

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

7
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 **Utah Code Sections Affected:**

31 **AMENDS:**

- 32 **11-44-201**, as last amended by Laws of Utah 2018, Chapter 415
- 33 **11-59-302**, as enacted by Laws of Utah 2018, Chapter 388
- 34 **11-59-304**, as enacted by Laws of Utah 2018, Chapter 388
- 35 **11-59-501**, as enacted by Laws of Utah 2018, Chapter 388
- 36 **17B-2a-818.5**, as last amended by Laws of Utah 2018, Chapter 319
- 37 **19-1-206**, as last amended by Laws of Utah 2018, Chapter 319
- 38 **26-18-402**, as last amended by Laws of Utah 2018, Chapter 319
- 39 **26-40-115**, as last amended by Laws of Utah 2019, Chapter 393
- 40 **51-11-102**, as enacted by Laws of Utah 2018, Chapter 253
- 41 **53B-2-109**, as enacted by Laws of Utah 2005, Chapter 231
- 42 **53B-2a-101**, as last amended by Laws of Utah 2019, Chapter 482
- 43 **53B-2a-117**, as enacted by Laws of Utah 2019, Chapter 482
- 44 **53B-22-201**, as enacted by Laws of Utah 2019, Chapter 482
- 45 **53B-22-204**, as enacted by Laws of Utah 2019, Chapter 482
- 46 **63A-1-112**, as last amended by Laws of Utah 2015, Chapter 181
- 47 **63B-1-304**, as last amended by Laws of Utah 2010, Chapter 286
- 48 **63B-2-301**, as last amended by Laws of Utah 2013, Chapters 310 and 465
- 49 **63B-4-201**, as last amended by Laws of Utah 2016, Chapter 144
- 50 **63B-9-103**, as last amended by Laws of Utah 2014, Chapter 196
- 51 **63B-16-201**, as enacted by Laws of Utah 2007, Chapter 174
- 52 **63B-16-202**, as last amended by Laws of Utah 2012, Chapter 393
- 53 **63B-16-301**, as enacted by Laws of Utah 2007, Chapter 174
- 54 **63B-17-201**, as last amended by Laws of Utah 2009, Chapter 150
- 55 **63B-17-202**, as enacted by Laws of Utah 2008, Chapter 128
- 56 **63B-17-301**, as enacted by Laws of Utah 2008, Chapter 128
- 57 **63B-23-101**, as last amended by Laws of Utah 2019, Chapter 468
- 58 **63B-25-101**, as last amended by Laws of Utah 2019, Chapter 246

- 59 **63C-9-403**, as last amended by Laws of Utah 2018, Chapter 319
- 60 **63G-6a-103**, as last amended by Laws of Utah 2019, Chapters 136, 170, 314, and 456
- 61 **63H-6-102**, as last amended by Laws of Utah 2016, Chapter 301
- 62 **63H-6-103**, as last amended by Laws of Utah 2019, Chapters 370 and 456
- 63 **63I-1-263**, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468,
- 64 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter
- 65 246
- 66 **63J-1-201 (Superseded 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 136
- 67 **63J-1-201 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapters 136
- 68 and 464
- 69 **63J-1-206**, as last amended by Laws of Utah 2019, Chapters 182 and 468
- 70 **63J-1-602.2**, as last amended by Laws of Utah 2019, Chapters 136, 326, 468, and 469
- 71 **63J-3-103**, as last amended by Laws of Utah 2017, Chapter 382
- 72 **65A-4-1**, as last amended by Laws of Utah 2019, Chapter 195
- 73 **72-6-107.5**, as last amended by Laws of Utah 2018, Chapter 319
- 74 **79-2-404**, as last amended by Laws of Utah 2018, Chapter 319

75 ENACTS:

- 76 **63A-5b-101**, Utah Code Annotated 1953
- 77 **63A-5b-102**, Utah Code Annotated 1953
- 78 **63A-5b-201**, Utah Code Annotated 1953
- 79 **63A-5b-202**, Utah Code Annotated 1953
- 80 **63A-5b-203**, Utah Code Annotated 1953
- 81 **63A-5b-303**, Utah Code Annotated 1953
- 82 **63A-5b-401**, Utah Code Annotated 1953
- 83 **63A-5b-402**, Utah Code Annotated 1953
- 84 **63A-5b-403**, Utah Code Annotated 1953
- 85 **63A-5b-404**, Utah Code Annotated 1953
- 86 **63A-5b-406**, Utah Code Annotated 1953
- 87 **63A-5b-501**, Utah Code Annotated 1953
- 88 **63A-5b-502**, Utah Code Annotated 1953
- 89 **63A-5b-601**, Utah Code Annotated 1953

- 90 **63A-5b-602**, Utah Code Annotated 1953
- 91 **63A-5b-603**, Utah Code Annotated 1953
- 92 **63A-5b-604**, Utah Code Annotated 1953
- 93 **63A-5b-606**, Utah Code Annotated 1953
- 94 **63A-5b-701**, Utah Code Annotated 1953
- 95 **63A-5b-702**, Utah Code Annotated 1953
- 96 **63A-5b-703**, Utah Code Annotated 1953
- 97 **63A-5b-801**, Utah Code Annotated 1953
- 98 **63A-5b-1001**, Utah Code Annotated 1953
- 99 **63A-5b-1101**, Utah Code Annotated 1953
- 100 **63A-5b-1103**, Utah Code Annotated 1953
- 101 **63A-5b-1104**, Utah Code Annotated 1953
- 102 **63A-5b-1105**, Utah Code Annotated 1953

103 RENUMBERS AND AMENDS:

104 **63A-5b-301**, (Renumbered from 63A-5-201, as renumbered and amended by Laws of
105 Utah 1993, Chapter 212)

106 **63A-5b-302**, (Renumbered from 63A-5-203, as renumbered and amended by Laws of
107 Utah 1993, Chapter 212)

108 **63A-5b-405**, (Renumbered from 63A-5-228, as enacted by Laws of Utah 2019, Chapter
109 468)

110 **63A-5b-503**, (Renumbered from 63A-5-211, as last amended by Laws of Utah 2011,
111 Chapter 303)

112 **63A-5b-605**, (Renumbered from 63A-5-208, as last amended by Laws of Utah 2016,
113 Chapter 348)

114 **63A-5b-607**, (Renumbered from 63A-5-205.5, as enacted by Laws of Utah 2018,
115 Chapter 319)

116 **63A-5b-608**, (Renumbered from 63A-5-207, as last amended by Laws of Utah 2000,
117 Chapter 231)

118 **63A-5b-609**, (Renumbered from 63A-5-209, as last amended by Laws of Utah 2019,
119 Chapter 468)

120 **63A-5b-610**, (Renumbered from 63A-5-219, as last amended by Laws of Utah 2002,

121 Fifth Special Session, Chapter 20)
122 **63A-5b-802**, (Renumbered from 63A-5-302, as last amended by Laws of Utah 2012,
123 Chapter 347)
124 **63A-5b-803**, (Renumbered from 63A-5-303, as enacted by Laws of Utah 1995, Chapter
125 113)
126 **63A-5b-804**, (Renumbered from 63A-5-304, as enacted by Laws of Utah 1995, Chapter
127 113)
128 **63A-5b-805**, (Renumbered from 63A-5-305, as last amended by Laws of Utah 2016,
129 Chapter 240)
130 **63A-5b-806**, (Renumbered from 63A-5-401, as last amended by Laws of Utah 2019,
131 Chapter 195)
132 **63A-5b-901**, (Renumbered from 63A-5a-102, as enacted by Laws of Utah 2019,
133 Chapter 195)
134 **63A-5b-902**, (Renumbered from 63A-5a-103, as enacted by Laws of Utah 2019,
135 Chapter 195)
136 **63A-5b-903**, (Renumbered from 63A-5a-104, as enacted by Laws of Utah 2019,
137 Chapter 195)
138 **63A-5b-904**, (Renumbered from 63A-5a-201, as enacted by Laws of Utah 2019,
139 Chapter 195)
140 **63A-5b-905**, (Renumbered from 63A-5a-202, as enacted by Laws of Utah 2019,
141 Chapter 195)
142 **63A-5b-906**, (Renumbered from 63A-5a-203, as enacted by Laws of Utah 2019,
143 Chapter 195)
144 **63A-5b-907**, (Renumbered from 63A-5a-204, as enacted by Laws of Utah 2019,
145 Chapter 195)
146 **63A-5b-908**, (Renumbered from 63A-5a-205, as enacted by Laws of Utah 2019,
147 Chapter 195)
148 **63A-5b-909**, (Renumbered from 63A-5a-206, as enacted by Laws of Utah 2019,
149 Chapter 195)
150 **63A-5b-910**, (Renumbered from 63A-5-215, as last amended by Laws of Utah 2018,
151 Chapter 404)

152 **63A-5b-911**, (Renumbered from 63A-5-224, as enacted by Laws of Utah 2009, Chapter
153 53)

154 **63A-5b-912**, (Renumbered from 63A-5-226, as enacted by Laws of Utah 2016, Chapter
155 298)

156 **63A-5b-1002**, (Renumbered from 63A-5-701, as last amended by Laws of Utah 2015,
157 Chapter 181)

158 **63A-5b-1003**, (Renumbered from 63A-5-603, as last amended by Laws of Utah 2016,
159 Chapter 322)

160 **63A-5b-1102**, (Renumbered from 63A-5-801, as last amended by Laws of Utah 2008,
161 Chapter 360 and renumbered and amended by Laws of Utah 2008, Chapter 382)

162 **63A-5b-1106**, (Renumbered from 63A-5-222, as last amended by Laws of Utah 2009,
163 Chapters 53 and 344)

164 **63A-5b-1107**, (Renumbered from 63A-5-225, as last amended by Laws of Utah 2019,
165 Chapter 246)

166 REPEALS:

167 **63A-5-100**, as enacted by Laws of Utah 2017, Chapter 355

168 **63A-5-101**, as last amended by Laws of Utah 2017, Chapter 355

169 **63A-5-101.5**, as enacted by Laws of Utah 2017, Chapter 355

170 **63A-5-102**, as last amended by Laws of Utah 2012, Chapter 199

171 **63A-5-103**, as last amended by Laws of Utah 2019, Chapter 195

172 **63A-5-104**, as last amended by Laws of Utah 2019, Chapters 468 and 482

173 **63A-5-202**, as enacted by Laws of Utah 1993, Chapter 212

174 **63A-5-204**, as last amended by Laws of Utah 2019, Chapters 195 and 255

175 **63A-5-205**, as last amended by Laws of Utah 2018, Chapter 319

176 **63A-5-206**, as last amended by Laws of Utah 2019, Chapter 195

177 **63A-5-216**, as renumbered and amended by Laws of Utah 1993, Chapter 212

178 **63A-5-223**, as enacted by Laws of Utah 2009, Chapter 217

179 **63A-5-301**, as last amended by Laws of Utah 2007, Chapter 12

180 **63A-5-501**, as renumbered and amended by Laws of Utah 2008, Chapter 382

181 **63A-5-502**, as last amended by Laws of Utah 2018, Chapter 148

182 **63A-5-601**, as renumbered and amended by Laws of Utah 2008, Chapters 334 and 382

183 [63A-5-602](#), as last amended by Laws of Utah 2017, Chapter 181

184 [63A-5a-101](#), as enacted by Laws of Utah 2019, Chapter 195



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

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

188 **11-44-201. Political subdivision responsibilities -- State responsibilities.**

189 (1) A political subdivision may:

190 (a) enter into a performance efficiency agreement;

191 (b) develop and administer a performance efficiency program;

192 (c) analyze energy consumption by the political subdivision;

193 (d) designate a staff member who is responsible for a performance efficiency program;

194 and

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

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

199 (a) the Utah Geological Survey, created in Section [79-3-201](#);

200 (b) the State Board of Education;

201 (c) the Division of Purchasing and General Services, created in Section [63A-2-101](#);

202 and

203 (d) the Division of Facilities Construction and Management, created in Section
204 [~~63A-5-201~~] [63A-5b-301](#).

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

206 **11-59-302. Number of board members -- Appointment -- Vacancies -- Chairs.**

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

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

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

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

213 (i) one of whom shall be a member of the board of or employed by the Governor's

214 Office of Economic Development, created in Section [63N-1-201](#); and

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

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

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

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

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

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

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

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

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

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

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

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

242 **11-59-304. Staff and other support services -- Cooperation from state and local**
243 **government entities.**

244 (1) As used in this section:

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

247 (b) "Office" means the Governor's Office of Economic Development, created in
248 Section 63N-1-201.

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

250 (a) the division shall:

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

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

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

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

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

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

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

265 **11-59-501. Dissolution of authority -- Restrictions -- Publishing notice of**
266 **dissolution -- Authority records -- Dissolution expenses.**

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

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

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

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

274 (a) obtain the approval of the Legislative Management Committee of the Legislature;
275 and

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

278 (3) Upon the dissolution of the authority:

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

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

283 (ii) as required in Section 45-1-101; and

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

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

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

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

291 **17B-2a-818.5. Contracting powers of public transit districts -- Health insurance**
292 **coverage.**

293 (1) As used in this section:

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

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

297 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
298 "operative" who:

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

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

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

304 (e) "Qualified health insurance coverage" means the same as that term is defined in
305 Section 26-40-115.

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

307 [63A-5b-605](#).

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

309 (a) a contractor of a design or construction contract entered into by the public transit
310 district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or
311 greater than \$2,000,000; and

312 (b) a subcontractor of a contractor of a design or construction contract entered into by
313 the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount
314 equal to or greater than \$1,000,000.

315 (3) The requirements of this section do not apply to a contractor or subcontractor
316 described in Subsection (2) if:

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

318 (b) the contract is a sole source contract; or

319 (c) the contract is an emergency procurement.

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

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

326 (i) the contractor offers qualified health insurance coverage that complies with Section
327 [26-40-115](#);

328 (ii) is from:

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

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

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

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

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

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

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

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

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

346 (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance
347 coverage as described in Subsection (5)(a) during the duration of the contract is subject to
348 penalties in accordance with an ordinance adopted by the public transit district under
349 Subsection (6).

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

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

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

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

359 (a) in coordination with:

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

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

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

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

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

365 (b) that establish:

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

368 (A) that a contractor or subcontractor's compliance with this section is subject to an

369 audit by the public transit district or the Office of the Legislative Auditor General;

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

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

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

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

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

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

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

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

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

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

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

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

399 (b) An employee has a private right of action only against the employee's employer to

400 enforce the provisions of this Subsection (7).

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

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

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

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

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

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

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

413 **19-1-206. Contracting powers of department -- Health insurance coverage.**

414 (1) As used in this section:

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

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

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

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

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

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

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

427 (f) "Subcontractor" means the same as that term is defined in Section [~~[63A-5-208](#)~~]
428 [63A-5b-605](#).

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

430 (a) a contractor of a design or construction contract entered into by, or delegated to, the

431 department, or a division or board of the department, on or after July 1, 2009, if the prime
432 contract is in an aggregate amount equal to or greater than \$2,000,000; and

433 (b) a subcontractor of a contractor of a design or construction contract entered into by,
434 or delegated to, the department, or a division or board of the department, on or after July 1,
435 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

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

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

439 (b) the contract or agreement is between:

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

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

442 (B) the federal government;

443 (C) another state;

444 (D) an interstate agency;

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

446 (F) a political subdivision of another state;

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

450 (d) the contract is:

451 (i) a sole source contract; or

452 (ii) an emergency procurement.

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

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

459 (i) the contractor offers qualified health insurance coverage that complies with Section
460 [26-40-115](#);

461 (ii) is from:

462 (A) an actuary selected by the contractor or the contractor's insurer; or
463 (B) an underwriter who is responsible for developing the employer group's premium
464 rates; and
465 (iii) was created within one year before the day on which the statement is submitted.
466 (b) A contractor that is subject to the requirements of this section shall:
467 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
468 is subject to the requirements of this section shall obtain and maintain an offer of qualified
469 health insurance coverage for the subcontractor's employees and the employees' dependents
470 during the duration of the subcontract; and
471 (ii) obtain from a subcontractor that is subject to the requirements of this section a
472 written statement that:
473 (A) the subcontractor offers qualified health insurance coverage that complies with
474 Section 26-40-115;
475 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an
476 underwriter who is responsible for developing the employer group's premium rates; and
477 (C) was created within one year before the day on which the contractor obtains the
478 statement.
479 (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance
480 coverage described in Subsection (5)(a) during the duration of the contract is subject to
481 penalties in accordance with administrative rules adopted by the department under Subsection
482 (6).
483 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
484 and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).
485 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
486 insurance coverage described in Subsection (5)(b) during the duration of the subcontract is
487 subject to penalties in accordance with administrative rules adopted by the department under
488 Subsection (6).
489 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
490 an offer of qualified health insurance coverage described in Subsection (5)(a).
491 (6) The department shall adopt administrative rules:
492 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

- 493 (b) in coordination with:
- 494 (i) a public transit district in accordance with Section [17B-2a-818.5](#);
- 495 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);
- 496 (iii) the State Building Board in accordance with Section [~~[63A-5-205.5](#)~~] [63A-5b-607](#);
- 497 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#);
- 498 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and
- 499 (vi) the Legislature's Administrative Rules Review Committee; and
- 500 (c) that establish:
- 501 (i) the requirements and procedures a contractor and a subcontractor shall follow to
- 502 demonstrate compliance with this section, including:
- 503 (A) that a contractor or subcontractor's compliance with this section is subject to an
- 504 audit by the department or the Office of the Legislative Auditor General;
- 505 (B) that a contractor that is subject to the requirements of this section shall obtain a
- 506 written statement described in Subsection (5)(a); and
- 507 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
- 508 written statement described in Subsection (5)(b)(ii);
- 509 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
- 510 violates the provisions of this section, which may include:
- 511 (A) a three-month suspension of the contractor or subcontractor from entering into
- 512 future contracts with the state upon the first violation;
- 513 (B) a six-month suspension of the contractor or subcontractor from entering into future
- 514 contracts with the state upon the second violation;
- 515 (C) an action for debarment of the contractor or subcontractor in accordance with
- 516 Section [63G-6a-904](#) upon the third or subsequent violation; and
- 517 (D) notwithstanding Section [19-1-303](#), monetary penalties which may not exceed 50%
- 518 of the amount necessary to purchase qualified health insurance coverage for an employee and
- 519 the dependents of an employee of the contractor or subcontractor who was not offered qualified
- 520 health insurance coverage during the duration of the contract; and
- 521 (iii) a website on which the department shall post the commercially equivalent
- 522 benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is
- 523 provided by the Department of Health, in accordance with Subsection [26-40-115\(2\)](#).

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

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

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

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

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

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

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

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

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

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

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

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

548 **26-18-402. Medicaid Restricted Account.**

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

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

553 (i) any general funds appropriated to the department for the state plan for medical
554 assistance or for the Division of Health Care Financing that are not expended by the

555 department in the fiscal year for which the general funds were appropriated and which are not
556 otherwise designated as nonlapsing shall lapse into the Medicaid Restricted Account;

557 (ii) any unused state funds that are associated with the Medicaid program, as defined in
558 Section [26-18-2](#), from the Department of Workforce Services and the Department of Human
559 Services; and

560 (iii) any penalties imposed and collected under:

561 (A) Section [17B-2a-818.5](#);

562 (B) Section [19-1-206](#);

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

564 (D) Section [63C-9-403](#);

565 (E) Section [72-6-107.5](#); or

566 (F) Section [79-2-404](#).

