [26-18-3\(7\)](#).
- 4951 (9) The Utah Health Care Workforce Financial Assistance Program created in Section
4952 [26-46-102](#).
- 4953 (10) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).
- 4954 (11) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#).
- 4955 (12) Funds that the Department of Alcoholic Beverage Control retains in accordance
4956 with Subsection [32B-2-301\(7\)\(a\)](#) or (b).
- 4957 (13) The General Assistance program administered by the Department of Workforce
4958 Services, as provided in Section [35A-3-401](#).
- 4959 (14) A new program or agency that is designated as nonlapsing under Section
4960 [36-24-101](#).
- 4961 (15) The Utah National Guard, created in Title 39, Militia and Armories.
- 4962 (16) The State Tax Commission under Section [41-1a-1201](#) for the:
- 4963 (a) purchase and distribution of license plates and decals; and
- 4964 (b) administration and enforcement of motor vehicle registration requirements.
- 4965 (17) The Search and Rescue Financial Assistance Program, as provided in Section
4966 [53-2a-1102](#).
- 4967 (18) The Motorcycle Rider Education Program, as provided in Section [53-3-905](#).
- 4968 (19) The State Board of Regents for teacher preparation programs, as provided in
4969 Section [53B-6-104](#).

- 4970 (20) The Medical Education Program administered by the Medical Education Council,
4971 as provided in Section [53B-24-202](#).
- 4972 (21) The State Board of Education, as provided in Section [53F-2-205](#).
- 4973 (22) The Division of Services for People with Disabilities, as provided in Section
4974 [62A-5-102](#).
- 4975 (23) The Division of Fleet Operations for the purpose of upgrading underground
4976 storage tanks under Section [63A-9-401](#).
- 4977 (24) The Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).
- 4978 (25) Appropriations to the Department of Technology Services for technology
4979 innovation as provided under Section [63F-4-202](#).
- 4980 (26) The Office of Administrative Rules for publishing, as provided in Section
4981 [63G-3-402](#).
- 4982 (27) The Utah Science Technology and Research Initiative created in Section
4983 [63M-2-301](#).
- 4984 (28) The Governor's Office of Economic Development to fund the Enterprise Zone
4985 Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 4986 (29) Appropriations to fund the Governor's Office of Economic Development's Rural
4987 Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural
4988 Employment Expansion Program.
- 4989 (30) The Department of Human Resource Management user training program, as
4990 provided in Section [67-19-6](#).
- 4991 (31) A public safety answering point's emergency telecommunications service fund, as
4992 provided in Section [69-2-301](#).
- 4993 (32) The Traffic Noise Abatement Program created in Section [72-6-112](#).
- 4994 (33) The Judicial Council for compensation for special prosecutors, as provided in
4995 Section [77-10a-19](#).
- 4996 (34) A state rehabilitative employment program, as provided in Section [78A-6-210](#).

- 4997 (35) The Utah Geological Survey, as provided in Section [79-3-401](#).
- 4998 (36) The Bonneville Shoreline Trail Program created under Section [79-5-503](#).
- 4999 (37) Adoption document access as provided in Sections [78B-6-141](#), [78B-6-144](#), and
5000 [78B-6-144.5](#).
- 5001 (38) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
5002 Defense Commission.
- 5003 (39) The program established by the Division of Facilities Construction and
5004 Management under [~~Subsection [63A-5-228\(3\)](#)~~] [Section 63A-5b-703](#) under which state agencies
5005 receive an appropriation and pay lease payments for the use and occupancy of buildings owned
5006 by the Division of Facilities Construction and Management.
- 5007 Section 97. Section **63J-3-103** is amended to read:
- 5008 **63J-3-103. Definitions.**
- 5009 As used in this chapter:
- 5010 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations
5011 from unrestricted General Fund and Education Fund sources.
- 5012 (b) "Appropriations" includes appropriations that are contingent upon available
5013 surpluses in the General Fund and Education Fund.
- 5014 (c) "Appropriations" does not mean:
- 5015 (i) public education expenditures;
- 5016 (ii) Utah Education and Telehealth Network expenditures in support of public
5017 education;
- 5018 (iii) Utah System of Technical Colleges expenditures in support of public education;
- 5019 (iv) State Tax Commission expenditures related to collection of income taxes in
5020 support of public education;
- 5021 (v) debt service expenditures;
- 5022 (vi) emergency expenditures;
- 5023 (vii) expenditures from all other fund or subfund sources;