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

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

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

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

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

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

580 **26-40-115. State contractor -- Employee and dependent health benefit plan**
581 **coverage.**

582 (1) For purposes of Sections [17B-2a-818.5](#), [19-1-206](#), [~~[63A-5-205.5](#)~~] [63A-5b-607](#),
583 [63C-9-403](#), [72-6-107.5](#), and [79-2-404](#), "qualified health insurance coverage" means, at the time
584 the contract is entered into or renewed:

585 (a) a health benefit plan and employer contribution level with a combined actuarial

586 value at least actuarially equivalent to the combined actuarial value of the benchmark plan
587 determined by the program under Subsection [26-40-106\(1\)\(a\)](#), and a contribution level at
588 which the employer pays at least 50% of the premium for the employee and the dependents of
589 the employee who reside or work in the state; or

590 (b) a federally qualified high deductible health plan that, at a minimum:

591 (i) has a deductible that is:

592 (A) the lowest deductible permitted for a federally qualified high deductible health
593 plan; or

594 (B) a deductible that is higher than the lowest deductible permitted for a federally
595 qualified high deductible health plan, but includes an employer contribution to a health savings
596 account in a dollar amount at least equal to the dollar amount difference between the lowest
597 deductible permitted for a federally qualified high deductible plan and the deductible for the
598 employer offered federally qualified high deductible plan;

599 (ii) has an out-of-pocket maximum that does not exceed three times the amount of the
600 annual deductible; and

601 (iii) provides that the employer pays 60% of the premium for the employee and the
602 dependents of the employee who work or reside in the state.

603 (2) The department shall:

604 (a) on or before July 1, 2016:

605 (i) determine the commercial equivalent of the benchmark plan described in Subsection
606 (1)(a); and

607 (ii) post the commercially equivalent benchmark plan described in Subsection (2)(a)(i)
608 on the department's website, noting the date posted; and

609 (b) update the posted commercially equivalent benchmark plan annually and at the
610 time of any change in the benchmark.

611 Section 9. Section **51-11-102** is amended to read:

612 **51-11-102. Definitions.**

613 As used in this chapter:

614 (1) "Division" means the Division of Facilities Construction and Management created
615 in Section [~~63A-5-201~~] [63A-5b-301](#).

616 (2) "Fund" means the Winter Sports Venue Grant Fund.

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

619 (4) "Venue" means a facility:

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

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

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

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

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

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

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

631 **53B-2-109. Notice to local government when constructing student housing.**

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

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

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

640 (b) the municipality in whose boundaries the privately owned residential property is
641 located.

642 (3) (a) (i) Within 21 days after receiving the notice required by Subsection (1), a county
643 or municipality entitled to the notice may submit a written request to the institution for a public
644 hearing on the proposed student housing construction.

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

648 (b) If a county or municipality requests a hearing under Subsection (3)(a), the
649 legislative body of the affected county or municipality and the institution shall jointly hold a
650 public hearing to provide information to the public and to allow the institution and the county
651 or municipality to receive input from the public about the proposed student housing
652 construction.

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

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

657 **53B-2a-101. Definitions.**

658 As used in this chapter:

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

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

662 (3) "Commissioner of technical education" means the UTech commissioner of
663 technical education.

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

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

671 (6) "Nondedicated project" means a capital development project for which state funds
672 from a source other than the Technical Colleges Capital Projects Fund created in Section
673 ~~53B-2a-118~~ are requested or used.

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

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

678 (b) students have the flexibility to begin or end study at any time, progress through

679 course material at their own pace, and demonstrate competency when knowledge and skills
680 have been mastered; and

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

683 (8) "State funds" means the same as that term is defined in Section [~~63A-5-104~~]
684 [63A-5b-401](#).

685 (9) "UTech" means the Utah System of Technical Colleges described in Section
686 [53B-1-102](#).

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

688 **53B-2a-117. Legislative approval -- Capital development projects --**

689 **Prioritization.**

690 (1) As used in this section:

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

693 (b) "Fund" means the Technical Colleges Capital Projects Fund created in Section
694 [53B-2a-118](#).

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

697 (3) In accordance with Section [53B-2a-112](#), a technical college shall submit to the
698 board of trustees a proposal for a funding request for each dedicated project or nondedicated
699 project for which the technical college seeks legislative approval.

700 (4) The board of trustees shall:

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

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

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

705 and

706 (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection

707 (6); and

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

709 (i) the governor;

- 710 (ii) the Infrastructure and General Government Appropriations Subcommittee;
- 711 (iii) the Higher Education Appropriations Subcommittee; and
- 712 (iv) the State Building Board for the State Building Board's:
 - 713 (A) recommendation, for the list described in Subsection (4)(b)(i); or
 - 714 (B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).
- 715 (5) A dedicated project:
 - 716 (a) is subject to the State Building Board's recommendation as described in Section
 - 717 ~~[63A-5-104]~~ [63A-5b-403](#); and
 - 718 (b) is not subject to the State Building Board's prioritization as described in Section
 - 719 ~~[63A-5-104]~~ [63A-5b-403](#).
- 720 (6) (a) Subject to Subsection (7), the board of trustees shall prioritize funding requests
- 721 for capital development projects described in this section based on:
 - 722 (i) growth and capacity;
 - 723 (ii) effectiveness and support of critical programs;
 - 724 (iii) cost effectiveness;
 - 725 (iv) building deficiencies and life safety concerns; and
 - 726 (v) alternative funding sources.
- 727 (b) On or before August 1, 2019, the board of trustees shall establish:
 - 728 (i) how the board of trustees will measure each factor described in Subsection (6)(a);
 - 729 and
 - 730 (ii) procedures for prioritizing funding requests for capital development projects
 - 731 described in this section.
- 732 (7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board
- 733 of trustees may annually prioritize:
 - 734 (i) up to three nondedicated projects if the ongoing appropriation to the fund is less
 - 735 than \$7,000,000;
 - 736 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least
 - 737 \$7,000,000 but less than \$14,000,000; or
 - 738 (iii) one nondedicated project if the ongoing appropriation to the fund is at least
 - 739 \$14,000,000.
- 740 (b) For each calendar year beginning on or after January 1, 2020, the dollar amounts

741 described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage
742 difference between:

- 743 (i) the Consumer Price Index for the 2019 calendar year; and
744 (ii) the Consumer Price Index for the previous calendar year.

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

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

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

750 **53B-22-201. Definitions.**

751 As used in this part:

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

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

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

759 (4) "Fund" means the Higher Education Capital Projects Fund created in Section
760 [53B-22-202](#).

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

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

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

767 (8) "State funds" means the same as that term is defined in Section [~~63A-5-104~~]
768 [63A-5b-401](#).

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

770 **53B-22-204. Funding request for capital development project -- Legislative**
771 **approval -- Board prioritization, approval, and review.**

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

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

776 (3) The board shall:

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

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

779 (ii) is consistent with the institution's mission and master plan; and

780 (iii) fulfills a critical institutional facility need;

781 (b) based on the results of the board's review under Subsection (3)(a), create:

782 (i) a list of approved dedicated projects; and

783 (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection

784 (5); and

785 (c) submit the lists described in Subsection (3)(b) to:

786 (i) the governor;

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

788 (iii) the Higher Education Appropriations Subcommittee; and

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

790 (A) recommendation, for the list described in Subsection (3)(b)(i); or

791 (B) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).

792 (4) A dedicated project:

793 (a) is subject to the State Building Board's recommendation as described in Section

794 [~~63A-5-104~~] [63A-5b-403](#); and

795 (b) is not subject to the State Building Board's prioritization as described in Section

796 [~~63A-5-104~~] [63A-5b-403](#).

797 (5) (a) Subject to Subsection (6), the board shall prioritize institution requests for
798 funding for nondedicated projects based on:

799 (i) capital facility need;

800 (ii) utilization of facilities;

801 (iii) maintenance and condition of facilities; and

802 (iv) any other factor determined by the board.

803 (b) On or before August 1, 2019, the board shall establish how the board will prioritize
804 institution requests for funding for nondedicated projects, including:

- 805 (i) how the board will measure each factor described in Subsection (5)(a); and
806 (ii) procedures for prioritizing requests.

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

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

811 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least
812 \$50,000,000 but less than \$100,000,000; or

813 (iii) one nondedicated project if the ongoing appropriation to the fund is at least
814 \$100,000,000.

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

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

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

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

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

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

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

828 **63A-1-112. Certificates of participation -- Legislative approval required --**

829 **Definition -- Exception.**

830 (1) (a) Certificates of participation for either capital facilities or capital improvements
831 may not be issued by the department, its subdivisions, or any other state agency after July 1,
832 1985, without prior legislative approval.

833 (b) Nothing in this section affects the rights and obligations surrounding certificates of

834 participation that were issued prior to July 1, 1985.

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

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

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

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

843 **Part 1. General Provisions**

844 **63A-5b-101. Title.**

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

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

847 **63A-5b-102. Definitions.**

848 As used in this chapter:

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

850 (2) "Board of Regents" means the State Board of Regents established in Section
851 [53B-1-103](#).

852 (3) "Capitol hill facilities" means the same as that term is defined in Section
853 [63C-9-102](#).

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

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

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

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

859 (8) "Institution of higher education" means an institution listed in Subsection
860 [53B-2-101](#)(1).

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

863 (10) "UTech board" means the UTech Board of Trustees created in Section
864 [53B-2a-103](#).

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

866 **Part 2. State Building Board**

867 **63A-5b-201. Creation of state building board -- Composition -- Appointment --**
868 **Per diem and expenses -- Board officers.**

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

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

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

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

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

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

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

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

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

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

887 (b) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
888 [63A-3-107](#).

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

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

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

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

895 (c) keep the minutes of board meetings;

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

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

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

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

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

904 **63A-5b-202. Board powers and duties.**

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

907 (2) The board shall:

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

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

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

913 (d) make a finding that the requirements of Section [53B-2a-112](#) are met before the
914 board may consider a funding request from the UTech board pertaining to new capital facilities
915 and land purchases; and

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

917 (i) Section [63A-5b-802](#), relating to the approval of leases with terms of more than 10
918 years;

919 (ii) Section [64A-5b-907](#), relating to vacant division-owned property; and

920 (iii) Section [63A-5b-1003](#), relating to the approval of loans from the state facility
921 energy efficiency fund.

922 (3) The board may:

923 (a) authorize capital development projects without Legislative approval only as
924 authorized in Section [63A-5b-404](#); and

925 (b) make rules relating to the categorical delegation of projects as provided in
926 Subsection [63A-5b-604\(4\)](#).

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

928 **63A-5b-203. Meetings of board -- Rules of procedure -- Quorum.**

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

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

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

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

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

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

939 ~~[63A-5-201].~~ **63A-5b-301. Creation -- Administration.**

940 There is created within the department the Division of Facilities Construction and
941 Management, to be administered by a director.

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

944 ~~[63A-5-203].~~ **63A-5b-302. Director of division -- Appointment.**

945 The executive director shall appoint the director of the division with the approval of the
946 governor.

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

948 **63A-5b-303. Powers and duties of director.**

949 (1) (a) The director shall:

950 (i) make forms, make policies, and, in accordance with Title 63G, Chapter 3, Utah
951 Administrative Rulemaking Act, make rules necessary for the division to perform the division's
952 duties;

953 (ii) supervise and control the allocation of space, in accordance with legislative
954 directive through annual appropriations acts or other specific legislation, to the various
955 agencies in all buildings or space owned, leased, or rented by or to the state, except capitol hill
956 facilities and capitol hill grounds and except as otherwise provided by law;

957 (iii) assure the efficient use of all building space;

958 (iv) as authorized by the Legislature through an appropriation act or other legislation,
959 subject to Subsection (1)(b), acquire title to all real property, buildings, fixtures, or
960 appurtenances for use by the state or an agency;

961 (v) except as otherwise provided by statute, hold title, in the name of the division, to all
962 real property, buildings, fixtures, or appurtenances owned by the state or an agency;

963 (vi) collect and maintain all deeds, abstracts of title, and all other documents
964 evidencing title to or an interest in property belonging to the state or any of the state's
965 departments, except institutions of higher education and the trust lands administration;

966 (vii) report all properties acquired by the state, except those acquired by institutions of
967 higher education and the trust lands administration, to the director of the Division of Finance
968 for inclusion in the state's financial records;

969 (viii) before charging a rate, fee, or other amount for a service provided by the
970 division's internal service fund to an executive branch agency, or to a service subscriber other
971 than an executive branch agency;

972 (A) submit an analysis of the proposed rate, fee, or other amount to the rate committee
973 created in Section [63A-1-114](#); and

974 (B) obtain the approval of the Legislature as required by Section [63J-1-410](#);

975 (ix) (A) periodically conduct a market analysis of proposed rates and fees; and

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

979 (x) implement the state building energy efficiency program under Section
980 [63A-5b-1002](#);

981 (xi) convey, lease, or dispose of the real property, water rights, or water shares
982 associated with the Utah State Developmental Center if directed to do so by the Utah State
983 Developmental Center board, as provided in Subsection [62A-5-206.6\(2\)](#);

984 (xii) after receiving the notice required under Subsection [10-2-419\(3\)\(d\)](#), file a written
985 protest at or before the public hearing under Subsection [10-2-419\(2\)\(b\)](#), if:

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

987 (B) the Legislature instructs the director to protest the boundary adjustment; and

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

989 (b) Legislative approval is not required for an acquisition by the division that costs
990 \$250,000 or less.

991 (2) (a) In making an allocation of space under Subsection (1)(a)(ii), the director shall:

992 (i) conduct studies to determine the actual needs of each agency; and

993 (ii) comply with the restrictions contained in this Subsection (2).

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

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

996 (d) The director may not supervise or control the allocation of space for institutions of
997 higher education or entities in the public education system.

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

1000 (3) The director may:

1001 (a) hire or otherwise procure assistance and services, professional, skilled, or
1002 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds
1003 provided for that purpose either through annual operating budget appropriations or from
1004 nonlapsing project funds;

1005 (b) sue and be sued in the name of the division; and

1006 (c) hold, buy, lease, and acquire, by exchange or otherwise, as authorized by the
1007 Legislature, whatever real or personal property is necessary for the discharge of the director's
1008 duties.

1009 (4) Notwithstanding Subsection (1)(a)(iv), the following entities may hold title to any
1010 real property, buildings, fixtures, and appurtenances occupied by them for purposes other than
1011 administration:

1012 (a) the Department of Transportation;

1013 (b) the Division of Forestry, Fire, and State Lands;

1014 (c) the Department of Natural Resources;

1015 (d) the Utah National Guard;

1016 (e) any area vocational center or other institution administered by the State Board of
1017 Education;

1018 (f) the trust lands administration; and

1019 (g) any institution of higher education.

1020 Section 24. Section **63A-5b-401** is enacted to read:

1021 **Part 4. Development of Capital Facilities**

1022 **63A-5b-401. Definitions.**

1023 As used in this part:

1024 (1) (a) "Capital development project" means:

1025 (i) a remodeling or site or utility improvement project with a total cost of \$3,500,000 or
1026 more;

1027 (ii) a new facility with a construction cost of \$500,000 or more; or

1028 (iii) a purchase of real property if an appropriation is requested and made for the
1029 purchase.

1030 (b) "Capital development project" does not include a project described in Subsection
1031 (2)(b).

1032 (2) "Capital improvement project" means:

1033 (a) a remodeling, alteration, replacement, repair, or site or utility improvement project:

1034 (i) with a total cost of less than \$3,500,000; or

1035 (ii) (A) with a total cost of \$3,500,000 or more; and

1036 (B) that will be paid for with funds that are not state funds;

1037 (b) a utility infrastructure improvement project that:

1038 (i) has a total cost of less than \$7,000,000;

1039 (ii) consists of two or more projects that, if done separately, would each cost less than
1040 \$3,500,000; and

1041 (iii) the division determines is more cost effective or feasible to be completed as a
1042 single project; or

1043 (c) a new facility with a total construction cost of less than \$500,000.

1044 (3) (a) "New facility" means the construction of a new building on state property
1045 regardless of funding source.

1046 (b) "New facility" includes:

1047 (i) an addition to an existing building; and

1048 (ii) the enclosure of space that was not previously fully enclosed.

1049 (c) "New facility" does not include:

1050 (i) the replacement of state-owned space that is demolished or that is otherwise

1051 removed from state use, if the total construction cost of the replacement space is less than
1052 \$3,500,000; or

1053 (ii) the construction of facilities that do not fully enclose a space.

1054 (4) "Replacement cost" means, as determined by the Division of Risk Management:

1055 (a) for state facilities, excluding auxiliary facilities as defined by the director, the cost
1056 to replace those facilities; and

1057 (b) for infrastructure, as defined by the director, the cost to replace the infrastructure.

1058 (5) "State funds" means public money appropriated by the Legislature.

1059 Section 25. Section **63A-5b-402** is enacted to read:

1060 **63A-5b-402. Capital development process -- Approval requirements.**

1061 (1) Except as provided in Section [63A-5b-404](#), the board shall, on behalf of all
1062 agencies, submit capital development project recommendations and priorities to the Legislature
1063 for approval and prioritization.

1064 (2) An agency that requests an appropriation for a capital development project shall
1065 submit to the division for transmission to the board a capital development project request and a
1066 feasibility study relating to the capital development project.

1067 (3) (a) The division shall, in consultation with the board and in accordance with Title
1068 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards and
1069 requirements for a capital development project request and feasibility study.

1070 (b) The rules shall include:

1071 (i) a deadline by which an agency is required to submit a capital development project
1072 request;

1073 (ii) conditions under which an agency may modify the agency's capital development
1074 project request after the agency submits the request, and requirements applicable to a
1075 modification; and

1076 (iii) requirements for the contents of a feasibility study, including:

1077 (A) the need for the capital development project;

1078 (B) the appropriateness of the scope of the capital development project;

1079 (C) any private funding for the capital development project; and

1080 (D) the economic and community impacts of the capital development project.

1081 (4) The division shall verify the completion and accuracy of a feasibility study that an

1082 agency submits under Subsection (2) prior to transmitting the feasibility study to the board.

1083 (5) Except as provided in Section 63A-5b-404, a capital development project may not
1084 be constructed on state property without legislative approval.

1085 Section 26. Section **63A-5b-403** is enacted to read:

1086 **63A-5b-403. Institutions of higher education -- Capital development projects --**
1087 **dedicated and nondedicated projects -- recommendations and prioritization.**

1088 (1) As used in this section:

1089 (a) "Dedicated project" has the same meaning as that term is defined in:

1090 (i) Section 53B-2a-101, for a capital development project under Title 53B, Chapter 2a,
1091 Utah System of Technical Colleges; or

1092 (ii) Section 53B-22-201, for a capital development project under Title 53B, Chapter 22,
1093 Higher Education Capital Projects.

1094 (b) "Nondedicated project" has the same meaning as that term is defined in:

1095 (i) Section 53B-2a-101, for a capital development project under Title 53B, Chapter 2a,
1096 Utah System of Technical Colleges; or

1097 (ii) Section 53B-22-201, for a capital development project under Title 53B, Chapter 22,
1098 Higher Education Capital Projects.

1099 (2) (a) The board shall submit recommendations to the Legislature in accordance with:

1100 (i) Section 53B-2a-117, for a dedicated project under Title 53B, Chapter 2a, Utah
1101 System of Technical Colleges; or

1102 (ii) Section 53B-22-204, for a dedicated project under Title 53B, Chapter 22, Higher
1103 Education Capital Projects.

1104 (b) A dedicated project is not subject to prioritization by the board.

1105 (3) (a) The board shall prioritize nondedicated projects in accordance with:

1106 (i) Section 63A-5b-402; and

1107 (ii) (A) Section 53B-2a-117, for a nondedicated project under Title 53B, Chapter 2a,
1108 Utah System of Technical Colleges; or

1109 (B) Section 53B-22-204, for a nondedicated project under Title 53B, Chapter 22,
1110 Higher Education Capital Projects.

1111 (b) In the board's scoring process for prioritizing nondedicated projects, the board shall
1112 give more weight to a request that is designated as a higher priority by the UTech board or

1113 Board of Regents than a request that is designated as a lower priority by the UTech board or
1114 Board of Regents only for determining the order of prioritization among requests submitted by
1115 the UTech board or Board of Regents, respectively.