- 5024 (viii) transfers or appropriations from the Education Fund to the Uniform School Fund;
- 5025 (ix) transfers into, or appropriations made to, the General Fund Budget Reserve
- 5026 Account established in Section [63J-1-312](#);
- 5027 (x) transfers into, or appropriations made to, the Education Budget Reserve Account
- 5028 established in Section [63J-1-313](#);
- 5029 (xi) transfers in accordance with Section [63J-1-314](#) into, or appropriations made to the
- 5030 Wildland Fire Suppression Fund created in Section [65A-8-204](#) or the State Disaster Recovery
- 5031 Restricted Account created in Section [53-2a-603](#);
- 5032 (xii) money appropriated to fund the total one-time project costs for the construction of
- 5033 capital [~~developments~~] development projects as defined in Section [~~63A-5-104~~] [63A-5b-401](#);
- 5034 (xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund
- 5035 created by Section [72-2-118](#);
- 5036 (xiv) transfers or deposits into or appropriations made to the Transportation Investment
- 5037 Fund of 2005 created by Section [72-2-124](#);
- 5038 (xv) transfers or deposits into or appropriations made to:
- 5039 (A) the Department of Transportation from any source; or
- 5040 (B) any transportation-related account or fund from any source; or
- 5041 (xvi) supplemental appropriations from the General Fund to the Division of Forestry,
- 5042 Fire, and State Lands to provide money for wildland fire control expenses incurred during the
- 5043 current or previous fire years.
- 5044 (2) "Base year real per capita appropriations" means the result obtained for the state by
- 5045 dividing the fiscal year 1985 actual appropriations of the state less debt money by:
- 5046 (a) the state's July 1, 1983 population; and
- 5047 (b) the fiscal year 1983 inflation index divided by 100.
- 5048 (3) "Calendar year" means the time period beginning on January 1 of any given year
- 5049 and ending on December 31 of the same year.
- 5050 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate

5051 expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session,
5052 Chapter 4.

5053 (5) "Fiscal year" means the time period beginning on July 1 of any given year and
5054 ending on June 30 of the subsequent year.

5055 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual
5056 capital and operations appropriations from General Fund and non-Uniform School Fund
5057 income tax revenue sources, less debt money.

5058 (7) "Inflation index" means the change in the general price level of goods and services
5059 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic
5060 Analysis, U.S. Department of Commerce calculated as provided in Section [63J-3-202](#).

5061 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could
5062 be, or could have been, spent in any given year under the limitations of this chapter.

5063 (b) "Maximum allowable appropriations limit" does not mean actual appropriations
5064 spent or actual expenditures.

5065 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two
5066 fiscal years previous to the fiscal year for which the maximum allowable inflation and
5067 population appropriations limit is being computed under this chapter.

5068 (10) "Most recent fiscal year's population" means the fiscal year population two fiscal
5069 years previous to the fiscal year for which the maximum allowable inflation and population
5070 appropriations limit is being computed under this chapter.

5071 (11) "Population" means the number of residents of the state as of July 1 of each year
5072 as calculated by the Governor's Office of Management and Budget according to the procedures
5073 and requirements of Section [63J-3-202](#).

5074 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and
5075 other monetary exaction and interest connected with it that are recorded as unrestricted revenue
5076 of the General Fund and from non-Uniform School Fund income tax revenues, except as
5077 specifically exempted by this chapter.

5078 (13) "Security" means any bond, note, warrant, or other evidence of indebtedness,
5079 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an
5080 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

5081 Section 98. Section **65A-4-1** is amended to read:

5082 **65A-4-1. Acquisition and disposition of land by state agencies.**

5083 (1) All state agencies may acquire land by gift, devise, bequest, exchange,
5084 compensation for public resource value loss, or in satisfaction of a debt and are authorized to
5085 sell, lease, or otherwise dispose of land no longer needed for public purposes, unless otherwise
5086 provided by law.

5087 (2) The proceeds from the sale, lease, or other disposition of land shall go to the state
5088 agency using or holding the land unless:

5089 (a) the governor or the Legislature order its deposit in the fund from which the state
5090 agency receives its appropriations; or

5091 (b) the use or disposition of the proceeds is specified elsewhere in law.