1116 (4) The board shall require that an institution of higher education that submits a request
1117 for a capital development project address whether and how, as a result of the project, the
1118 institution of higher education will:

1119 (a) offer courses or other resources that will help meet demand for jobs, training, and
1120 employment in the current market and the projected market for the next five years;

1121 (b) respond to individual skilled and technical job demand over the next three, five,
1122 and 10 years;

1123 (c) respond to industry demands for trained workers;

1124 (d) help meet commitments made by the Governor's Office of Economic Development,
1125 including relating to training and incentives;

1126 (e) respond to changing needs in the economy; and

1127 (f) respond to demands for on-line or in-class instruction, based on demographics.

1128 (5) The division shall:

1129 (a) (i) assist institutions of higher education in providing the information required by
1130 Subsection (3); and

1131 (ii) verify the completion and accuracy of the information submitted by an institution
1132 of higher education under Subsection (3);

1133 (b) assist the UTech board to fulfill the requirements of Section [53B-2a-112](#) in
1134 connection with the finding that the board is required to make under Subsection
1135 [53B-2a-112](#)(5)(b); and

1136 (c) assist the Board of Regents in submitting a list of dedicated projects to the board for
1137 approval and nondedicated projects to the board for recommendation and prioritization
1138 pursuant to Section [53B-22-204](#).

1139 Section 27. Section **63A-5b-404** is enacted to read:

1140 **63A-5b-404. Exceptions to requirement of legislative approval for capital**
1141 **development projects.**

1142 (1) (a) Except as provided in this section, a capital development project may not be
1143 constructed on state property without legislative approval.

1144 (b) The board may authorize a capital development project on state property without
1145 legislative approval only as provided in this section.

1146 (2) (a) Legislative approval is not required for a capital development project that
1147 consists of the design or construction of a new facility if:

1148 (i) the board determines that the requesting agency has provided adequate assurance
1149 that state funds will not be used for the design or construction of the facility;

1150 (ii) the agency provides to the board a written document, signed by the head of the
1151 agency:

1152 (A) stating that funding or a revenue stream is in place, or will be in place before the
1153 project is completed, to ensure that increased state funding will not be required to cover the
1154 cost of operations and maintenance to the resulting facility or for immediate or future capital
1155 improvements; and

1156 (B) detailing the source of the funding that will be used for the cost of operations and
1157 maintenance and for immediate and future capital improvements to the resulting facility; and

1158 (iii) the board determines that the use of the state property:

1159 (A) is appropriate and consistent with the master plan for the property; and

1160 (B) will not create an adverse impact on the state.

1161 (b) For a facility constructed without legislative approval under Subsection (2)(a), an
1162 agency may not request:

1163 (i) increased state funds for operations and maintenance; or

1164 (ii) increased state capital improvement funding.

1165 (3) Legislative approval is not required for:

1166 (a) the renovation, remodeling, or retrofitting of an existing facility if:

1167 (i) the cost of the renovation, remodeling, or retrofitting is paid by funds other than
1168 state funds; and

1169 (ii) the renovation, remodeling, or retrofitting is approved by the board;

1170 (b) a facility:

1171 (i) to be built with funds other than state funds and owned by an entity other than a
1172 state entity; and

1173 (ii) that is within a research park area at the University of Utah or Utah State
1174 University;

1175 (c) a facility to be built at This is the Place State Park by the This is the Place
 1176 Foundation with funds of the This is the Place Foundation or with donated services or materials
 1177 and that may include grant money from the state;

1178 (d) a project that:

1179 (i) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization
 1180 Fund; and

1181 (ii) does not provide a new facility for an agency or institution of higher education; or

1182 (e) a project on school and institutional trust lands that:

1183 (i) is funded by the trust lands administration from the Land Grant Management Fund;
 1184 and

1185 (ii) does not fund construction of a new facility for an agency or institution of higher
 1186 education.

1187 (4) (a) Legislative approval is not required for a capital development project to be built
 1188 for the Department of Transportation resulting from:

1189 (i) an exchange of real property under Section [72-5-111](#); or

1190 (ii) a sale or exchange of real property from a maintenance facility if the proceeds from
 1191 the sale of the real property are used for, or the real property is exchanged for:

1192 (A) real property for another maintenance facility; or

1193 (B) another maintenance facility, including improvements for a maintenance facility.

1194 (b) If the Department of Transportation approves a sale or exchange under Subsection

1195 (4)(a) for a capital development project subject to the board's approval, the Department of

1196 Transportation shall notify the president of the Senate, the speaker of the House of

1197 Representatives, and the cochairs of the Infrastructure and General Government Appropriations

1198 Subcommittee of the Legislature's Joint Appropriations Committee about any new facilities to

1199 be built or improved.

1200 Section 28. Section **63A-5b-405**, which is renumbered from Section 63A-5-228 is
 1201 renumbered and amended to read:

1202 **~~[63A-5-228].~~ 63A-5b-405. Capital improvement projects.**

1203 ~~[(1) As used in this section:]~~

1204 ~~[(a) "Building board" means the State Building Board created under Section~~
 1205 ~~[63A-5-101](#).:]~~

1206 [~~(b)~~ "Capital improvement" means:]
1207 [~~(i)~~ a remodeling, alteration, replacement, or repair project with a total cost of less than
1208 \$3,500,000;]
1209 [~~(ii)~~ a site or utility improvement with a total cost of less than \$3,500,000;]
1210 [~~(iii)~~ a utility infrastructure improvement project that:]
1211 [~~(A)~~ has a total cost of less than \$7,000,000;]
1212 [~~(B)~~ consists of two or more projects that, if done separately, would each cost less than
1213 \$3,500,000; and]
1214 [~~(C)~~ the division determines is more cost effective or feasible to be completed as a
1215 single project; or]
1216 [~~(iv)~~ a new facility with a total construction cost of less than \$500,000.]
1217 [~~(c)~~ "Capital improvements list" means the list that the division is required to submit to
1218 the Legislature under Subsection (2)(a).]
1219 [~~(2)~~ (a) (i)] (1) (a) On or before January 15 of each year, the division shall, on behalf of
1220 all [state] agencies, submit a list of anticipated capital improvement project requirements to the
1221 Legislature.
1222 [~~(i)~~] (b) The division shall ensure that the capital improvements project list identifies:
1223 [~~(A)~~] (i) each single capital improvement project that costs more than \$1,000,000;
1224 [~~(B)~~] (ii) each multiple capital improvement project within a single building or facility
1225 that collectively costs more than \$1,000,000;
1226 [~~(C)~~] (iii) each single capital improvement project that will be constructed over
1227 multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than
1228 \$3,500,000;
1229 [~~(D)~~] (iv) each multiple capital improvement project within a single building or facility
1230 with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;
1231 [~~(E)~~] (v) each single capital improvement project previously reported to the Legislature
1232 as a capital improvement project under \$1,000,000 that, because of an increase in costs or
1233 scope of work, will now cost more than \$1,000,000;
1234 [~~(F)~~] (vi) each multiple capital improvement project within a single building or facility
1235 previously reported to the Legislature as a capital improvement project under \$1,000,000 that,
1236 because of an increase in costs or scope of work, will now cost more than \$1,000,000; and

1237 ~~[(G)]~~ (vii) each capital improvement project described in Subsection ~~[(1)(b)(iii)]~~
 1238 [63A-5b-401\(3\)\(c\)](#).

1239 ~~[(b)]~~ (2) (a) Unless otherwise directed by the Legislature, the division shall prioritize
 1240 capital ~~[improvements]~~ improvement projects on the capital ~~[improvements]~~ improvement
 1241 project list up to the level of appropriation made by the Legislature.

1242 ~~[(e)]~~ (b) In prioritizing capital ~~[improvements]~~ improvement projects, the division shall
 1243 consider the results of facility evaluations completed by an architect or engineer as stipulated
 1244 by the ~~[building board's]~~ division's facilities maintenance standards.

1245 ~~[(d)]~~ (c) In prioritizing capital ~~[improvements]~~ improvement projects, the division shall
 1246 allocate at least 90% of the funds that the Legislature appropriates for capital ~~[improvements]~~
 1247 improvement projects to:

1248 (i) capital improvement projects that address:

1249 (A) a structural issue;

1250 (B) fire safety;

1251 (C) a code violation; or

1252 (D) any issue that impacts health and safety;

1253 (ii) capital improvement projects that upgrade:

1254 (A) an HVAC system;

1255 (B) an electrical system;

1256 (C) essential equipment;

1257 (D) an essential building component; or

1258 (E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof,

1259 parking lot, or road; or

1260 (iii) capital improvement projects that demolish and replace an existing building that is
 1261 in extensive disrepair and cannot be fixed by repair or maintenance.

1262 ~~[(e)]~~ (d) In prioritizing capital ~~[improvements]~~ improvement projects, the division may
 1263 not allocate more than 10% of the funds that the Legislature appropriates for capital
 1264 ~~[improvements]~~ improvement projects to:

1265 (i) remodeling and aesthetic upgrades to meet state programmatic needs; or

1266 (ii) construct an addition to an existing building or facility.

1267 ~~[(f)]~~ (3) The division may require an entity that benefits from a capital improvement

1268 project to repay the capital improvement funds from savings that result from the capital
 1269 improvement project.

1270 ~~[(g)]~~ (4) The division may provide capital improvement project funding to a single
 1271 project or to multiple projects within a single building or facility, even if the total cost of the
 1272 project or multiple projects is \$3,500,000 or more, if:

1273 ~~[(i)]~~ (a) the capital improvement project is a project described in Subsection
 1274 ~~[(1)(b)(iii)]~~ 63A-5b-401(3)(c); and

1275 ~~[(ii)]~~ (b) the Legislature has not refused to fund the project with capital improvement
 1276 project funds.

1277 ~~[(h)]~~ (5) In prioritizing and allocating capital improvement project funding, the
 1278 division shall comply with the requirement in Subsection 63B-23-101(2)(f).

1279 ~~[(i)]~~ (6) (a) In developing the capital improvement project list and priorities, the
 1280 division shall require each ~~[state]~~ agency that requests an appropriation for a capital
 1281 improvement project to:

1282 (i) submit a capital improvement project request; and
 1283 (ii) complete and submit a project scoping document.

1284 ~~[(j)]~~ (b) A project scoping document under Subsection ~~[(2)(i)(ii)]~~ (6)(a)(ii) shall
 1285 address:

1286 (i) the need for the capital improvement project; and
 1287 (ii) the appropriateness of the scope of the capital improvement project.

1288 ~~[(k)]~~ (c) The division shall verify the completion and accuracy of a project scoping
 1289 document that ~~[a state]~~ an agency submits under Subsection ~~[(2)(i)(ii)]~~ (6)(a)(ii).

1290 ~~[(3) (a) Beginning July 1, 2020, the division shall implement a program to charge state~~
 1291 ~~agencies, except institutions included within the state system of higher education under Section~~
 1292 ~~53B-1-102, lease payments for the agency's use and occupancy of space within a building.]~~

1293 ~~[(b) Before July 1, 2020, the division shall:]~~

1294 ~~[(i) conduct a market analysis of market lease rates for comparable space in buildings~~
 1295 ~~comparable to division-owned buildings; and]~~

1296 ~~[(ii) establish lease rates for an agency's use and occupancy of a division-owned~~
 1297 ~~building.]~~

1298 ~~[(c) The lease rates shall be:]~~

1299 ~~[(i) consistent with market rates for comparable space in comparable buildings;]~~
 1300 ~~[(ii) calculated to cover:]~~
 1301 ~~[(A) an amortized amount for capital replacement;]~~
 1302 ~~[(B) an amount for capital improvements; and]~~
 1303 ~~[(C) operation and maintenance costs; and]~~
 1304 ~~[(iii) in proportion to legislative appropriations:]~~
 1305 ~~[(d) In making appropriations to cover lease payments under this Subsection (3), the~~
 1306 ~~Legislature shall create a line item, as defined in Section [63J-1-102](#), for each agency to fund the~~
 1307 ~~lease payments:]~~

1308 (7) Except for this Subsection (7), this section does not apply to a capital improvement
 1309 project described in Subsection [63A-5b-401](#)(2)(b)(ii).

1310 Section 29. Section **63A-5b-406** is enacted to read:

1311 **63A-5b-406. Limitations on new projects.**

1312 (1) The Legislature may authorize:

1313 (a) the total square footage to be occupied by each agency; and

1314 (b) the total square footage and total cost of lease space for each agency.

1315 (2) If construction of a new building or facility will require an immediate or future
 1316 increase in state funding for operations and maintenance or for capital improvements, the
 1317 Legislature may not authorize the new building or facility until the Legislature appropriates
 1318 funds for:

1319 (a) the portion of operations and maintenance, if any, that will require an immediate or
 1320 future increase in state funding; and

1321 (b) the portion of capital improvements, if any, that will require an immediate or future
 1322 increase in state funding.

1323 (3) (a) Except as provided in Subsections (3)(b) and (c), the Legislature may not fund
 1324 the design or construction of any new capital development project, except to complete the
 1325 funding of a project for which partial funding has been previously provided, until the
 1326 Legislature has appropriated 1.1% of the replacement cost of existing state facilities and
 1327 infrastructure to capital improvements.

1328 (b) If the Legislature determines that there exists an Education Fund budget deficit, as
 1329 defined in Section [63J-1-312](#), or a General Fund budget deficit, as defined in Section

1330 63J-1-312, the Legislature may, in eliminating the deficit, reduce the amount appropriated to
1331 capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

1332 (c) Subsection (3)(a) does not apply to a dedicated project as defined in Section
1333 63A-5a-403.

1334 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the Legislature may not fund the
1335 design and construction of a new facility in phases over more than one year unless the
1336 Legislature approves the funding for both the design and construction by a vote of two-thirds of
1337 all the members elected to each house.

1338 (ii) Subsection (4)(a)(i) does not apply to a dedicated project as defined in Section
1339 63A-5a-403.

1340 (b) An agency shall receive approval from the director before the agency begins
1341 programming for a new facility:

1342 (i) that requires legislative approval; or

1343 (ii) to be built under Subsection 65A-5b-404(2).

1344 (c) The division or an agency may fund the programming of a new facility before the
1345 Legislature makes an appropriation for the new facility under Subsection (4)(a).

1346 (5) (a) The director, with the approval of the Office of the Legislative Fiscal Analyst,
1347 shall develop standard forms to present capital development project and capital improvement
1348 project cost summary data.

1349 (b) The director shall:

1350 (i) within 30 days after the completion of each capital development project, submit cost
1351 summary data for the project on the standard form to the Office of the Legislative Fiscal
1352 Analyst; and

1353 (ii) upon request, submit cost summary data for a capital improvement project to the
1354 Office of the Legislative Fiscal Analyst on the standard form.

1355 (6) (a) After the Legislature approves capital development project priorities under
1356 Section 65A-5b-402 and capital improvement project priorities under Section 63A-5b-405, the
1357 director may reallocate capital development project or capital improvement project funds to
1358 address a critical need for a capital improvement project:

1359 (i) if an emergency arises that creates an unforeseen and critical need for the capital
1360 improvement project; and

1361 (ii) notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures
1362 Act.

1363 (b) The director shall report any changes the director makes in capital development
1364 project or capital improvement project allocations approved by the Legislature to:

1365 (i) the Office of the Legislative Fiscal Analyst within 30 days after the reallocation; and
1366 (ii) the Legislature at the Legislature's next annual general session.

1367 Section 30. Section **63A-5b-501** is enacted to read:

1368 **Part 5. Planning and Programming**

1369 **63A-5b-501. Five-year building plan.**

1370 (1) The director shall:

1371 (a) in cooperation with agencies, prepare a master plan of structures built or
1372 contemplated;

1373 (b) submit to the governor and the Legislature a comprehensive five-year building plan
1374 for the state containing the information required by Subsection (2);

1375 (c) amend and keep current the five-year building plan that complies with the
1376 requirements described in Subsection (2), for submission to the governor and subsequent
1377 legislatures; and

1378 (d) as part of the long-range plan, recommend to the governor and Legislature any
1379 changes in the law that are necessary to ensure an effective, well-coordinated building program
1380 for all agencies.

1381 (2) (a) The director shall ensure that the five-year building plan required by Subsection
1382 (1)(b) includes:

1383 (i) a list that prioritizes construction of new buildings for all structures built or
1384 contemplated based upon each agency's present and future needs;

1385 (ii) information and space use data for all state-owned and leased facilities;

1386 (iii) substantiating data to support the adequacy of any projected plans;

1387 (iv) a summary of all statewide contingency reserve and project reserve balances as of
1388 the end of the most recent fiscal year;

1389 (v) a list of buildings that have completed a comprehensive facility evaluation by an
1390 architect or engineer or are scheduled to have an evaluation;

1391 (vi) for those buildings that have completed the evaluation, the estimated costs of

1392 needed improvements; and
1393 (vii) for projects recommended in the first two years of the five-year building plan:
1394 (A) detailed estimates of the cost of each project;
1395 (B) the estimated cost to operate and maintain the building or facility on an annual
1396 basis;
1397 (C) the cost of capital improvements to the building or facility, estimated at 1.1% of
1398 the replacement cost of the building or facility, on an annual basis;
1399 (D) the estimated number of new agency full-time employees expected to be housed in
1400 the building or facility;
1401 (E) the estimated cost of new or expanded programs and personnel expected to be
1402 housed in the building or facility;
1403 (F) the estimated lifespan of the building with associated costs for major component
1404 replacement over the life of the building; and
1405 (G) the estimated cost of any required support facilities.
1406 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1407 director may make rules prescribing the format for submitting the information required by this
1408 Subsection (2).
1409 (3) To provide adequate information to enable the director to make a recommendation
1410 described in Subsection (1), an agency requesting new full-time employees for the next fiscal
1411 year shall report those anticipated requests to the director at least 90 days before the annual
1412 general session in which the request is made.
1413 Section 31. Section **63A-5b-502** is enacted to read:
1414 **63A-5b-502. Programming.**
1415 (1) As used in this section:
1416 (a) "Program document" means a final document that contains programming
1417 information.
1418 (b) "Programming" means services to define the scope and purpose of an anticipated
1419 project, and may include:
1420 (i) researching criteria applicable to the scope and purpose of an anticipated project;
1421 (ii) identifying the scale of the project and the type of facilities and the level of
1422 specialized functions that will be required;

- 1423 (iii) identifying and prioritizing values and goals that will impact the project, including
1424 institutional purposes, growth objectives, and cultural, technological, temporal, aesthetic,
1425 symbolic, economic, environmental, safety, sustainability, and other relevant criteria;
1426 (iv) evaluating functional efficiency, user comfort, building economics, environmental
1427 sustainability, and visual quality;
1428 (v) identifying objectives for the project, including such elements as image,
1429 efficiencies, functionality, cost, and schedule;
1430 (vi) identifying and evaluating the constraints that will have an impact on the project
1431 such as legal requirements, financial constraints, location, access, visibility and building
1432 services;
1433 (vii) developing standards such as area allowances, space allocation, travel distances,
1434 and furniture and equipment requirements;
1435 (viii) establishing general space quality standards related to such elements as lighting
1436 levels, equipment performance, acoustical requirements, security, and aesthetics;
1437 (ix) identifying required spaces;
1438 (x) establishing sizes and relationships;
1439 (xi) establishing space efficiency factors or the ratio of net square footage to gross
1440 square footage; and
1441 (xii) documenting particular space requirements such as special HVAC, plumbing,
1442 power, lighting, acoustical, furnishings, equipment, or security needs.
1443 (2) A program document may:
1444 (a) incorporate written and graphic materials; and
1445 (b) include:
1446 (i) an executive summary;
1447 (ii) documentation of the methodology used to develop the programming;
1448 (iii) value and goal statements;
1449 (iv) relevant facts upon which the programming was based;
1450 (v) conclusions derived from data analysis;
1451 (vi) relationship diagrams;
1452 (vii) flow diagrams;
1453 (viii) matrices identifying space allocations and relationships;

- 1454 (ix) space listings by function and size; and
 1455 (x) space program sheets, including standard requirements and special HVAC,
 1456 plumbing, power, lighting, acoustical, furnishings, equipment, or security needs.
 1457 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1458 director may make rules:
 1459 (a) establishing the types of projects for which programming and a program document
 1460 are required;
 1461 (b) establishing the scope of programming required for defined categories of projects;
 1462 (c) establishing the circumstances under which an agency must obtain authorization
 1463 from the director to engage in programming;
 1464 (d) governing the funding of programming;
 1465 (e) relating to the administration of programming; and
 1466 (f) regarding any restrictions that may be imposed on a person involved in
 1467 programming from participating in the preparation of construction documents for a project that
 1468 is the subject of the programming.

1469 Section 32. Section **63A-5b-503**, which is renumbered from Section 63A-5-211 is
 1470 renumbered and amended to read:

1471 ~~[63A-5-211].~~ **63A-5b-503. Planning Fund expenditures authorized --**
 1472 **Ceiling on expenditures -- Recovery.**

1473 (1) The Planning Fund shall be used to make payments for engineering, architectural,
 1474 and other planning expenses necessary to make a meaningful cost estimate of any facility or
 1475 improvement with a demonstrable or immediate need.

1476 (2) The director may make expenditures from the Planning Fund in order to provide
 1477 planning information to the ~~[State Building Board]~~ board, the governor, and the Legislature, up
 1478 to a maximum of \$350,000 in outstanding Planning Fund commitments.

1479 (3) (a) The director shall authorize all payments made from the Planning Fund.

1480 (b) ~~[These payments]~~ Payments from the Planning Fund shall be a charge on the
 1481 project for which they were drawn.

1482 (c) ~~[The amount paid shall be credited to the Planning Fund when]~~ If the Legislature
 1483 appropriates money for [any] a building project for which planning costs have previously been
 1484 paid from the Planning Fund, the director shall credit that amount to the Planning Fund.

1485 (4) (a) ~~[Money may also be expended]~~ The director may expend money from the
 1486 Planning Fund for architectural and engineering services incident to the planning and
 1487 preparation of applications for funds on construction financed by other than state sources,
 1488 including federal grants.

1489 (b) ~~[However, upon]~~ Upon approval of [such] financing referred to in Subsection
 1490 (4)(a), the director shall reimburse to the Planning Fund the money spent for architectural and
 1491 engineering services [shall be returned as a reimbursement to the Planning Fund].

1492 Section 33. Section **63A-5b-601** is enacted to read:

1493 **Part 6. Design and Construction**

1494 **63A-5b-601. Definitions.**

1495 As used in this part:

1496 (1) (a) "Facility" means any building, structure, or other improvement that is
 1497 constructed:

1498 (i) on property owned by the state, the state's departments, commissions, institutions,
 1499 or agencies; or

1500 (ii) by the state, the state's departments, commissions, institutions, or agencies on
 1501 property not owned by the state.

1502 (b) "Facility" does not mean an unoccupied structure that is a component of the state
 1503 highway system.

1504 (2) "Local government" means the county, municipality, or local school district that
 1505 would have jurisdiction to act as the compliance agency if the division did not have jurisdiction
 1506 to act as the compliance agency.

1507 Section 34. Section **63A-5b-602** is enacted to read:

1508 **63A-5b-602. Design criteria, standards, and procedures.**

1509 (1) The director shall establish design criteria, standards, and procedures for the
 1510 planning, design, and construction of a new facility and for improvements to an existing
 1511 facility, including life-cycle costing, cost-effectiveness studies, and other methods and
 1512 procedures that address:

1513 (a) the need for the facility;

1514 (b) the effectiveness of the facility's design;

1515 (c) the efficiency of energy use; and

- 1516 (d) the usefulness of the facility over the facility's lifetime.
- 1517 (2) Before proceeding with construction, the director and the officials charged with the
1518 administration of the affairs of the particular agency shall approve the location, design, plans,
1519 and specifications.
- 1520 (3) The director shall prepare or have prepared by one or more private persons the
1521 designs, plans, and specifications for the projects administered by the division.
- 1522 (4) Before construction may begin, the director shall review the design of projects
1523 exempted from the division's administration under Section 63A-5b-604 to determine if the
1524 design:
- 1525 (a) complies with any restrictions placed on the project by the director; and
1526 (b) is appropriate for the purpose and setting of the project.
- 1527 (5) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures
1528 Act, the director may:
- 1529 (a) accelerate the design of a project funded by an appropriation act passed by the
1530 Legislature in the Legislature's annual general session;
- 1531 (b) use an unencumbered existing account balance to fund that design work; and
1532 (c) reimburse the account balance from the amount funded for the project when the
1533 appropriation act funding the project becomes effective.
- 1534 Section 35. Section **63A-5b-603** is enacted to read:
- 1535 **63A-5b-603. Contracting powers of director -- Bids -- Retainage.**
- 1536 (1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the director
1537 may enter into a contract for any work or professional service that the division or board may do
1538 or have done.
- 1539 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1540 the director may make rules establishing circumstances under which bids may be modified
1541 when all bids for a construction project exceed available funds as determined by the director.
- 1542 (b) In making the rules described in Subsection (2)(a), the director shall provide for the
1543 fair and equitable treatment of bidders.
- 1544 (c) The judgment of the director as to the responsibility and qualifications of a bidder is
1545 conclusive, except in case of fraud or bad faith.
- 1546 (3) The division shall make all payments to the contractor for completed work in

1547 accordance with Section 15-6-2 and pay the interest specified in Section 15-6-3 on any
1548 payments that are late.

1549 (4) If the division retains or withholds a payment on a contract with a private contractor
1550 to do work for the division, the division shall retain or withhold and release the payment as
1551 provided in Section 13-8-5.

1552 Section 36. Section **63A-5b-604** is enacted to read:

1553 **63A-5b-604. Construction, alteration, and repair of state facilities -- Powers of**
1554 **director -- Exceptions -- Expenditure of appropriations.**

1555 (1) (a) Except as provided in this section and Section 65A-5b-1101, the director shall
1556 exercise direct supervision over the design and construction of all new facilities, and all
1557 alterations, repairs, and improvements to existing facilities, if the total project construction
1558 cost, regardless of the funding source, is greater than \$100,000.

1559 (b) A state entity may exercise direct supervision over the design and construction of
1560 all new facilities, and over all alterations, repairs, and improvements to existing facilities, if:

1561 (i) the total project construction cost, regardless of the funding sources, is \$100,000 or
1562 less; and

1563 (ii) the state entity assures compliance with the division's forms and contracts and the
1564 division's design, construction, alteration, repair, improvement, and code inspection standards.

1565 (2) The director may enter into a capital improvement partnering agreement with an
1566 institution of higher education that permits the institution of higher education to exercise direct
1567 supervision for a capital improvement project with oversight from the division.

1568 (3) (a) Subject to Subsection (3)(b), the director may delegate control over design,
1569 construction, and other aspects of any project to entities of state government on a
1570 project-by-project basis.

1571 (b) With respect to a delegation of control under Subsection (3)(a), the director may:

1572 (i) impose terms and conditions on the delegation that the director considers necessary
1573 or advisable to protect the interests of the state; and

1574 (ii) revoke the delegation and assume control of the design, construction, or other
1575 aspect of a delegated project if the director considers the revocation and assumption of control
1576 to be necessary to protect the interests of the state.

1577 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

1578 the board may delegate control over design, construction, and all other aspects of any project to
1579 entities of state government on a categorical basis for projects within a particular dollar range
1580 and a particular project type.

1581 (b) Rules adopted by the board under Subsection (4)(a) may:

1582 (i) impose the terms and conditions on categorical delegation that the board considers
1583 necessary or advisable to protect the interests of the state;

1584 (ii) provide for the revocation of the delegation on a categorical or project specific
1585 basis and for the division to assume control of the design, construction, or other aspect of a
1586 category of delegated projects or a specific delegated project if the board considers revocation
1587 of the delegation and assumption of control to be necessary to protect the interests of the state;

1588 (iii) require that a categorical delegation be renewed by the board on an annual basis;
1589 and

1590 (iv) require the division's oversight of delegated projects.

1591 (5) (a) A state entity to which project control is delegated under this section shall:

1592 (i) assume fiduciary control over project finances;

1593 (ii) assume all responsibility for project budgets and expenditures; and

1594 (iii) receive all funds appropriated for the project, including any contingency funds
1595 contained in the appropriated project budget.

1596 (b) Notwithstanding a delegation of project control under this section, a state entity to
1597 which control is delegated is required to comply with the division's codes and guidelines for
1598 design and construction.

1599 (c) A state entity to which project control is delegated under this section may not
1600 access, for the delegated project, the division's statewide contingency reserve and project
1601 reserve authorized in Section [63A-5b-609](#).

1602 (d) For a facility that will be owned, operated, maintained, and repaired by an entity
1603 that is not an agency and that is located on state property, the director may authorize the
1604 facility's owner to administer the design and construction of the project relating to that facility.

1605 (6) (a) A project for the construction of a new facility and a project for alterations,
1606 repairs, and improvements to an existing facility are not subject to Subsection (1) if the project:

1607 (i) occurs on property under the jurisdiction of the State Capitol Preservation Board;

1608 (ii) is within a designated research park at the University of Utah or Utah State

1609 University;

1610 (iii) occurs within the boundaries of This is the Place State Park and is administered by

1611 This is the Place Foundation; or

1612 (iv) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah

1613 Percent-for-Art Act.

1614 (b) Notwithstanding Subsection (6)(a)(iii), the This is the Place Foundation may

1615 request the director to administer the design and construction of a project within the boundaries

1616 of This is the Place State Park.

1617 (7) (a) The role of compliance agency under Title 15A, State Construction and Fire

1618 Codes Act, shall be filled by:

1619 (i) the director, for a project administered by the division;

1620 (ii) the entity designated by the State Capitol Preservation Board, for a project under

1621 Subsection (6)(a)(i);

1622 (iii) the local government, for a project exempt from the division's administration

1623 under Subsection (6)(a)(iii) or administered by This is the Place Foundation under Subsection

1624 (6)(a)(iii);

1625 (iv) the individual or group designated by the director, for a project under Subsection

1626 (3) or Subsection (5); and

1627 (v) for the installation of art under Subsection (6)(a)(iv), the entity that is acting in this

1628 capacity for the balance of the project as provided in Subsection (6)(b).

1629 (b) A local government acting as the compliance agency under Subsection (5) may:

1630 (i) only review plans and inspect construction to enforce the state construction code or

1631 an approved code under Title 15A, State Construction and Fire Codes Act; and

1632 (ii) charge a building permit fee of no more than the amount the local government

1633 could have charged if the land upon which the improvements are located were not owned by

1634 the state.

1635 (8) (a) The zoning authority of a local government under Section [10-9a-305](#) or

1636 [17-27a-305](#) does not apply to the use of state property or any improvements constructed on

1637 state property, including improvements constructed by an entity other than a state entity.

1638 (b) A state entity controlling the use of state property shall consider any input received

1639 from a local government in determining how the property is to be used.

1640 Section 37. Section ~~63A-5b-605~~, which is renumbered from Section 63A-5-208 is
1641 renumbered and amended to read:

1642 ~~[63A-5-208]~~. 63A-5b-605. Certain public construction bids to list
1643 subcontractors -- Changing subcontractors -- Bidders as subcontractors -- Dispute
1644 resolution process -- Penalties.

1645 (1) As used in this section:

1646 (a) "First-tier subcontractor" means a subcontractor who contracts directly with the
1647 prime contractor.

1648 (b) (i) "Subcontractor" means ~~[any]~~ a person ~~[or entity]~~ under contract with a
1649 contractor or another subcontractor to provide services or labor for the construction,
1650 installation, or repair of an improvement to real property.

1651 (ii) "Subcontractor" includes a trade contractor or specialty contractor.

1652 (iii) "Subcontractor" does not include ~~[suppliers who provide]~~ a supplier that provides
1653 only materials, equipment, or supplies to a contractor or subcontractor.

1654 (2) The director shall apply the provisions of this section to achieve fair and
1655 competitive bidding and to discourage bid-shopping by contractors.

1656 (3) (a) (i) (A) On ~~[each]~~ a public construction project, the director shall, except as
1657 provided in Subsection (3)(a)(ii), require the apparent lowest three bidders to submit a list of
1658 their first-tier subcontractors indicating each first-tier each subcontractor's name, bid amount,
1659 and other information required by rule.

1660 (B) ~~[Other bidders who are]~~ A bidder that is not one of the apparent lowest three
1661 bidders may also submit a list of ~~[their]~~ the bidder's first-tier subcontractors containing the
1662 information required by this Subsection (3).

1663 (ii) A bidder is not required to list a first-tier subcontractor if:

1664 (A) the bidder's total bid is less than \$500,000 and the first-tier subcontractor's bid is
1665 less than \$20,000; or

1666 (B) the bidder's total bid is \$500,000 or more and the first-tier subcontractor's bid is
1667 less than \$35,000.

1668 ~~[(C) The director may not consider any bid submitted by a bidder if the bidder fails to~~
1669 ~~submit a subcontractor list meeting the requirements of this section.]~~

1670 ~~[(ii) On projects where the contractor's total bid is less than \$500,000, subcontractors~~

1671 ~~whose bid is less than \$20,000 need not be listed.]~~

1672 ~~[(iii) On projects where the contractor's total bid is \$500,000 or more, subcontractors~~
 1673 ~~whose bid is less than \$35,000 need not be listed.]~~

1674 (b) ~~[(i) The bidders]~~ A bidder shall submit [this] the list required under this section
 1675 within 24 hours after the bid opening time, not including [Saturdays, Sundays, and state
 1676 holidays] Saturday, Sunday, and any state holiday.

1677 ~~[(ii)]~~ (c) ~~[This]~~ A list submitted under this section does not limit the director's right to
 1678 authorize a change in the listing of any subcontractor.

1679 (4) The director may not consider a bid submitted by a bidder that fails to submit a list
 1680 meeting the requirements of this section.

1681 ~~[(e)]~~ (5) ~~[The bidders]~~ A bidder shall verify that all subcontractors listed as part of
 1682 [their bids] the bidder's bid are licensed as required by state law.

1683 ~~[(d)]~~ (6) (a) ~~[Twenty-four]~~ After 24 hours after the bid opening, [the contractor] a
 1684 bidder may change the [contractor's] bidder's subcontractors only after:

1685 (i) receiving permission from the director; and

1686 (ii) establishing ~~[that]:~~

1687 (A) that the change is in the best interest of the state; and

1688 (B) the ~~[contractor establishes]~~ reasons for the change that meet the standards
 1689 established by the ~~[State Building Board]~~ director.

1690 ~~[(e)]~~ (b) If the director approves ~~[any changes]~~ a change in subcontractors that ~~[result]~~
 1691 results in a net lower contract price for subcontracted work, the director may require the bidder
 1692 to reduce the total of the prime contract [may be reduced] to reflect the ~~[changes]~~ change.

1693 ~~[(4)]~~ (7) (a) A bidder may list ~~[himself]~~ the bidder as a subcontractor ~~[when]~~ if:

1694 (i) the bidder is currently licensed to perform the portion of the work for which the
 1695 bidder lists ~~[himself]~~ the bidder as a subcontractor ~~[and:]; and~~

1696 ~~[(i)]~~ (ii) (A) the bidder intends to perform the work of a subcontractor ~~[himself]; or~~

1697 ~~[(ii)]~~ (B) the bidder intends to obtain a subcontractor at a later day to perform the work
 1698 ~~[at a later date]~~ because the bidder was unable to ~~[-(A)]~~ obtain a bid from a qualified
 1699 subcontractor ~~[-or (B) obtain a bid]~~ or from a qualified subcontractor at a cost that the bidder
 1700 considers to be reasonable.

1701 (b) (i) ~~[When]~~ If the bidder intends to perform the work of a subcontractor ~~[himself],~~

1702 the director may, by written request, require that the bidder provide the director with
 1703 information indicating the bidder's:

1704 (A) previous experience in the type of work to be performed; and

1705 (B) qualifications for performing the work.

1706 (ii) ~~[The bidder must]~~ A bidder shall respond in writing within five business days ~~[of]~~
 1707 after receiving the director's written request under Subsection (7)(b)(i).

1708 (iii) If the ~~[bidder's submitted]~~ information a bidder submits under Subsection (7)(b)(ii)
 1709 causes the director to reasonably believe that ~~[self-performance]~~ the bidder's performance of
 1710 the portion of the work ~~[by the bidder]~~ is likely to ~~[yield]~~ result in a substandard finished
 1711 product, the director shall:

1712 (A) require the bidder to use a subcontractor for the portion of the work in question and
 1713 obtain the subcontractor bid under the supervision of the director; or

1714 (B) reject the bidder's bid.

1715 ~~[(c)(i)]~~ (8) (a) [When the] If a bidder intends to obtain a subcontractor [to perform the
 1716 work at a later date] at a later date to perform work described in the bidder's bid, the bidder
 1717 shall provide documentation with the subcontractor list required under this section:

1718 (i) describing[:(A)] the bidder's efforts to obtain a bid of a qualified subcontractor at a
 1719 reasonable cost; and

1720 ~~[(B)]~~ (ii) explaining why the bidder was unable to obtain a qualified subcontractor bid.

1721 ~~[(ii)]~~ (b) If [the] a bidder who intends to obtain a subcontractor at a later date to
 1722 perform the work [at a later date] described in a bid is awarded a contract, the director:

1723 (i) shall supervise the bidder's efforts to obtain a qualified subcontractor bid[-]; and

1724 ~~[(iii)]~~ (ii) [The director] may not adjust the amount of the contract awarded in order to
 1725 reflect the actual amount of the subcontractor's bid.

1726 ~~[(5)]~~ (9) The division may not disclose any subcontractor bid amounts obtained under
 1727 this section until the division has awarded the project to a contractor.

1728 ~~[(6) (a) The director shall, in consultation with the State Building Board, prepare draft~~
 1729 ~~rules establishing a process for resolving disputes involved with contracts under the division's~~
 1730 ~~procurement authority.]~~

1731 ~~[(b) The director shall consider, and the rules may include:]~~

1732 ~~[(i) requirements regarding preliminary resolution efforts between the parties directly~~

1733 involved with the dispute;]

1734 [(ii) requirements for the filing of claims, including notification, timeframes, and

1735 documentation;]

1736 [(iii) identification of the types of costs eligible for allocation and a method for

1737 allocating costs among the parties to the dispute;]

1738 [(iv) required time periods, not to exceed 60 days, for the resolution of the claim;]

1739 [(v) provision for an independent hearing officer, panel, or arbitrator to extend the time

1740 period for resolution of the claim by not to exceed 60 additional days for good cause;]

1741 [(vi) provision for the extension of required time periods if the claimant agrees;]

1742 [(vii) requirements that decisions be issued in writing;]

1743 [(viii) provisions for administrative appeals of the decision;]

1744 [(ix) provisions for the timely payment of claims after resolution of the dispute,

1745 including any appeals;]

1746 [(x) a requirement that the final determination resulting from the dispute resolution

1747 process provided for in the rules is a final agency action subject to judicial review as provided

1748 in Sections [63G-4-401](#) and [63G-4-402](#);

1749 [(xi) a requirement that a claim or dispute that does not include a monetary claim

1750 against the division or its agents is not limited to the dispute resolution process provided for in

1751 this Subsection (6);]

1752 [(xii) requirements for claims and disputes to be eligible for this dispute resolution

1753 process;]

1754 [(xiii) the use of an independent hearing officer, panel, arbitration, or mediation; and]

1755 [(xiv) the circumstances under which a subcontractor may file a claim directly with the

1756 division.]