5092 (3) Subsections (1) and (2) do not apply to division-owned property, as defined in
5093 Section [~~63A-5a-102~~] [63A-5b-901](#).

5094 Section 99. Section **72-6-107.5** is amended to read:

5095 **72-6-107.5. Construction of improvements of highway -- Contracts -- Health**
5096 **insurance coverage.**

5097 (1) As used in this section:

5098 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
5099 related to a single project.

5100 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

5101 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
5102 "operative" who:

5103 (i) works at least 30 hours per calendar week; and

5104 (ii) meets employer eligibility waiting requirements for health care insurance, which

5105 may not exceed the first day of the calendar month following 60 days after the day on which
5106 the individual is hired.

5107 (d) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

5108 (e) "Qualified health insurance coverage" means the same as that term is defined in
5109 Section [26-40-115](#).

5110 (f) "Subcontractor" means the same as that term is defined in Section [~~63A-5-208~~]
5111 [63A-5b-605](#).

5112 (2) Except as provided in Subsection (3), the requirements of this section apply to:

5113 (a) a contractor of a design or construction contract entered into by the department on
5114 or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than
5115 \$2,000,000; and

5116 (b) a subcontractor of a contractor of a design or construction contract entered into by
5117 the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or
5118 greater than \$1,000,000.

5119 (3) The requirements of this section do not apply to a contractor or subcontractor
5120 described in Subsection (2) if:

5121 (a) the application of this section jeopardizes the receipt of federal funds;

5122 (b) the contract is a sole source contract; or

5123 (c) the contract is an emergency procurement.

5124 (4) A person that intentionally uses change orders, contract modifications, or multiple
5125 contracts to circumvent the requirements of this section is guilty of an infraction.

5126 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
5127 department that the contractor has and will maintain an offer of qualified health insurance
5128 coverage for the contractor's employees and the employees' dependents during the duration of
5129 the contract by submitting to the department a written statement that:

5130 (i) the contractor offers qualified health insurance coverage that complies with Section
5131 [26-40-115](#);

5132 (ii) is from:
5133 (A) an actuary selected by the contractor or the contractor's insurer; or
5134 (B) an underwriter who is responsible for developing the employer group's premium
5135 rates; and
5136 (iii) was created within one year before the day on which the statement is submitted.
5137 (b) A contractor that is subject to the requirements of this section shall:
5138 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
5139 is subject to the requirements of this section shall obtain and maintain an offer of qualified
5140 health insurance coverage for the subcontractor's employees and the employees' dependents
5141 during the duration of the subcontract; and
5142 (ii) obtain from a subcontractor that is subject to the requirements of this section a
5143 written statement that:
5144 (A) the subcontractor offers qualified health insurance coverage that complies with
5145 Section [26-40-115](#);
5146 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an
5147 underwriter who is responsible for developing the employer group's premium rates; and
5148 (C) was created within one year before the day on which the contractor obtains the
5149 statement.
5150 (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance
5151 coverage described in Subsection (5)(a) during the duration of the contract is subject to
5152 penalties in accordance with administrative rules adopted by the department under Subsection
5153 (6).
5154 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
5155 and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).
5156 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
5157 insurance coverage described in Subsection (5)(b) during the duration of the subcontract is
5158 subject to penalties in accordance with administrative rules adopted by the department under

5159 Subsection (6).

5160 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
5161 an offer of qualified health insurance coverage described in Subsection (5)(a).

5162 (6) The department shall adopt administrative rules:

5163 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5164 (b) in coordination with:

5165 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

5166 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

5167 (iii) the State Building Board in accordance with Section [~~[63A-5-205.5](#)~~] [63A-5b-607](#);

5168 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#);

5169 (v) a public transit district in accordance with Section [17B-2a-818.5](#); and

5170 (vi) the Legislature's Administrative Rules Review Committee; and

5171 (c) that establish:

5172 (i) the requirements and procedures a contractor and a subcontractor shall follow to
5173 demonstrate compliance with this section, including:

5174 (A) that a contractor or subcontractor's compliance with this section is subject to an
5175 audit by the department or the Office of the Legislative Auditor General;

5176 (B) that a contractor that is subject to the requirements of this section shall obtain a
5177 written statement described in Subsection (5)(a); and

5178 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
5179 written statement described in Subsection (5)(b)(ii);

5180 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
5181 violates the provisions of this section, which may include:

5182 (A) a three-month suspension of the contractor or subcontractor from entering into
5183 future contracts with the state upon the first violation;

5184 (B) a six-month suspension of the contractor or subcontractor from entering into future
5185 contracts with the state upon the second violation;

5186 (C) an action for debarment of the contractor or subcontractor in accordance with
5187 Section 63G-6a-904 upon the third or subsequent violation; and

5188 (D) monetary penalties which may not exceed 50% of the amount necessary to
5189 purchase qualified health insurance coverage for an employee and a dependent of the employee
5190 of the contractor or subcontractor who was not offered qualified health insurance coverage
5191 during the duration of the contract; and

5192 (iii) a website on which the department shall post the commercially equivalent
5193 benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is
5194 provided by the Department of Health, in accordance with Subsection 26-40-115(2).

5195 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
5196 or subcontractor who intentionally violates the provisions of this section is liable to the
5197 employee for health care costs that would have been covered by qualified health insurance
5198 coverage.

5199 (ii) An employer has an affirmative defense to a cause of action under Subsection
5200 (7)(a)(i) if:

5201 (A) the employer relied in good faith on a written statement described in Subsection
5202 (5)(a) or (5)(b)(ii); or

5203 (B) the department determines that compliance with this section is not required under
5204 the provisions of Subsection (3).

5205 (b) An employee has a private right of action only against the employee's employer to
5206 enforce the provisions of this Subsection (7).

5207 (8) Any penalties imposed and collected under this section shall be deposited into the
5208 Medicaid Restricted Account created in Section 26-18-402.

5209 (9) The failure of a contractor or subcontractor to provide qualified health insurance
5210 coverage as required by this section:

5211 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
5212 or contractor under:

5213 (i) Section [63G-6a-1602](#); or
5214 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
5215 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
5216 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
5217 or construction.

5218 Section 100. Section **79-2-404** is amended to read:

5219 **79-2-404. Contracting powers of department -- Health insurance coverage.**

5220 (1) As used in this section:

5221 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
5222 related to a single project.

5223 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

5224 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
5225 "operative" who:

5226 (i) works at least 30 hours per calendar week; and

5227 (ii) meets employer eligibility waiting requirements for health care insurance, which
5228 may not exceed the first day of the calendar month following 60 days after the day on which
5229 the individual is hired.

5230 (d) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

5231 (e) "Qualified health insurance coverage" means the same as that term is defined in
5232 Section [26-40-115](#).

5233 (f) "Subcontractor" means the same as that term is defined in Section [~~[63A-5-208](#)~~]
5234 [63A-5b-605](#).

5235 (2) Except as provided in Subsection (3), the requirements of this section apply to:

5236 (a) a contractor of a design or construction contract entered into by, or delegated to, the
5237 department or a division, board, or council of the department on or after July 1, 2009, if the
5238 prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

5239 (b) a subcontractor of a contractor of a design or construction contract entered into by,

5240 or delegated to, the department or a division, board, or council of the department on or after
5241 July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

5242 (3) This section does not apply to contracts entered into by the department or a
5243 division, board, or council of the department if:

5244 (a) the application of this section jeopardizes the receipt of federal funds;

5245 (b) the contract or agreement is between:

5246 (i) the department or a division, board, or council of the department; and

5247 (ii) (A) another agency of the state;

5248 (B) the federal government;

5249 (C) another state;

5250 (D) an interstate agency;

5251 (E) a political subdivision of this state; or

5252 (F) a political subdivision of another state; or

5253 (c) the contract or agreement is:

5254 (i) for the purpose of disbursing grants or loans authorized by statute;

5255 (ii) a sole source contract; or

5256 (iii) an emergency procurement.

5257 (4) A person that intentionally uses change orders, contract modifications, or multiple
5258 contracts to circumvent the requirements of this section is guilty of an infraction.

5259 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
5260 department that the contractor has and will maintain an offer of qualified health insurance
5261 coverage for the contractor's employees and the employees' dependents during the duration of
5262 the contract by submitting to the department a written statement that:

5263 (i) the contractor offers qualified health insurance coverage that complies with Section
5264 [26-40-115](#);

5265 (ii) is from:

5266 (A) an actuary selected by the contractor or the contractor's insurer; or

5267 (B) an underwriter who is responsible for developing the employer group's premium
5268 rates; and

5269 (iii) was created within one year before the day on which the statement is submitted.