1757 [(c) Persons pursuing claims under the process required by this Subsection (6):]

1758 [(i) are bound by the decision reached under this process unless the decision is properly

1759 appealed; and]

1760 [(ii) may not pursue claims or disputes under the dispute resolution process established

1761 in Title 63G, Chapter 6a, Utah Procurement Code.]

1762 [(7)] (10) In addition to all other reasons allowed by [law] statute or rule, the director

1763 may reject all bids if [none] all of the bidders whose [bid is] bids are within the budget of the

1764 project fail to submit a subcontractor list [that meets the requirements of] as required under this
1765 section.

1766 ~~[(8) Any violation of this section, or any fraudulent misrepresentation by a contractor,~~
1767 ~~subcontractor, or supplier, may be grounds for:]~~

1768 ~~[(a) the contractor, subcontractor, or supplier to be suspended or debarred by the~~
1769 ~~director; or]~~

1770 ~~[(b) the contractor or subcontractor to be disciplined by the Division of Professional~~
1771 ~~and Occupational Licensing.]~~

1772 Section 38. Section **63A-5b-606** is enacted to read:

1773 **63A-5b-606. Dispute resolution process -- Penalties.**

1774 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1775 director shall adopt rules for the division establishing a process for resolving disputes involved
1776 with contracts under the division's procurement authority.

1777 (2) The director shall consider, and the rules may include:

1778 (a) requirements regarding preliminary resolution efforts between the parties directly
1779 involved with the dispute;

1780 (b) requirements for the filing of a claim, including notification, time frames, and
1781 documentation;

1782 (c) identification of the types of costs eligible for allocation and a method for allocating
1783 costs among the parties to the dispute;

1784 (d) a required time period, not to exceed 60 days, for the resolution of the claim;

1785 (e) a provision for an independent hearing officer, panel, or arbitrator to extend the
1786 time period for resolution of the claim by not to exceed 60 additional days for good cause;

1787 (f) a provision for the extension of required time periods if the claimant agrees;

1788 (g) requirements that decisions be issued in writing;

1789 (h) provisions for an administrative appeal of a decision;

1790 (i) provisions for the timely payment of claims after resolution of the dispute, including
1791 any appeals;

1792 (j) a requirement that the final determination resulting from the dispute resolution
1793 process provided for in the rules is a final agency action subject to judicial review as provided
1794 in Sections [63G-4-401](#) and [63G-4-402](#);

1795 (k) a requirement that a claim or dispute that does not include a monetary claim against
 1796 the division or the division's agents is not limited to the dispute resolution process provided for
 1797 in this section;

1798 (l) requirements for claims and disputes to be eligible for the dispute resolution process
 1799 under this section;

1800 (m) the use of an independent hearing officer or panel or the use of arbitration or
 1801 mediation; and

1802 (n) the circumstances under which a subcontractor may file a claim directly with the
 1803 division.

1804 (3) A person pursuing a claim under the process established as provided in this section:

1805 (a) is bound by the decision reached under this process, subject to any modification of
 1806 the decision on appeal; and

1807 (b) may not pursue a claim or dispute under the dispute resolution process established
 1808 in Title 63G, Chapter 6a, Utah Procurement Code.

1809 (4) A fraudulent misrepresentation made by or bad faith claim pursued by a contractor,
 1810 subcontractor, or supplier, may be grounds for:

1811 (a) the director to suspend or debar the contractor, subcontractor, or supplier; or

1812 (b) the contractor, subcontractor, or supplier to be disciplined by the Division of
 1813 Professional and Occupational Licensing.

1814 Section 39. Section **63A-5b-607**, which is renumbered from Section 63A-5-205.5 is
 1815 renumbered and amended to read:

1816 **[63A-5-205.5]. 63A-5b-607. Health insurance requirements -- Penalties.**

1817 (1) As used in this section:

1818 (a) "Aggregate amount" means the dollar sum of all contracts, change orders, and
 1819 modifications [~~related to~~] for a single project.

1820 (b) "Change order" means the same as that term is defined in Section **63G-6a-103**.

1821 (c) [~~"Employee~~] "Eligible employee" means an employee, as defined in Section
 1822 **34A-2-104**, [~~an "employee," "worker," or "operative"~~] who:

1823 (i) works at least 30 hours per calendar week; and

1824 (ii) meets the employer eligibility waiting [~~requirements~~] period for qualified health
 1825 [~~care insurance, which may not exceed the first day of the calendar month following 60 days~~

1826 ~~after the day on which the individual is hired]~~ insurance coverage provided by the employer.

1827 [~~(d)~~] ~~"Health benefit plan" means the same as that term is defined in Section~~

1828 ~~31A-1-301.]~~

1829 [~~(e)~~] (d) "Qualified health insurance coverage" means the same as that term is defined

1830 in Section 26-40-115.

1831 [~~(f)~~] (e) "Subcontractor" means the same as that term is defined in Section [~~63A-5-208~~]

1832 63A-5b-605.

1833 (2) An employer's waiting period for an employee to become eligible for qualified
1834 health insurance coverage may not extend beyond the first day of the calendar month following
1835 60 days after the day on which the employee is hired.

1836 [~~(2)~~] (3) Except as provided in Subsection [~~(3)~~] (4), the requirements of this section
1837 apply to:

1838 (a) a contractor of a design or construction contract [~~entered into by~~] with the division
1839 [~~or the State Building Board on or after July 1, 2009;~~] if the prime contract is in an aggregate
1840 amount [~~equal to or greater than~~] of \$2,000,000 or more; and

1841 (b) a subcontractor of a contractor of a design or construction contract [~~entered into by~~]
1842 with the division [~~or State Building Board on or after July 1, 2009;~~] if the subcontract is in an
1843 aggregate amount [~~equal to or greater than~~] of \$1,000,000 or more.

1844 [~~(3)~~] (4) The requirements of this section do not apply to a contractor or subcontractor
1845 [~~described in Subsection (2)~~] if:

1846 (a) the application of this section jeopardizes the division's receipt of federal funds;

1847 (b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

1848 (c) the contract is the result of an emergency procurement.

1849 [~~(4)~~] (5) A person [~~that~~] who intentionally uses a change [~~orders;~~] order, contract
1850 [~~modifications;~~] modification, or multiple contracts to circumvent the requirements of this
1851 section is guilty of an infraction.

1852 [~~(5)~~] (6) (a) A contractor that is subject to the requirements of this section shall
1853 [~~demonstrate to the director that the contractor has and will~~]:

1854 (i) make and maintain an offer of qualified health insurance coverage for the
1855 contractor's eligible employees and the eligible employees' dependents [~~by submitting~~]; and

1856 (ii) submit to the director a written statement [~~that~~] demonstrating that the contractor

1857 is in compliance with Subsection (6)(a)(i).

1858 ~~[(i) the contractor offers qualified health insurance coverage that complies with Section~~
1859 ~~26-40-115;]~~

1860 ~~[(ii) is from:]~~

1861 (b) A statement under Subsection (6)(a)(ii):

1862 (i) shall be from:

1863 (A) an actuary selected by the contractor or the contractor's insurer; or

1864 (B) an underwriter who is responsible for developing the employer group's premium
1865 rates; and

1866 ~~[(iii) was]~~ (ii) may not be created ~~[within]~~ more than one year before the day on which
1867 ~~the [statement is submitted]~~ contractor submits the statement to the director.

1868 ~~[(b)]~~ (7) (a) A contractor that is subject to the requirements of this section shall:

1869 (i) [place a requirement in each of the contractor's subcontracts that a subcontractor
1870 that is subject to the requirements of this section shall] ensure that each contract the contractor
1871 enters with a subcontractor that is subject to the requirements of this section requires the
1872 subcontractor to obtain and maintain an offer of qualified health insurance coverage for the
1873 subcontractor's eligible employees and the eligible employees' dependents during the duration
1874 of the subcontract; and

1875 (ii) obtain from a subcontractor [that is subject to the requirements of this section]
1876 referred to in Subsection (7)(a)(i) a written statement demonstrating that[:] the subcontractor
1877 offers qualified health insurance coverage to eligible employees and eligible employees'
1878 dependents.

1879 ~~[(A) the subcontractor offers qualified health insurance coverage that complies with~~
1880 ~~Section 26-40-115;]~~

1881 ~~[(B)]~~ (b) [is] A statement under Subsection (7)(a)(i):

1882 (i) shall be from:

1883 (A) an actuary selected by the subcontractor or the subcontractor's insurer[:]; or

1884 (B) an underwriter who is responsible for developing the employer group's premium
1885 rates; and

1886 ~~[(C)]~~ (ii) [was] may not be created ~~[within]~~ more than one year before the day on
1887 which the contractor obtains the statement from the subcontractor.

1888 ~~[(c)(i)(A)]~~ (8) (a) (i) A contractor that fails to maintain an offer of qualified health
1889 insurance coverage ~~[described in Subsection (5)(a)]~~ during the duration of the contract as
1890 required in this section is subject to penalties in accordance with administrative rules adopted
1891 by the division under ~~[Subsection (6)]~~ this section.

1892 ~~[(B)]~~ (ii) A contractor is not subject to penalties for the failure of a subcontractor to
1893 obtain and maintain an offer of qualified health insurance coverage ~~[described in Subsection~~
1894 ~~(5)(b)(i)]~~ as required in this section.

1895 ~~[(ii)(A)]~~ (b) (i) A subcontractor that fails to obtain and maintain an offer of qualified
1896 health insurance coverage ~~[described in Subsection (5)(b)(i)]~~ during the duration of the
1897 subcontract as required in this section is subject to penalties in accordance with administrative
1898 rules adopted by the division under ~~[Subsection (6)]~~ this section.

1899 ~~[(B)]~~ (ii) A subcontractor is not subject to penalties for the failure of a contractor to
1900 maintain an offer of qualified health insurance coverage ~~[described in Subsection (5)(a)]~~ as
1901 required in this section.

1902 ~~[(6)]~~ (9) The division shall adopt administrative rules:

1903 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1904 (b) in coordination with:

1905 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

1906 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

1907 (iii) a public transit district in accordance with Section 17B-2a-818.5;

1908 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

1909 (v) the Department of Transportation in accordance with Section 72-6-107.5; and

1910 (vi) the Legislature's Administrative Rules Review Committee; and

1911 (c) that establish:

1912 (i) the requirements and procedures for a contractor and a subcontractor ~~[shall follow]~~
1913 to demonstrate compliance with this section, including:

1914 (A) a provision that a contractor or subcontractor's compliance with this section is
1915 subject to an audit by the division or the Office of the Legislative Auditor General;

1916 (B) a provision that a contractor that is subject to the requirements of this section
1917 ~~[shall]~~ obtain a written statement ~~[described in Subsection (5)(a)]~~ as provided in Subsection
1918 (6); and

1919 (C) a provision that a subcontractor that is subject to the requirements of this section
 1920 ~~[shall]~~ obtain a written statement ~~[described in Subsection (5)(b)(ii)]~~ as provided in Subsection
 1921 (7);

1922 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
 1923 violates the provisions of this section, which may include:

1924 (A) a three-month suspension of the contractor or subcontractor from entering into a
 1925 future ~~[contracts]~~ contract with the state upon the first violation;

1926 (B) a six-month suspension of the contractor or subcontractor from entering into a
 1927 future ~~[contracts]~~ contract with the state upon the second violation;

1928 (C) an action for debarment of the contractor or subcontractor in accordance with
 1929 Section 63G-6a-904 upon the third or subsequent violation; and

1930 (D) monetary penalties which may not exceed 50% of the amount necessary to
 1931 purchase qualified health insurance coverage for eligible employees and dependents of eligible
 1932 employees of the contractor or subcontractor who were not offered qualified health insurance
 1933 coverage during the duration of the contract; and

1934 (iii) a website ~~[on which]~~ for the department ~~[shall]~~ to post the commercially
 1935 equivalent benchmark for the qualified health insurance coverage that is provided by the
 1936 Department of Health in accordance with Subsection 26-40-115(2).

1937 ~~[(7)(a)]~~ (10) During the duration of a contract, the division may perform an audit to
 1938 verify a contractor or subcontractor's compliance with this section.

1939 ~~[(b)]~~ (11)(a) Upon the division's request, a contractor or subcontractor shall provide
 1940 the division:

1941 (i) a signed actuarial certification that the coverage the contractor or subcontractor
 1942 offers is qualified health insurance coverage; or

1943 (ii) all relevant documents and information necessary for the division to determine
 1944 compliance with this section.

1945 ~~[(e)]~~ (b) If a contractor or subcontractor provides the documents and information
 1946 described in Subsection ~~[(7)(b)(ii)]~~ (11)(a)(i), the Insurance Department shall assist the division
 1947 in determining if the coverage the contractor or subcontractor offers is qualified health
 1948 insurance coverage.

1949 ~~[(8)]~~ (12) (a) (i) In addition to the penalties imposed under Subsection ~~[(6)(e)(ii)]~~ (8), a

1950 contractor or subcontractor that intentionally violates the provisions of this section is liable to
 1951 ~~the~~ an eligible employee for health care costs that would have been covered by qualified
 1952 health insurance coverage.

1953 (ii) An employer has an affirmative defense to a cause of action under Subsection ~~[(8)]~~
 1954 (12)(a)(i) if:

1955 (A) the employer relied in good faith on a written statement described in Subsection
 1956 ~~[(5)(a) or (5)(b)(ii)]~~ (6) or (7); or

1957 (B) the department determines that compliance with this section is not required under
 1958 the provisions of Subsection ~~[(3)]~~ (4).

1959 (b) An eligible employee has a private right of action ~~[only]~~ against the employee's
 1960 employer ~~[to enforce the provisions of this Subsection (8)]~~ only as provided in this Subsection
 1961 (12).

1962 ~~[(9)]~~ (13) ~~[Any penalties imposed and collected]~~ The director shall cause money
 1963 collected from the imposition and collection of a penalty under this section ~~[shall]~~ to be
 1964 deposited into the Medicaid Restricted Account created by Section 26-18-402.

1965 ~~[(10)]~~ (14) The failure of a contractor or subcontractor to provide qualified health
 1966 insurance coverage as required by this section:

1967 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
 1968 or contractor under:

1969 (i) Section 63G-6a-1602; or

1970 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

1971 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
 1972 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
 1973 or construction.

1974 Section 40. Section ~~63A-5b-608~~, which is renumbered from Section 63A-5-207 is
 1975 renumbered and amended to read:

1976 ~~[63A-5-207]~~. 63A-5b-608. Availability of appropriated funds -- Excessive
 1977 obligations prohibited -- Exceptions.

1978 (1) ~~[The]~~ Unless otherwise specifically instructed by the terms of the appropriation for
 1979 a particular project, the director shall assure~~[- unless otherwise specifically instructed by the~~
 1980 ~~terms of the appropriation of a particular project,]~~ that no obligations beyond the authorized

1981 funding are incurred in the construction of any project authorized by the Legislature.

1982 (2) The director may expend appropriations for statewide projects from funds provided
1983 by the Legislature for the purposes and within the guidelines established by the Legislature.

1984 ~~[(2)]~~ (3) The director may consent to the drafting of a plan or the awarding of a
1985 contract that will exceed in cost the funding currently available for the project [~~in question~~]
1986 only if the Legislature has specifically provided for extending construction of a building or the
1987 completion of a project into future fiscal periods.

1988 Section 41. Section **63A-5b-609**, which is renumbered from Section 63A-5-209 is
1989 renumbered and amended to read:

1990 ~~[63A-5-209].~~ **63A-5b-609. Building appropriations supervised by director**
1991 **-- Contingencies -- Disposition of project reserve funds -- Set aside for Utah**
1992 **Percent-for-Art Program.**

1993 (1) The director shall:

1994 (a) (i) supervise the expenditure of funds in providing plans, engineering
1995 specifications, sites, and construction of the buildings for which legislative appropriations are
1996 made; and

1997 (ii) specifically allocate money appropriated [~~when~~] if more than one project is
1998 included in any single appropriation without legislative directive;

1999 (b) (i) expend the amount necessary from appropriations for planning, engineering, and
2000 architectural work; and

2001 (ii) (A) allocate amounts from appropriations necessary to cover expenditures
2002 previously made from the planning fund under Section [~~63A-5-211~~] 63A-5b-503 in the
2003 preparation of plans, engineering, and specifications; and

2004 (B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

2005 (c) hold in a statewide contingency reserve the amount budgeted for contingencies:

2006 (i) in appropriations for the construction or remodeling of facilities; and

2007 (ii) [~~which may be~~] that are over and above all amounts obligated by contract for
2008 planning, engineering, architectural work, sites, and construction contracts.

2009 (2) (a) The director shall base the amount budgeted for contingencies on a sliding scale
2010 percentage of the construction cost ranging from:

2011 (i) 4-1/2% to 6-1/2% for new construction; and

2012 (ii) 6% to 9-1/2% for remodeling projects.

2013 (b) The director shall hold the statewide contingency funds to cover:

2014 (i) costs of change orders; and

2015 (ii) unforeseen, necessary costs beyond those specifically budgeted for the project.

2016 (c) (i) The Legislature shall annually review the percentage and the amount held in the

2017 statewide contingency reserve.

2018 (ii) The Legislature may reappropriate to other building needs, including the cost of

2019 administering building projects, any amount from the statewide contingency reserve that is in

2020 excess of the reserve required to meet future contingency needs.

2021 (3) (a) The director shall hold in a separate project reserve ~~[those]~~ state appropriated

2022 funds accrued through bid savings and project residual ~~[as a project reserve]~~.

2023 (b) The director shall account for the funds accrued under Subsection (3)(a) in separate

2024 accounts as follows:

2025 (i) bid savings and project residual from a capital improvement project, as defined in

2026 Section ~~[63A-5-104]~~ [63A-5b-401](#); and

2027 (ii) bid savings and project residual from a capital development project, as defined in

2028 Section ~~[63A-5-104]~~ [63A-5b-401](#).

2029 (c) The ~~[State Building Board may authorize the use of]~~ director may use project

2030 reserve funds in the account described in Subsection (3)(b)(i) for a capital improvement

2031 project:

2032 (i) approved under Section ~~[63A-5-104]~~ [63A-5b-405](#); and

2033 (ii) for which funds are not allocated.

2034 (d) The director may:

2035 (i) authorize the use of project reserve funds in the accounts described in Subsection

2036 (3)(b) for the award of contracts in excess of a project's construction budget if the use is

2037 required to meet the intent of the project;

2038 (ii) transfer money from the account described in Subsection (3)(b)(i) to the account

2039 described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction

2040 budget; and

2041 (iii) use project reserve funds for any emergency capital improvement project, whether

2042 or not the emergency capital improvement project is related to a project that has exceeded its

2043 construction budget.

2044 (e) The director shall report to the Office of the Legislative Fiscal Analyst within 30
2045 days:

2046 (i) an [~~authorization~~] expenditure under Subsection (3)(c); or

2047 (ii) a transfer under Subsection (3)(d).

2048 (f) The Legislature shall annually review the amount held in the project reserve for
2049 possible reallocation by the Legislature to other building needs, including the cost of
2050 administering building projects.

2051 (4) If any part of the appropriation for a building project, other than the part set aside
2052 for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art
2053 Act, remains unencumbered after the award of construction and professional service contracts
2054 and establishing a reserve for fixed and moveable equipment, the balance of the appropriation
2055 is dedicated to the project reserve and does not revert to the General Fund.

2056 (5) (a) One percent of the amount appropriated for the construction of any new state
2057 building or facility may be appropriated and set aside for the Utah Percent-for-Art Program
2058 administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art
2059 Act.

2060 (b) The director shall release to the Division of Fine Arts any funds included in an
2061 appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art
2062 Program.

2063 (c) Funds from appropriations for [~~any~~] a state building or facility of which any part is
2064 derived from the issuance of bonds, to the extent it would jeopardize the federal income tax
2065 exemption otherwise allowed for interest paid on bonds, may not be set aside.