5270 (b) A contractor that is subject to the requirements of this section shall:

5271 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
5272 is subject to the requirements of this section shall obtain and maintain an offer of qualified
5273 health insurance coverage for the subcontractor's employees and the employees' dependents
5274 during the duration of the subcontract; and

5275 (ii) obtain from a subcontractor that is subject to the requirements of this section a
5276 written statement that:

5277 (A) the subcontractor offers qualified health insurance coverage that complies with
5278 Section [26-40-115](#);

5279 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an
5280 underwriter who is responsible for developing the employer group's premium rates; and

5281 (C) was created within one year before the day on which the contractor obtains the
5282 statement.

5283 (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance
5284 coverage described in Subsection (5)(a) during the duration of the contract is subject to
5285 penalties in accordance with administrative rules adopted by the department under Subsection
5286 (6).

5287 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
5288 and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

5289 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
5290 insurance coverage described in Subsection (5)(b) during the duration of the subcontract is
5291 subject to penalties in accordance with administrative rules adopted by the department under
5292 Subsection (6).

5293 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain

5294 an offer of qualified health insurance coverage described in Subsection (5)(a).
5295 (6) The department shall adopt administrative rules:
5296 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
5297 (b) in coordination with:
5298 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
5299 (ii) a public transit district in accordance with Section 17B-2a-818.5;
5300 (iii) the State Building Board in accordance with Section [~~63A-5-205.5~~] 63A-5b-607;
5301 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
5302 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
5303 (vi) the Legislature's Administrative Rules Review Committee; and
5304 (c) that establish:
5305 (i) the requirements and procedures a contractor and a subcontractor shall follow to
5306 demonstrate compliance with this section, including:
5307 (A) that a contractor or subcontractor's compliance with this section is subject to an
5308 audit by the department or the Office of the Legislative Auditor General;
5309 (B) that a contractor that is subject to the requirements of this section shall obtain a
5310 written statement described in Subsection (5)(a); and
5311 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
5312 written statement described in Subsection (5)(b)(ii);
5313 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
5314 violates the provisions of this section, which may include:
5315 (A) a three-month suspension of the contractor or subcontractor from entering into
5316 future contracts with the state upon the first violation;
5317 (B) a six-month suspension of the contractor or subcontractor from entering into future
5318 contracts with the state upon the second violation;
5319 (C) an action for debarment of the contractor or subcontractor in accordance with
5320 Section 63G-6a-904 upon the third or subsequent violation; and

5321 (D) monetary penalties which may not exceed 50% of the amount necessary to
5322 purchase qualified health insurance coverage for an employee and a dependent of an employee
5323 of the contractor or subcontractor who was not offered qualified health insurance coverage
5324 during the duration of the contract; and

5325 (iii) a website on which the department shall post the commercially equivalent
5326 benchmark, for the qualified health insurance coverage identified in Subsection (1)(e),
5327 provided by the Department of Health, in accordance with Subsection 26-40-115(2).

5328 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
5329 or subcontractor who intentionally violates the provisions of this section is liable to the
5330 employee for health care costs that would have been covered by qualified health insurance
5331 coverage.

5332 (ii) An employer has an affirmative defense to a cause of action under Subsection
5333 (7)(a)(i) if:

5334 (A) the employer relied in good faith on a written statement described in Subsection
5335 (5)(a) or (5)(b)(ii); or

5336 (B) the department determines that compliance with this section is not required under
5337 the provisions of Subsection (3).

5338 (b) An employee has a private right of action only against the employee's employer to
5339 enforce the provisions of this Subsection (7).

5340 (8) Any penalties imposed and collected under this section shall be deposited into the
5341 Medicaid Restricted Account created in Section 26-18-402.

5342 (9) The failure of a contractor or subcontractor to provide qualified health insurance
5343 coverage as required by this section:

5344 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
5345 or contractor under:

5346 (i) Section 63G-6a-1602; or

5347 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

5348 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
5349 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
5350 or construction.