2066 Section 42. Section ~~63A-5b-610~~, which is renumbered from Section 63A-5-219 is
2067 renumbered and amended to read:

2068 ~~[63A-5-219]~~. 63A-5b-610. Transfer from project reserve money.

2069 (1) With the approval of and through an appropriation by the Legislature, the division
2070 shall transfer at least \$100,000 annually from the project reserve money to the General Fund to
2071 pay for personal service expenses associated with the management of construction projects.

2072 (2) With the approval of and as directed by the Legislature, the division shall transfer
2073 additional money from the project reserve money to pay administrative costs associated with

2074 the management of construction projects and other division responsibilities.

2075 Section 43. Section **63A-5b-701** is enacted to read:

2076 **Part 7. Operations and Maintenance**

2077 **63A-5b-701. Operations and maintenance.**

2078 (1) As used in this section, "maintenance functions" means all programs and activities
2079 related to the operation and maintenance of a state facility, including preventive maintenance
2080 and inspection.

2081 (2) (a) The director shall direct or delegate maintenance functions for an agency, except
2082 for:

2083 (i) the State Capitol Preservation Board; and

2084 (ii) an institution of higher education.

2085 (b) The director may delegate responsibility for maintenance functions to an agency
2086 only if:

2087 (i) the agency requests the responsibility; and

2088 (ii) the director determines that:

2089 (A) the agency has the necessary resources and skills to comply with maintenance
2090 functions standards approved by the director; and

2091 (B) the delegation would result in net cost savings to the state as a whole.

2092 (c) The State Capitol Preservation Board and an institution of higher education are
2093 exempt from division oversight of maintenance functions.

2094 (d) An institution of higher education shall comply with the division's facility
2095 maintenance functions standards.

2096 (3) (a) An institution of higher education shall annually report to the division, in a
2097 format required by the division, on the institution of higher education's compliance with the
2098 division's maintenance functions standards.

2099 (b) The division shall:

2100 (i) prescribe a standard format for reporting compliance with the division's
2101 maintenance functions standards;

2102 (ii) report to the Legislature on the compliance or noncompliance with the standards;
2103 and

2104 (iii) conduct periodic audits to ensure that institutions of higher education are

2105 complying with the standards and report the results of the audits to the Legislature.

2106 Section 44. Section **63A-5b-702** is enacted to read:

2107 **63A-5b-702. Standards -- Operations and Maintenance -- Monitoring --**

2108 **Reporting -- Auditing.**

2109 (1) As used in this section:

2110 (a) "Life cycle cost-effective" means the most prudent cost of owning, operating, and
2111 maintaining a facility, including the initial cost, energy costs, operation and maintenance costs,
2112 repair costs, and the costs of energy conservation and renewable energy systems.

2113 (b) "Renewable energy system" means a system designed to use solar, wind,
2114 geothermal power, wood, or other replenishable energy source to heat, cool, or provide
2115 electricity to a building.

2116 (2) The director shall, in accordance with Title 63G, Chapter 3, Utah Administrative
2117 Rulemaking Act, make rules:

2118 (a) that establish standards and requirements for determining whether a state facility
2119 project is life cycle cost-effective;

2120 (b) for the monitoring of an agency's operation and maintenance expenditures for a
2121 state-owned facility;

2122 (c) to establish standards and requirements for utility metering;

2123 (d) that create an operation and maintenance program for an agency's facilities;

2124 (e) that establish a methodology for determining reasonably anticipated inflationary
2125 costs for each operation and maintenance program described in Subsection (2)(d);

2126 (f) that require an agency to report the amount the agency receives and expends on
2127 operation and maintenance; and

2128 (g) that provide for determining the actual cost for operation and maintenance requests
2129 for a new facility.

2130 (3) The director shall:

2131 (a) ensure that state-owned facilities, except for facilities under the control of the State
2132 Capitol Preservation Board, are life cycle cost effective;

2133 (b) conduct ongoing facilities audits of state-owned facilities; and

2134 (c) monitor an agency's operation and maintenance expenditures for state-owned
2135 facilities as provided in rules made under Subsection (2)(b).

2136 (4) (a) An agency shall comply with the rules made under Subsection (2) for new
2137 facility requests submitted to the Legislature for a session of the Legislature after the 2017
2138 General Session.

2139 (b) Beginning on December 1, 2016, the Office of the Legislative Fiscal Analyst and
2140 the Governor's Office of Management and Budget shall, for each agency with operating and
2141 maintenance expenses, ensure that each required budget for the agency is adjusted in
2142 accordance with the rules described in Subsection (2)(e).

2143 Section 45. Section **63A-5b-703** is enacted to read:

2144 **63A-5b-703. Agency lease payments.**

2145 (1) (a) Beginning July 1, 2020, the division shall implement a program to charge
2146 agencies, except institutions of higher education, lease payments for the agency's use and
2147 occupancy of space within a building.

2148 (b) Before July 1, 2020, the division shall:

2149 (i) conduct a market analysis of market lease rates for comparable space in buildings
2150 comparable to division-owned buildings; and

2151 (ii) establish lease rates for an agency's use and occupancy of a division-owned
2152 building.

2153 (c) The lease rates shall be:

2154 (i) consistent with market rates for comparable space in comparable buildings;

2155 (ii) calculated to cover:

2156 (A) an amortized amount for capital replacement;

2157 (B) an amount for capital improvements; and

2158 (C) operation and maintenance costs; and

2159 (iii) in proportion to legislative appropriations.

2160 (2) In making appropriations to cover lease payments under this section, the
2161 Legislature shall create a line item, as defined in Section [63J-1-102](#), for each agency to fund the
2162 lease payments.

2163 Section 46. Section **63A-5b-801** is enacted to read:

2164 **Part 8. Acquisitions of Real Property Interests**

2165 **63A-5b-801. Definitions.**

2166 As used in this part:

2167 (1) "Agency optional term" means an option that is exclusively exercisable by a leasing
 2168 agency to extend the lease term.

2169 (2) "High-cost lease" means a real property lease that:

2170 (a) has an initial term including any agency optional term of 10 years or more; or

2171 (b) will require lease payments of more than \$5,000,000 over the term of the lease,
 2172 including any agency optional term.

2173 (3) (a) "Leasing agency" means a department, commission, board, council, agency,
 2174 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
 2175 unit, bureau, panel, or other administrative unit of the state.

2176 (b) "Leasing agency" does not include:

2177 (i) the legislative branch;

2178 (ii) the judicial branch; and

2179 (iii) an institution of higher education.

2180 (4) "Significant lease terms" includes the duration of the lease, the frequency of the
 2181 periodic payments, renewal clauses, purchase options, cancellation clauses, repair and
 2182 maintenance clauses, and restrictions on use of the property.

2183 Section 47. Section **63A-5b-802**, which is renumbered from Section 63A-5-302 is
 2184 renumbered and amended to read:

2185 ~~[63A-5-302].~~ **63A-5b-802. Leasing responsibilities of the director.**

2186 (1) The director shall:

2187 (a) prepare and submit a yearly request to the governor and Legislature for a designated
 2188 amount of square footage by type of space to be leased by the division for that fiscal year;

2189 ~~[(a)]~~ (b) lease, in the name of the division, all real property space to be occupied by
 2190 ~~[an]~~ a leasing agency;

2191 ~~[(b)]~~ (c) in leasing space[-,comply with]:

2192 ~~[(i) Title 63G, Chapter 6a, Utah Procurement Code; and]~~

2193 (i) use a process consistent with the best interest of the state, the requirements of the
 2194 leasing agency, and the anticipated use of the property; and

2195 (ii) comply with any legislative mandates contained in the appropriations act or other
 2196 ~~[specific]~~ legislation;

2197 ~~[(c)]~~ (d) apply the criteria contained in Subsection (1)[(c)](f) to prepare a report

2198 evaluating each high-cost lease at least 12 months before ~~[it]~~ the lease expires;

2199 ~~[(d)]~~ (e) evaluate each lease under the division's control and apply the criteria

2200 contained in Subsection ~~[(1)(c), when appropriate, to evaluate those leases]~~ (1)(f), as

2201 applicable, to evaluate the lease;

2202 ~~[(e)]~~ (f) in evaluating leases:

2203 (i) determine whether ~~[or not]~~ the lease is cost-effective when the needs of the leasing

2204 agency to be housed in the leased facilities are considered;

2205 (ii) determine whether ~~[or not]~~ another option such as construction, use of other

2206 state-owned space, or a lease-purchase agreement is more cost-effective than leasing;

2207 (iii) determine whether ~~[or not]~~ the significant lease terms are cost-effective and

2208 provide the state with sufficient flexibility and protection from liability;

2209 (iv) compare the proposed lease payments to the current market rates, and evaluate

2210 whether ~~[or not]~~ the proposed lease payments are reasonable under current market conditions;

2211 (v) compare proposed significant lease terms to the current market, and recommend

2212 whether ~~[or not]~~ these proposed terms are reasonable under current market conditions; and

2213 (vi) if applicable, recommend that the lease or modification to a lease be approved or

2214 disapproved;

2215 ~~[(f)]~~ (g) based upon the evaluation, include in the report recommendations that identify

2216 viable alternatives to:

2217 (i) make the lease cost-effective; or

2218 (ii) meet the leasing agency's needs when the lease expires; and

2219 ~~[(g)]~~ (h) upon request, provide the information included in the report to:

2220 (i) the leasing agency benefitted by the lease; and

2221 (ii) the Office of the Legislative Fiscal Analyst.

2222 (2) The director may:

2223 (a) subject to legislative appropriation, enter into a facility ~~[leases with terms]~~ lease

2224 with a term of up to 10 years ~~[when]~~ if the length of the lease's term is economically

2225 advantageous to the state; and

2226 (b) with the approval of the ~~[State Building Board]~~ board and subject to legislative

2227 appropriation, enter into a facility ~~[leases with terms]~~ lease with a term of more than 10 years

2228 ~~[when]~~ if the length of the lease's term is economically advantageous to the state.

2229 Section 48. Section ~~63A-5b-803~~, which is renumbered from Section 63A-5-303 is
 2230 renumbered and amended to read:

2231 ~~[63A-5-303]~~. **63A-5b-803. Lease reporting and coordination.**

2232 (1) The director shall:

2233 (a) prepare a standard form upon which ~~[agencies and other state institutions and~~
 2234 ~~entities can report their]~~ a leasing agency and another state institution or entity can report the
 2235 current and proposed lease activity of the leasing agency, institution, or entity, including any
 2236 lease ~~[renewals]~~ renewal; and

2237 (b) develop procedures and mechanisms within the division to:

2238 (i) obtain and share information about each leasing agency's real property needs; and

2239 (ii) provide oversight and review of lessors and lessees during the term of each lease.

2240 (2) Each leasing agency, the Judicial Council, and the Board of Regents, for each
 2241 institution of higher education, shall report all current and proposed lease activity on the
 2242 standard form prepared by the division to:

2243 (a) the ~~[State Building Board]~~ division; and

2244 (b) the Office of the Legislative Fiscal Analyst.

2245 Section 49. Section ~~63A-5b-804~~, which is renumbered from Section 63A-5-304 is
 2246 renumbered and amended to read:

2247 ~~[63A-5-304]~~. **63A-5b-804. Leasing by the Judicial Council and the**
 2248 **Administrative Office of the Courts -- Director's responsibilities.**

2249 (1) Before executing ~~[any]~~ a high-cost lease or a modification to a lease that results in a
 2250 high-cost lease, the Administrative Office of the Courts shall submit a draft of the new lease or
 2251 modification to:

2252 (a) the Judicial Council; and

2253 (b) the director ~~[of the Division of Facilities Construction and Management]~~.

2254 (2) The director shall:

2255 (a) review the ~~[drafts]~~ draft submitted by the Administrative Office of the Courts; and

2256 (b) within 30 days after receiving the ~~[drafts from the office]~~ draft, submit a report on
 2257 ~~[those drafts]~~ the draft to:

2258 (i) the Judicial Council; and

2259 (ii) the Office of the Legislative Fiscal Analyst.

- 2260 (3) ~~[The]~~ A report under Subsection (2)(b) shall contain:
- 2261 (a) the director's opinion about:
- 2262 (i) whether ~~[or not]~~ the lease or modification is cost-effective when the needs of the
- 2263 entity to be housed in the leased facility are considered;
- 2264 (ii) whether ~~[or not]~~ another option such as construction, use of other state-owned
- 2265 space, or a lease-purchase agreement is more cost-effective than leasing; and
- 2266 (iii) whether ~~[or not]~~ the significant lease terms are cost-effective and provide the state
- 2267 with sufficient flexibility and protection from liability;
- 2268 (b) a comparison of the proposed lease payments to the current market rates, and a
- 2269 recommendation as to whether ~~[or not]~~ the proposed lease payments are reasonable under
- 2270 current market conditions;
- 2271 (c) a comparison of proposed significant lease terms to the current market, and a
- 2272 recommendation as to whether ~~[these]~~ the proposed terms are reasonable under current market
- 2273 conditions; and
- 2274 (d) a recommendation from the director that the lease or modification to a lease be
- 2275 approved or disapproved.
- 2276 (4) (a) The Administrative Office of the Courts may not execute ~~[any]~~ a new high-cost
- 2277 ~~[leases or modifications to any]~~ lease or modification to an existing lease that will result in a
- 2278 high-cost lease unless ~~[that lease or those modifications are]~~ the lease or modification is
- 2279 approved by a majority vote of the Judicial Council.
- 2280 (b) The Judicial Council shall consider the recommendations of the director ~~[of the~~
- 2281 ~~division]~~ in determining whether ~~[or not]~~ to approve a high-cost ~~[leases and modifications]~~
- 2282 lease or modification resulting in a high-cost ~~[leases]~~ lease.
- 2283 Section 50. Section ~~63A-5b-805~~, which is renumbered from Section 63A-5-305 is
- 2284 renumbered and amended to read:
- 2285 ~~[63A-5-305].~~ **63A-5b-805. Leasing by higher education institutions.**
- 2286 (1) The Board of Regents shall establish written policies and procedures governing
- 2287 leasing by an institution of higher education ~~[institutions]~~.
- 2288 (2) Except as provided in Sections ~~53B-2a-113~~ and ~~63M-2-602~~, ~~[a]~~ an institution of
- 2289 higher education ~~[institution]~~ shall comply with the procedures and requirements of the Board
- 2290 of Regents' policies before signing or renewing a lease.

2291 Section 51. Section **63A-5b-806**, which is renumbered from Section 63A-5-401 is
 2292 renumbered and amended to read:

2293 ~~[63A-5-401].~~ **63A-5b-806. Division rules on the value of property bought,**
 2294 **sold, or exchanged -- Exception.**

2295 (1) ~~[If the division buys, sells, or exchanges real property, the]~~ The division shall, in
 2296 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to
 2297 ensure that if the division buys or exchanges real property, the value of the real property is
 2298 congruent with the proposed price and other terms of the purchase~~[-sale,]~~ or exchange.

2299 (2) The rules:

2300 (a) shall establish procedures for determining the value of the real property;

2301 (b) may provide that an appraisal, as defined ~~[under]~~ in Section 61-2g-102,
 2302 demonstrates the real property's value; and

2303 (c) may require that the appraisal be completed by a state-certified general appraiser, as
 2304 defined ~~[under]~~ in Section 61-2g-102.

2305 (3) The rules adopted under Subsection (1) ~~[does]~~ do not apply to~~[-(a)]~~ the purchase~~[-~~
 2306 ~~sale,]~~ or exchange of real property, or ~~[to]~~ an interest in real property, with a value of less than
 2307 ~~[\$100,000]~~ \$250,000, as estimated by the division~~[-or]~~.

2308 ~~[(b) a transfer of ownership or lease of vacant division-owned property, as defined in~~
 2309 ~~Section 63A-5a-102, at below fair market value under Chapter 5a, Division-Owned Real~~
 2310 ~~Property Act.]~~

2311 Section 52. Section **63A-5b-901**, which is renumbered from Section 63A-5a-102 is
 2312 renumbered and amended to read:

2313 **Part 9. Disposal of Division-Owned Property**

2314 ~~[63A-5a-102].~~ **63A-5b-901. Definitions.**

2315 As used in this ~~[chapter]~~ part:

2316 (1) "Applicant" means a person who submits a timely, qualified proposal to the
 2317 division.

2318 ~~[(2) "Board" means the State Building Board, created in Section 63A-5-101.]~~

2319 ~~[(3)]~~ (2) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.

2320 ~~[(4)]~~ (3) "Convey" means:

2321 (a) to provide for a primary state agency's occupancy or use of vacant division-owned

2322 property; or

2323 (b) to effect a transfer of ownership or lease of vacant division-owned property to a
2324 secondary state agency, local government entity, public purpose nonprofit entity, or private
2325 party.

2326 [~~(5)~~] "Director" means the division director, appointed under Section [63A-5-203](#);

2327 [~~(6)~~] "Division" means the Division of Facilities Construction and Management, created
2328 in Section [63A-5-201](#);

2329 [~~(7)~~] (4) "Division-owned property" means real property, including an interest in real
2330 property, to which the division holds title, regardless of who occupies or uses the real property.

2331 [~~(8)~~] (5) "Local government entity" means a county, city, town, metro township, local
2332 district, special service district, community development and renewal agency, conservation
2333 district, school district, or other political subdivision of the state.

2334 [~~(9)~~] (6) "Primary state agency" means a state agency for which the division holds title
2335 to real property that the state agency occupies or uses, as provided in Subsection

2336 [~~63A-5-204(2)(a)(iv)~~] [63A-5b-303\(1\)\(a\)\(iv\)](#).

2337 [~~(10)~~] (7) "Private party" means a person who is not a state agency, local government
2338 entity, or public purpose nonprofit entity.

2339 [~~(11)~~] (8) "Public purpose nonprofit entity" means a corporation, association,
2340 organization, or entity that:

2341 (a) is located within the state;

2342 (b) is not a state agency or local government entity;

2343 (c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
2344 Code; and

2345 (d) operates to fulfill a public purpose.

2346 [~~(12)~~] (9) "Qualified proposal" means a written proposal that:

2347 (a) meets the criteria established by the division by rule under Section [63A-5b-903](#);

2348 (b) if submitted by a local government entity or public purpose nonprofit entity,
2349 explains the public purpose for which the local government entity or public purpose nonprofit
2350 entity seeks a transfer of ownership or lease of the vacant division-owned property; and

2351 (c) the director determines will, if accepted and implemented, provide a material
2352 benefit to the state.

2353 ~~[(13)]~~ (10) "Secondary state agency" means a state agency:

2354 (a) that is authorized to hold title to real property that the state agency occupies or uses,
2355 as provided in Subsection ~~[63A-5-204(6)]~~ [63A-5b-303\(4\)](#); and

2356 (b) for which the division does not hold title to real property that the state agency
2357 occupies or uses.

2358 ~~[(14)]~~ (11) "State agency" means a department, division, office, entity, agency, or other
2359 unit of state government.

2360 ~~[(15)]~~ (12) "Transfer of ownership" includes a transfer of the ownership of vacant
2361 division-owned property that occurs as part of an exchange of the vacant division-owned
2362 property for another property.

2363 ~~[(16)]~~ (13) "Vacant division-owned property" means division-owned property that:

2364 (a) a primary state agency has discontinued to occupy or use; and

2365 (b) the director has determined should be made available for:

2366 (i) use or occupancy by a primary state agency; or

2367 (ii) a transfer of ownership or lease to a secondary state agency, local government
2368 entity, public purpose nonprofit entity, or private party.

2369 ~~[(17)]~~ (14) "Written proposal" means a brief statement in writing that explains:

2370 (a) the proposed use or occupancy, transfer of ownership, or lease of vacant
2371 division-owned property; and

2372 (b) how the state will benefit from the proposed use or occupancy, transfer of
2373 ownership, or lease.