5351 Section 101. **Repealer.**

5352 This bill repeals:

5353 Section **63A-5-100, Definitions.**

5354 Section **63A-5-101, Creation -- Composition -- Appointment -- Per diem and**
5355 **expenses -- Administrative services.**

5356 Section **63A-5-101.5, State Building Board composition -- Appointment -- Per diem**
5357 **and expenses -- Administrative services.**

5358 Section **63A-5-102, Meetings of board -- Rules of procedure -- Quorum.**

5359 Section **63A-5-103, Board -- Powers.**

5360 Section **63A-5-104, Definitions -- Capital development and capital improvement**
5361 **process -- Approval requirements -- Limitations on new projects -- Emergencies.**

5362 Section **63A-5-202, Definitions.**

5363 Section **63A-5-204, Specific powers and duties of director.**

5364 Section **63A-5-205, Contracting powers of director -- Retainage.**

5365 Section **63A-5-206, Construction, alteration, and repair of state facilities -- Powers**
5366 **of director -- Exceptions -- Expenditure of appropriations -- Notification to local**
5367 **governments for construction or modification of certain facilities.**

5368 Section **63A-5-216, Gifts, grants, and donations to division.**

5369 Section **63A-5-223, Contracts -- Certain indemnification provisions forbidden.**

5370 Section **63A-5-301, Definitions.**

5371 Section **63A-5-501, Making keys to buildings of state, political subdivisions or**
5372 **colleges and universities without permission prohibited.**

5373 Section **63A-5-502, Violation -- Misdemeanor.**

5374 Section **63A-5-601, Legislative findings and policy.**

5375 Section [63A-5-602](#), **Appropriation for energy efficiency measures.**

5376 Section [63A-5a-101](#), **Title.**

5377 Section 102. **Effective date.**

5378 This bill takes effect on May 12, 2020, except that the amendments to Section
5379 [63J-1-201](#) (Effective 07/01/20) take effect on July 1, 2020.

5380 Section 103. **Coordinating H.B. 451 with H.B. 37 -- Superseding substantive and**
5381 **technical amendments.**

5382 If H.B. 451 and H.B. 37, Insurance Amendments, both pass and become law, it is the
5383 intent of the Legislature that when the Office of Legislative Research and General Counsel
5384 prepares the Utah Code database for publication:

5385 (1) the amendments in H.B. 37 to Subsection [63A-5-205.5](#)(1)(d), defining "health
5386 benefit plan," supersede the amendments in H.B. 451 to Subsection [63A-5-205.5](#)(1)(d),
5387 renumbered in H.B. 451 to Subsection [63A-5b-607](#)(1)(d), defining "health benefit plan";

5388 (2) (a) the amendments in H.B. 451 to Subsections [63A-5b-607](#)(6)(a)(ii) and (b)
5389 supersede the amendments in H.B. 37 to Subsection [63A-5-205.5](#)(5)(c)(ii); and

5390 (b) Subsections [63A-5b-607](#)(6)(a)(ii) and (b) shall be amended to read:

5391 "(ii) obtain from a subcontractor [that is subject to the requirements of this section]
5392 referred to in Subsection (6)(a)(i) a written statement demonstrating that[:] the subcontractor
5393 offers qualified health coverage to eligible employees and eligible employees' dependents.

5394 [~~(A) the subcontractor offers qualified health insurance coverage that complies with~~
5395 ~~Section 26-40-115;~~]

5396 [~~(B) is~~] (b) A statement under Subsection (6)(a)(ii):

5397 (i) shall be from:

5398 (A) an actuary selected by the subcontractor or the subcontractor's insurer[~~;~~];

5399 (B) an underwriter who is responsible for developing the employer group's premium
5400 rates; [~~and~~] or

5401 (C) if the subcontractor provides a health benefit plan described in Subsection

5402 (1)(d)(ii), an actuary or underwriter selected by an administrator; and
5403 [(C) was] (ii) may not be created [within] more than one year before the day on which
5404 the contractor obtains the statement from the subcontractor";
5405 (3) the amendments in H.B. 451 to Subsection 63A-5b-607(11)(a)(ii)(A) supersede the
5406 amendments in H.B. 37 to Subsection 63A-5-205.5(8)(a)(ii)(A); and
5407 (4) the phrase "qualified health insurance coverage" in Subsection 63A-5b-607(14)
5408 shall be amended to read "qualified health coverage."