2374 Section 53. Section **63A-5b-902**, which is renumbered from Section 63A-5a-103 is
2375 renumbered and amended to read:

2376 ~~[63A-5a-103]~~. **63A-5b-902. Application of part.**

2377 (1) The provisions of this ~~[chapter]~~ part, other than this section, do not apply to:

2378 (a) a conveyance, lease, or disposal under Subsection ~~[63A-5-204(2)(a)(x)]~~

2379 [63A-5b-303\(1\)\(a\)\(x\)](#); or

2380 (b) the division's disposal or lease of division-owned property with a value under
2381 ~~[\$100,000]~~ \$250,000, as estimated by the division.

2382 (2) Nothing in Subsection (1)(b) may be construed to diminish or eliminate the
2383 division's responsibility to manage division-owned property in the best interests of the state.

2384 Section 54. Section **63A-5b-903**, which is renumbered from Section 63A-5a-104 is
2385 renumbered and amended to read:

2386 ~~[63A-5a-104]~~. **63A-5b-903. Rules adopted by the division.**

2387 The division may, in accordance with Title 63G, Chapter 3, Utah Administrative
2388 Rulemaking Act, make rules to:

- 2389 (1) establish criteria that a written proposal is required to satisfy in order to be a
2390 qualified proposal, including, if applicable, a minimum acceptable purchase price; and
- 2391 (2) define criteria that the director will consider in making a determination whether a
2392 proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property
2393 provides a material benefit to the state.

2394 Section 55. Section **63A-5b-904**, which is renumbered from Section 63A-5a-201 is
2395 renumbered and amended to read:

2396 ~~[63A-5a-201]~~. **63A-5b-904. Division authority with respect to vacant
2397 division-owned property -- Limitations.**

2398 (1) Subject to Section [~~63A-5a-206~~] [63A-5b-909](#), the division may, as provided in this
2399 [~~chapter~~] part:

2400 (a) provide for a primary state agency's occupancy or use of vacant division-owned
2401 property;

2402 (b) effect a transfer of ownership or lease of vacant division-owned property to a
2403 secondary state agency, local government entity, public purpose nonprofit entity, or private
2404 party; or

2405 (c) refer vacant division-owned property to the Department of Transportation for sale
2406 by auction, as provided in Section [~~63A-5a-205~~] [63A-5b-908](#).

2407 (2) The division may not effect a transfer of ownership or lease of vacant
2408 division-owned property without receiving fair market value in return unless:

2409 (a) the director determines that the transfer of ownership or lease is in the best interests
2410 of the state;

2411 (b) for a proposed transfer of ownership or lease to a local government entity, public
2412 purpose nonprofit entity, or private party, the director determines that the local government
2413 entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a
2414 public purpose;

2415 (c) the director requests and receives a recommendation on the proposed transfer of
2416 ownership or lease from the Legislative Executive Appropriations Committee;

2417 (d) the director communicates the Executive Appropriations Committee's
2418 recommendation to the executive director; and

2419 (e) the executive director approves the transfer of ownership or lease.

2420 (3) (a) If the division effects a transfer of ownership of vacant division-owned property
2421 without receiving fair market value in return, as provided in this ~~[chapter]~~ part, the division
2422 shall require the documents memorializing the transfer of ownership to preserve to the
2423 division:

2424 (i) in the case of a transfer of ownership of vacant division-owned property to a
2425 secondary state agency, local government entity, or public purpose nonprofit entity for no or
2426 nominal consideration, a right of reversion, providing for the ownership of the property to
2427 revert to the division if the property ceases to be used for the public benefit; or

2428 (ii) in the case of any other transfer of ownership of vacant division-owned property, a
2429 right of first refusal allowing the division to purchase the property from the transferee for the
2430 same price that the transferee paid to the division if the transferee wishes to transfer ownership
2431 of the former vacant division-owned property.

2432 (b) Subsection (3)(a) does not apply to the sale of vacant division-owned property at an
2433 auction under Section ~~[63A-5a-205]~~ 63A-5b-908.

2434 Section 56. Section **63A-5b-905**, which is renumbered from Section 63A-5a-202 is
2435 renumbered and amended to read:

2436 ~~[63A-5a-202]~~. **63A-5b-905. Notice required before division may convey**
2437 **division-owned property.**

2438 (1) Before the division may convey vacant division-owned property, the division shall
2439 give notice as provided in Subsection (2).

2440 (2) A notice required under Subsection (1) shall:

2441 (a) identify and describe the vacant division-owned property;

2442 (b) indicate the availability of the vacant division-owned property;

2443 (c) invite persons interested in the vacant division-owned property to submit a written
2444 proposal to the division;

2445 (d) indicate the deadline for submitting a written proposal;

2446 (e) be posted on the division's website for at least 60 consecutive days before the
2447 deadline for submitting a written proposal, in a location specifically designated for notices
2448 dealing with vacant division-owned property;

2449 (f) be posted on the Utah Public Notice Website created in Section 63F-1-701 for at
2450 least 60 consecutive days before the deadline for submitting a written proposal; and

2451 (g) be sent by email to each person who has previously submitted to the division a
2452 written request to receive notices under this section.

2453 Section 57. Section **63A-5b-906**, which is renumbered from Section 63A-5a-203 is
2454 renumbered and amended to read:

2455 ~~[63A-5a-203]~~. **63A-5b-906. Submitting a written proposal for vacant**
2456 **division-owned property.**

2457 (1) A person may submit to the division a written proposal:

2458 (a) in response to the division's notice under Section [~~63A-5a-202~~] 63A-5b-905; or

2459 (b) with respect to vacant division-owned property as to which the division has not
2460 given notice under Section [~~63A-5a-202~~] 63A-5b-905.

2461 (2) The division is not required to consider a written proposal or provide notice under
2462 Section [~~63A-5a-202~~] 63A-5b-905 if the director determines that the written proposal is not a
2463 qualified proposal.

2464 (3) If a person submits a qualified proposal to the division under Subsection (1)(b):

2465 (a) the division shall:

2466 (i) give notice as provided in Section [~~63A-5a-202~~] 63A-5b-905; and

2467 (ii) treat the qualified proposal as though it were submitted in response to the notice;

2468 and

2469 (b) the person may, within the time provided for the submission of written proposals,
2470 modify the qualified proposal to the extent necessary to address matters raised in the notice that
2471 were not addressed in the initial qualified proposal.

2472 (4) A person who fails to submit a qualified proposal to the division within 60 days
2473 after the date of the notice under Section [~~63A-5a-202~~] 63A-5b-905 may not be considered for
2474 the vacant division-owned property.

2475 Section 58. Section **63A-5b-907**, which is renumbered from Section 63A-5a-204 is
2476 renumbered and amended to read:

2477 ~~[63A-5a-204].~~ 63A-5b-907. **Priorities for vacant division-owned property --**

2478 **Division to convey vacant division-owned property.**

2479 (1) (a) A state agency has priority for vacant division-owned property over a local
2480 government entity, a public purpose nonprofit entity, and a private party.

2481 (b) A local government entity and a public purpose nonprofit entity have:

2482 (i) priority for vacant division-owned property over a private party; and

2483 (ii) between them the same priority for vacant division-owned property.

2484 (2) If the division receives multiple timely qualified proposals from applicants with the
2485 highest and same priority, the division shall:

2486 (a) notify the board of:

2487 (i) the availability of the vacant division-owned property; and

2488 (ii) the applicants with the highest and same priority that have submitted qualified
2489 proposals; and

2490 (b) provide the board with a copy of the timely qualified proposals submitted by the
2491 applicants with the highest and same priority.

2492 (3) Within 30 days after being notified under Subsection (2), the board shall:

2493 (a) determine which applicant's qualified proposal is most likely to result in the highest
2494 and best public benefit; and

2495 (b) notify the division of the board's decision under Subsection (3)(a).

2496 (4) The division shall convey the vacant division-owned property to:

2497 (a) the applicant with the highest priority under Subsection (1), if the division receives
2498 a timely qualified proposal from a single applicant with the highest priority; or

2499 (b) the applicant whose qualified proposal was determined by the board under
2500 Subsection (3) to be most likely to result in the highest and best public benefit, if the division
2501 receives multiple timely qualified proposals from applicants with the highest and same priority.

2502 (5) (a) If the division leases vacant division-owned property to a private party, the
2503 division shall, within 30 days after a lease agreement is executed, provide written notice of the
2504 lease to:

2505 (i) the municipality in which the vacant division-owned property is located, if the
2506 vacant division-owned property is within a municipality; or

2507 (ii) the county in whose unincorporated area the vacant division-owned property is

2508 located, if the vacant division-owned property is not located within a municipality.

2509 (b) Nothing in this chapter may be used by a private party leasing division-owned
2510 property as a basis for not complying with applicable local land use ordinances and regulations.

2511 Section 59. Section **63A-5b-908**, which is renumbered from Section 63A-5a-205 is
2512 renumbered and amended to read:

2513 ~~[63A-5a-205]~~. **63A-5b-908. Referring vacant division-owned property to**
2514 **the Department of Transportation for auction.**

2515 (1) The division may refer vacant division-owned property to the Department of
2516 Transportation for a public auction if:

2517 (a) (i) the division has provided notice under Section [~~63A-5a-202~~] 63A-5b-905 with
2518 respect to the vacant division-owned property; and

2519 (ii) the division receives no qualified proposals in response to the notice under Section
2520 [~~63A-5a-202~~] 63A-5b-905;

2521 (b) the director determines that:

2522 (i) there is no reasonable likelihood that within the foreseeable future:

2523 (A) a primary state agency will use or occupy the vacant division-owned property; or

2524 (B) a secondary state agency, local government entity, or public purpose nonprofit
2525 entity will seek a transfer of ownership or lease of the vacant division-owned property; and

2526 (ii) disposing of the vacant division-owned property through a public auction is in the
2527 best interests of the state;

2528 (c) the director requests and receives a recommendation on the proposed public auction
2529 from the Legislative Executive Appropriations Committee;

2530 (d) the director communicates the Executive Appropriations Committee's
2531 recommendation to the executive director; and

2532 (e) the executive director approves the public auction.

2533 (2) If the division refers a vacant division-owned property to the Department of
2534 Transportation for public auction, the Department of Transportation shall publicly auction the
2535 vacant division-owned property under the same law and in the same manner that apply to a
2536 public auction of Department of Transportation property.

2537 (3) At a public auction conducted under Subsection (2), the Department of
2538 Transportation may, on behalf of the division, accept an offer to purchase the vacant

2539 division-owned property.

2540 (4) The division and the Department of Transportation shall coordinate together to:

2541 (a) manage the details of finalizing any sale of the vacant division-owned property at
2542 public auction; and

2543 (b) ensure that the buyer acquires proper title and that the division receives the net
2544 proceeds of the sale.

2545 (5) If a public auction under this section does not result in a sale of the vacant
2546 division-owned property, the Department of Transportation shall notify the division and refer
2547 the vacant division-owned property back to the division.

2548 Section 60. Section **63A-5b-909**, which is renumbered from Section 63A-5a-206 is
2549 renumbered and amended to read:

2550 ~~**[63A-5a-206].**~~ **63A-5b-909. State real property subject to right of first**
2551 **refusal.**

2552 (1) (a) If Section **78B-6-520.3** applies to vacant division-owned property, the division
2553 shall comply with Subsection **78B-6-520.3(3)**.

2554 (b) If a condemnee accepts the division's offer to sell the vacant division-owned
2555 property as provided in Section **78B-6-520.3**, the division shall:

2556 (i) comply with the requirements of Section **78B-6-520.3**; and

2557 (ii) terminate any process under this chapter to convey the vacant division-owned
2558 property.

2559 (c) A condemnee may waive rights and benefits afforded under Section **78B-6-520.3**
2560 and instead seek a transfer of ownership or lease of vacant division-owned property under the
2561 provisions of this chapter in the same manner as any other person not entitled to the rights and
2562 benefits of Section **78B-6-520.3**.

2563 (2) (a) If Section **78B-6-521** applies to the anticipated disposal of the vacant
2564 division-owned property, the division shall comply with the limitations and requirements of
2565 Subsection **78B-6-521(2)**.

2566 (b) If the original grantor or the original grantor's assignee accepts an offer for sale as
2567 provided in Subsection **78B-6-521(2)(a)(i)**, the division shall:

2568 (i) sell the vacant division-owned property to the original grantor or the original
2569 grantor's assignee, as provided in Section **78B-6-521**; and

2570 (ii) terminate any process under this chapter to convey the vacant division-owned
2571 property.

2572 (c) An original grantor or the original grantor's assignee may waive rights afforded
2573 under Section 78B-6-521 and instead seek a transfer of ownership or lease of vacant
2574 division-owned property under the provisions of this chapter in the same manner as any other
2575 person seeking a transfer of ownership or lease of vacant division-owned property to which
2576 Section 78B-6-521 does not apply.

2577 Section 61. Section 63A-5b-910, which is renumbered from Section 63A-5-215 is
2578 renumbered and amended to read:

2579 ~~[63A-5-215].~~ **63A-5b-910. Disposition of proceeds received by division**
2580 **from sale of property.**

2581 (1) (a) Except as provided in Section 62A-5-206.7, the division shall pay into the state
2582 treasury the money received [by the division from the sale or other disposition of property shall
2583 be paid into the state treasury and] from the transfer of ownership or lease of division-owned
2584 property.

2585 (b) Money paid into the state treasury under Subsection (1)(a):

2586 (i) becomes a part of the funds provided by law for carrying out the building program
2587 of the state~~[-and are];~~ and

2588 (ii) is appropriated for [that] the purpose described in Subsection (1)(b)(i).

2589 (2) The proceeds from ~~[sales of]~~ the transfer of ownership or lease of division-owned
2590 property belonging to or used by a particular state agency shall, to the extent practicable, be
2591 expended for the construction of buildings or in the performance of other work for the benefit
2592 of that state agency.

2593 Section 62. Section 63A-5b-911, which is renumbered from Section 63A-5-224 is
2594 renumbered and amended to read:

2595 ~~[63A-5-224].~~ **63A-5b-911. Authority to transfer land for commuter rail**
2596 **station and related development.**

2597 The division may transfer title to a parcel of land it owns in a county of the first class to
2598 a public transit district for the purpose of facilitating the development of a commuter rail transit
2599 station and associated transit oriented development if:

2600 (1) the parcel is within one mile of the proposed commuter rail transit station and

2601 associated transit oriented development; and

2602 (2) the division receives in return fair and adequate consideration.

2603 Section 63. Section **63A-5b-912**, which is renumbered from Section 63A-5-226 is
2604 renumbered and amended to read:

2605 ~~[63A-5-226].~~ **63A-5b-912. Report to Infrastructure and General**
2606 **Government Appropriations Subcommittee.**

2607 The division shall, [~~beginning in 2016, and in every even-numbered year after 2016,~~] on
2608 or before the third Wednesday in November of every even-numbered year, present a written
2609 report to the Infrastructure and General Government Appropriations Subcommittee that
2610 identifies state land and buildings that are no longer needed and can be sold by the state.

2611 Section 64. Section **63A-5b-1001** is enacted to read:

2612 **Part 10. Energy Conservation and Efficiency**

2613 **63A-5b-1001. Definitions.**

2614 As used in this part:

2615 (1) "Energy efficiency measure" means an action taken or initiated by an agency that:

2616 (a) reduces the agency's energy or fuel use or resource energy consumption, water or
2617 other resource consumption, operation and maintenance costs, or cost of energy, fuel, water, or
2618 other resource; or

2619 (b) increases the agency's energy or fuel efficiency or resource consumption efficiency.

2620 (2) "Energy efficiency program" means a program established under Section
2621 63A-5b-1002 for the purpose of improving energy efficiency measures and reducing the energy
2622 costs for state facilities.

2623 (3) "Fund" means the State Facility Energy Efficiency Fund created in Section
2624 63A-5b-1003.

2625 (4) "Performance efficiency agreement" means an agreement entered into by an agency
2626 whereby the agency implements one or more energy efficiency measures and finances the costs
2627 associated with implementation of performance efficiency measures using the stream of
2628 expected savings in costs resulting from implementation of the performance efficiency
2629 measures as a funding source for repayment.

2630 (5) (a) "State facility" means any building, structure, or other improvement that is
2631 constructed on property owned by the state, the state's departments, commissions, institutions,

2632 or agencies, or a state institution of higher education.

2633 (b) "State facility" does not include:

2634 (i) an unoccupied structure that is a component of the state highway system;

2635 (ii) a privately owned structure that is located on property owned by the state, the
2636 state's departments, commissions, institutions, or agencies, or a state institution of higher
2637 education; or

2638 (iii) a structure that is located on land administered by the trust lands administration
2639 under a lease, permit, or contract with the trust lands administration.

2640 Section 65. Section **63A-5b-1002**, which is renumbered from Section 63A-5-701 is
2641 renumbered and amended to read:

2642 ~~[63A-5-701].~~ **63A-5b-1002. State Building Energy Efficiency Program.**

2643 ~~[(1) For purposes of this section:]~~

2644 ~~[(a) "Division" means the Division of Facilities Construction and Management~~
2645 ~~established in Section 63A-5-201.:]~~

2646 ~~[(b) "Energy efficiency measure" means an action taken or initiated by a state agency~~
2647 ~~that:]~~

2648 ~~[(i) reduces the state agency's energy or fuel use or resource energy consumption, water~~
2649 ~~or other resource consumption, operation and maintenance costs, or cost of energy, fuel, water,~~
2650 ~~or other resource; or]~~

2651 ~~[(ii) increases the state agency's energy or fuel efficiency or resource consumption~~
2652 ~~efficiency.:]~~

2653 ~~[(c) "Performance efficiency agreement" means an agreement entered into by a state~~
2654 ~~agency whereby the state agency implements one or more energy efficiency measures and~~
2655 ~~finances the costs associated with implementation of performance efficiency measures using~~
2656 ~~the stream of expected savings in costs resulting from implementation of the performance~~
2657 ~~efficiency measures as a funding source for repayment.]]~~

2658 ~~[(d) "State agency" means each executive, legislative, and judicial branch department,~~
2659 ~~agency, board, commission, or division, and includes a state institution of higher education as~~
2660 ~~defined in Section 53B-3-102.:]~~

2661 ~~[(e) "State Building Energy Efficiency Program" means a program established under~~
2662 ~~this section for the purpose of improving energy efficiency measures and reducing the energy~~

2663 costs for state facilities:]

2664 ~~[(f) (i) "State facility" means any building, structure, or other improvement that is~~
 2665 ~~constructed on property owned by the state, its departments, commissions, institutions, or~~
 2666 ~~agencies, or a state institution of higher education.]~~

2667 ~~[(ii) "State facility" does not mean:]~~

2668 ~~[(A) an unoccupied structure that is a component of the state highway system;]~~

2669 ~~[(B) a privately owned structure that is located on property owned by the state, its~~
 2670 ~~departments, commissions, institutions, or agencies, or a state institution of higher education;~~
 2671 ~~or]~~

2672 ~~[(C) a structure that is located on land administered by the School and Institutional~~
 2673 ~~Trust Lands Administration under a lease, permit, or contract with the School and Institutional~~
 2674 ~~Trust Lands Administration.]~~

2675 ~~[(2)]~~ (1) The division shall:

2676 (a) develop and administer the [state building] energy efficiency program, which shall
 2677 include guidelines and procedures to improve energy efficiency in the maintenance and
 2678 management of state facilities;

2679 (b) provide information and assistance to [state] agencies in their efforts to improve
 2680 energy efficiency;

2681 (c) analyze energy consumption by [state] agencies to identify opportunities for
 2682 improved energy efficiency;

2683 (d) establish an advisory group composed of representatives of [state] agencies to
 2684 provide information and assistance in the development and implementation of the [state
 2685 building] energy efficiency program; and

2686 (e) submit to the governor and to the Infrastructure and General Government
 2687 Appropriations Subcommittee of the Legislature an annual report that:

2688 (i) identifies strategies for long-term improvement in energy efficiency;

2689 (ii) identifies goals for energy conservation for the upcoming year; and

2690 (iii) details energy management programs and strategies that were undertaken in the
 2691 previous year to improve the energy efficiency of [state] agencies and the energy savings
 2692 achieved.

2693 ~~[(3)]~~ (2) Each [state] agency shall:

- 2694 (a) designate a staff member that is responsible for coordinating energy efficiency
2695 efforts within the agency;
- 2696 (b) provide energy consumption and costs information to the division;
- 2697 (c) develop strategies for improving energy efficiency and reducing energy costs; and
- 2698 (d) provide the division with information regarding the agency's energy efficiency and
2699 reduction strategies.

2700 ~~[(4) (a)] (3) [A state]~~ An agency may enter into a performance efficiency agreement for
2701 a term of up to 20 years.

- 2702 (b) Before entering into a performance efficiency agreement, the [state] agency shall:
- 2703 (i) utilize the division to oversee the project unless the project is exempt from the
2704 division's oversight or the oversight is delegated to the agency under the provisions of Section
2705 ~~[63A-5-206]~~ [63A-5b-701](#);

- 2706 (ii) obtain the prior approval of the governor or the governor's designee; and
- 2707 (iii) provide the Office of the Legislative Fiscal Analyst with a copy of the proposed
2708 agreement before the agency enters into the agreement.

2709 (4) An agency may consult with the energy efficiency program manager within the
2710 division regarding:

- 2711 (a) the cost effectiveness of energy efficiency measures; and
- 2712 (b) ways to measure energy savings that take into account fluctuations in energy costs
2713 and temperature.

2714 (5) (a) Except as provided under Subsection (5)(b) and subject to future budget
2715 constraints, the Legislature may not remove energy savings from an agency's appropriation.

2716 (b) An agency shall use energy savings to:

- 2717 (i) fund the cost of the energy efficiency measures; and
- 2718 (ii) if funds are available after meeting the requirements of Subsection (5)(b)(i), fund
2719 and implement new energy efficiency measures.

2720 (c) The Legislature may remove energy savings if:

- 2721 (i) an agency has complied with Subsection (5)(b)(i); and
- 2722 (ii) no new cost-effective energy efficiency measure is available for implementation.

2723 Section 66. Section **63A-5b-1003**, which is renumbered from Section 63A-5-603 is
2724 renumbered and amended to read:

2725 ~~[63A-5-603].~~ **63A-5b-1003.** State Facility Energy Efficiency Fund --
2726 **Contents -- Use of fund money.**
2727 ~~[(1) As used in this section:]~~
2728 ~~[(a) "Board" means the State Building Board.]~~
2729 ~~[(b) "Division" means the Division of Facilities Construction and Management.]~~
2730 ~~[(c) "Fund" means the State Facility Energy Efficiency Fund created by this section.]~~
2731 ~~[(2)]~~ (1) There is created a revolving loan fund known as the "State Facility Energy
2732 Efficiency Fund."
2733 ~~[(3) To capitalize the fund, the Division of Finance shall, at the end of fiscal year~~
2734 ~~2007-08, transfer \$3,650,000 from the Stripper Well-Petroleum Violation Escrow Fund to the~~
2735 ~~fund.]~~
2736 ~~[(4)]~~ (2) The fund shall consist of:
2737 (a) money transferred ~~[under Subsection (3)]~~ from the Stripper Well-Petroleum
2738 Violation Escrow Fund;
2739 (b) money appropriated by the Legislature;
2740 (c) money received for the repayment of loans made from the fund; and
2741 (d) interest earned on the fund.
2742 ~~[(5)]~~ (3) The board shall make a loan from the fund to ~~[a state]~~ an agency to, wholly or
2743 in part, finance energy efficiency measures.
2744 ~~[(6)]~~ (4) (a) (i) ~~[A state]~~ An agency requesting a loan shall submit an application to the
2745 board in the form and containing the information that the board requires, including plans and
2746 specifications for the proposed energy efficiency measures.
2747 (ii) ~~[A state]~~ An agency may request a loan to fund all or part of the cost of energy
2748 efficiency measures.
2749 (b) If the board rejects the application, the board shall notify the applicant stating the
2750 reasons for the rejection.
2751 ~~[(7)]~~ (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2752 Act, the board shall make rules establishing:
2753 (i) criteria to determine:
2754 (A) loan eligibility;
2755 (B) energy efficiency measures priority; and

2756 (C) ways to measure energy savings that take into account fluctuations in energy costs
2757 and temperature; and

2758 (ii) a method of monitoring actual savings resulting from energy efficiency measures
2759 implemented using loan money from the fund, using objective and verifiable post-construction
2760 measures, if available.

2761 (b) In making rules that establish prioritization criteria for energy efficiency measures,
2762 the board may consider:

2763 (i) possible additional sources of revenue;

2764 (ii) the feasibility and practicality of the energy efficiency measures;

2765 (iii) the energy savings attributable to eligible energy efficiency measures;

2766 (iv) the annual energy savings;

2767 (v) the projected energy cost payback of eligible energy efficiency measures;

2768 (vi) other benefits to the state attributable to eligible energy efficiency measures;

2769 (vii) the availability of federal funds for the energy efficiency measures; and

2770 (viii) whether to require ~~[a state]~~ an agency to provide matching funds for the energy
2771 efficiency measures.

2772 ~~[(8)]~~ (6) (a) In reviewing energy efficiency measures for possible funding, the board
2773 shall:

2774 (i) review the loan application and the plans and specifications for the energy
2775 efficiency measures;

2776 (ii) determine whether to grant the loan by applying the loan eligibility criteria; and

2777 (iii) if the loan is granted, prioritize funding of the energy efficiency measures by
2778 applying the prioritization criteria.

2779 (b) The board may condition approval of a loan application and the availability of
2780 funds on assurances from the ~~[state]~~ agency that the board considers necessary to ensure that
2781 the ~~[state]~~ agency:

2782 (i) uses the proceeds to pay the cost of the energy efficiency measures; and

2783 (ii) implements the energy efficiency measures.

2784 ~~[(9)]~~ (7) The division shall annually report to the Government Operations Interim
2785 Committee of the Legislature the actual savings resulting from energy efficiency measures
2786 implemented using loan money from the fund, as monitored pursuant to rules adopted under

2787 Subsection ~~[(7)]~~ (5)(a)(ii).

2788 ~~[(10)]~~ (8) The ~~[State Building Energy Efficiency Program]~~ manager of the energy
2789 efficiency program shall provide staff support when the board performs the duties established
2790 in this section.

2791 Section 67. Section **63A-5b-1101** is enacted to read:

2792 **Part 11. Miscellaneous Provisions**

2793 **63A-5b-1101. Gifts, grants, and donations.**

2794 (1) (a) The state or the division may receive a gift, grant, or donation to further the
2795 purposes of this part.

2796 (b) A gift, grant, or donation described in Subsection (1)(a) may not revert to the
2797 General Fund.

2798 (2) (a) This Subsection (2) applies if:

2799 (i) a donor donates land to an institution of higher education and commits to construct
2800 a building or buildings on the land; and

2801 (ii) the institution of higher education:

2802 (A) agrees to provide funds for the operations and maintenance costs of the building or
2803 buildings from sources other than state funds; and

2804 (B) agrees that the building or buildings will not be eligible for state capital
2805 improvement funding.

2806 (b) Notwithstanding any other provision of this chapter, an institution of higher
2807 education that receives a donation described in Subsection (2)(a) may:

2808 (i) oversee and manage a construction project on the donated land without
2809 involvement, oversight, or management from the division; or

2810 (ii) arrange for oversight and management of the construction project by the division.

2811 (c) The role of compliance agency on a construction project on the donated land shall
2812 be provided by:

2813 (i) the institution of higher education, for a construction project that the institution of
2814 higher education oversees and manages under Subsection (2)(b)(ii); or

2815 (ii) the director, for a construction project that the division oversees and manages under
2816 Subsection (2)(b)(ii).

2817 Section 68. Section **63A-5b-1102**, which is renumbered from Section 63A-5-801 is

2818 renumbered and amended to read:

2819 ~~[63A-5-801].~~ 63A-5b-1102. **Memorials by the state or state agencies.**

2820 (1) As used in this section:

2821 (a) [~~"State~~] "Authorizing agency" means any of the following of the state that holds
2822 title to state land:

2823 (i) a department;

2824 (ii) a division;

2825 (iii) a board;

2826 (iv) an institution of higher education; or

2827 (v) for the judicial branch, the state court administrator.

2828 (b) [~~"State~~] "Authorizing agency" does not mean a local district under Title 17B,

2829 Limited Purpose Local Government Entities - Local Districts, or a special service district under

2830 Title 17D, Chapter 1, Special Service District Act.

2831 (2) The Legislature, the governor, or [~~a state~~] an authorizing agency may authorize the

2832 use or donation of state land for the purpose of maintaining, erecting, or contributing to the

2833 erection or maintenance of a memorial to commemorate those individuals who have:

2834 (a) participated in or have given their lives in any of the one or more wars or military
2835 conflicts in which the United States of America has been a participant; or

2836 (b) given their lives in association with public service on behalf of the state, including
2837 firefighters, peace officers, highway patrol officers, or other public servants.

2838 (3) The use or donation of state land in relation to a memorial described in Subsection
2839 (2) may include:

2840 (a) using or appropriating public funds for the purchase, development, improvement, or
2841 maintenance of state land on which a memorial is located or established;

2842 (b) using or appropriating public funds for the erection, improvement, or maintenance
2843 of a memorial;

2844 (c) donating or selling state land for use in relation to a memorial; or

2845 (d) authorizing the use of state land for a memorial that is funded or maintained in part
2846 or in full by another public or private entity.

2847 (4) The Legislature, the governor, or [~~a state~~] an authorizing agency may specify the

2848 form, placement, and design of a memorial that is subject to this section if the Legislature, the

2849 governor, or the [state] authorizing agency holds title to, has authority over, or donates the land
2850 on which a memorial is established.

2851 (5) [~~Memorials~~] A memorial within the definition of a capital development project, as
2852 defined in Section [~~63A-5-104 must~~] 63A-5b-401, is required to be approved as provided for in
2853 Section [~~63A-5-104~~] 63A-5b-402.

2854 (6) Nothing in this section [~~shall~~] may be construed as a prohibition of [~~memorials~~] a
2855 memorial, including [~~those for purposes~~] a memorial for a purpose not covered by this section,
2856 [~~which have been~~] that:

2857 (a) is erected within the approval requirements in effect at the time of [~~their~~] the
2858 memorial's erection; or

2859 (b) [~~which~~] may be duly authorized through other legal means.

2860 Section 69. Section **63A-5b-1103** is enacted to read:

2861 **63A-5b-1103. Making keys to buildings of state, political subdivisions, or colleges**
2862 **and universities without permission prohibited.**

2863 (1) As used in this section:

2864 (a) "Applicable government entity" means a state agency, a political subdivision of the
2865 state, the Board of Regents, or any college or university supported in whole or in part by the
2866 state.

2867 (b) "Government facility" means a building, laboratory, facility, room, dormitory, hall,
2868 or other structure owned, licensed as a licensee, leased as a tenant, or lawfully occupied by an
2869 applicable government entity.

2870 (2) An individual may not knowingly make or cause to be made any key or duplicate
2871 key for a government facility without the prior written consent of the applicable government
2872 entity.

2873 (3) A person who violates this section is guilty of a class B misdemeanor.

2874 Section 70. Section **63A-5b-1104** is enacted to read:

2875 **63A-5b-1104. Notification to local governments for construction or modification**
2876 **of certain facilities.**

2877 (1) (a) The director, the director's designee, or the state entity to which control has been
2878 delegated under Section 63A-5b-604, shall notify in writing the elected representatives of a
2879 local government entity directly and substantively affected by any diagnostic, treatment, parole,

2880 probation, or other secured facility project exceeding \$250,000, if:

2881 (i) the nature of the project has been significantly altered since an earlier notification;

2882 (ii) the project would significantly change the nature of the functions presently

2883 conducted at the location; or

2884 (iii) the project is new construction.

2885 (b) At the request of the state entity or the local government entity, representatives

2886 from the state entity and the affected local entity shall conduct or participate in a local public

2887 hearing or hearings to discuss the issues described in Subsection (1)(a).

2888 (2) (a) (i) Before beginning the construction of student housing on property owned by

2889 the state or an institution of higher education, the director shall provide written notice of the

2890 proposed construction, as provided in Subsection (2)(a)(ii), if any of the proposed student

2891 housing buildings are within 300 feet of privately owned residential property.

2892 (ii) Each notice under Subsection (2)(a)(i) shall be provided to the legislative body and,

2893 if applicable, the mayor of:

2894 (A) the county in whose unincorporated area the privately owned residential property is

2895 located; or

2896 (B) the municipality in whose boundary the privately owned residential property is

2897 located.

2898 (b) (i) Within 21 days after receiving the notice required by Subsection (2)(a)(i), a

2899 county or municipality entitled to the notice may submit a written request to the director for a

2900 public hearing on the proposed student housing construction.

2901 (ii) If a county or municipality requests a hearing under Subsection (2)(b)(i), the

2902 director and the county or municipality shall jointly hold a public hearing to provide

2903 information to the public and to allow the director and the county or municipality to receive

2904 input from the public about the proposed student housing construction.

2905 Section 71. Section **63A-5b-1105** is enacted to read:

2906 **63A-5b-1105. Testing and inspection firm requirements.**

2907 The director shall ensure that any person performing testing and inspection work

2908 governed by the American Society for Testing Materials Standard E-329 on a public building

2909 under the director's supervision:

2910 (1) fully complies with the American Society for Testing Materials standard

2911 specifications for an agency engaged in the testing and inspection of materials known as ASTM
2912 E-329; and

2913 (2) carries a minimum of \$1,000,000 of errors and omissions insurance.

2914 Section 72. Section **63A-5b-1106**, which is renumbered from Section 63A-5-222 is
2915 renumbered and amended to read:

2916 **[63A-5-222]. 63A-5b-1106. Critical land near state prison -- Definitions --**
2917 **Preservation as open land -- Management and use of land -- Restrictions on transfer --**
2918 **Wetlands development -- Conservation easement.**

2919 (1) For purposes of this section:

2920 (a) "Corrections" means the Department of Corrections created under Section [64-13-2](#).

2921 (b) "Critical land" means:

2922 (i) a parcel of approximately 250 acres of land owned by the division and located on
2923 the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake
2924 County, approximately the southern half of whose eastern boundary abuts the Denver and Rio
2925 Grande Western Railroad right-of-way; and

2926 (ii) any parcel acquired in a transaction authorized under Subsection (3)(c) as a
2927 replacement for a portion of the parcel described in Subsection (1)(b)(i) that is conveyed as part
2928 of the transaction.

2929 (c) (i) "Open land" means land that is:

2930 (A) preserved in or restored to a predominantly natural, open, and undeveloped
2931 condition; and

2932 (B) used for:

2933 (I) wildlife habitat;

2934 (II) cultural or recreational use;

2935 (III) watershed protection; or

2936 (IV) another use consistent with the preservation of the land in or restoration of the
2937 land to a predominantly natural, open, and undeveloped condition.

2938 (ii) (A) "Open land" does not include land whose predominant use is as a developed
2939 facility for active recreational activities, including baseball, tennis, soccer, golf, or other
2940 sporting or similar activity.

2941 (B) The condition of land does not change from a natural, open, and undeveloped

2942 condition because of the development or presence on the land of facilities, including trails,
2943 waterways, and grassy areas, that:

- 2944 (I) enhance the natural, scenic, or aesthetic qualities of the land; or
- 2945 (II) facilitate the public's access to or use of the land for the enjoyment of its natural,
2946 scenic, or aesthetic qualities and for compatible recreational activities.

2947 (2) (a) (i) The critical land shall be preserved in perpetuity as open land.

2948 (ii) The long-term ownership and management of the critical land should eventually be
2949 turned over to the Department of Natural Resources created under Section 79-2-201 or another
2950 agency or entity that is able to accomplish the purposes and intent of this section.

2951 (b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions
2952 should be taken on or with respect to the critical land, including:

2953 (i) the development and implementation of a program to eliminate noxious vegetation
2954 and restore and facilitate the return of natural vegetation on the critical land;

2955 (ii) the development of a system of trails through the critical land that is compatible
2956 with the preservation of the critical land as open land;

2957 (iii) the development and implementation of a program to restore the natural features of
2958 and improve the flows of the Jordan River as it crosses the critical land;

2959 (iv) the preservation of the archeological site discovered on the critical land and the
2960 development of an interpretive site in connection with the archeological discovery;

2961 (v) in restoring features on the critical land, the adoption of methods and plans that will
2962 enhance the critical land's function as a wildlife habitat;

2963 (vi) taking measures to reduce safety risks on the critical land; and

2964 (vii) the elimination or rehabilitation of a prison dump site on the critical land.

2965 (3) (a) Except as provided in Subsections (3)(b) and (c), no interest in the critical land
2966 may be sold, assigned, leased, or otherwise transferred unless measures are taken to ensure that
2967 the critical land that is transferred will be preserved as open land in perpetuity.

2968 (b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to
2969 resolve boundary disputes with adjacent property owners and easements may be granted for
2970 trails and other purposes consistent with Subsection (2)(b) and with the preservation of the
2971 critical land as open land.

2972 (c) The Department of Natural Resources may transfer title to a portion of the critical

2973 land described in Subsection (1)(b)(i) in exchange for a parcel of land if:

2974 (i) the parcel being acquired is:

2975 (A) open land; and

2976 (B) located within one mile of the portion of critical land being transferred; and

2977 (ii) the purpose of the exchange is to facilitate the development of a commuter rail
2978 transit station and associated transit oriented development.

2979 (4) The division shall use the funds remaining from the appropriation under Laws of
2980 Utah 1998, Chapter 399, for the purposes of:

2981 (a) determining the boundaries and legal description of the critical land;

2982 (b) determining the boundaries and legal description of the adjacent property owned by
2983 the division;

2984 (c) fencing the critical land and adjacent land owned by the division where appropriate
2985 and needed; and

2986 (d) assisting to carry out the intent of this section.

2987 (5) (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the
2988 critical land may develop or allow a public agency or private entity to develop more wetlands
2989 on the critical land than exist naturally or existed previously.

2990 (b) (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title
2991 may transfer jurisdiction of all or a portion of the critical land to a public agency or private
2992 entity to provide for the development and management of wetlands and designated wetland
2993 buffer areas.

2994 (ii) Before transferring jurisdiction of any part of the critical land under Subsection
2995 (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to
2996 obtain approval from the appropriate federal agency to allow mitigation credits in connection
2997 with the critical land to be used for impacts occurring anywhere along the Wasatch Front.

2998 (6) Notwithstanding any other provision of this section, corrections shall have access to
2999 the cooling pond located on the critical land as long as that access to and use of the cooling
3000 pond are not inconsistent with the preservation of the critical land as open land.

3001 (7) [~~The Department of~~] Corrections, the division, and all other state departments,
3002 divisions, or agencies shall cooperate together to carry out the intent of this section.

3003 (8) In order to ensure that the land referred to in this section is preserved as open land,

3004 the division shall, as soon as practicable, place the land under a perpetual conservation
3005 easement in favor of an independent party such as a reputable land conservation organization or
3006 a state or local government agency with experience in conservation easements.

3007 Section 73. Section **63A-5b-1107**, which is renumbered from Section 63A-5-225 is
3008 renumbered and amended to read:

3009 ~~[63A-5-225]~~. **63A-5b-1107. Development of new correctional facilities.**

3010 (1) As used in this section:

3011 (a) "Committee" means the Legislative Management Committee created in Section
3012 [36-12-6](#).

3013 (b) "New correctional facilities" means a new prison and related facilities to be
3014 constructed to replace the state prison located in Draper.

3015 (c) "Prison project" means all aspects of a project for the design and construction of
3016 new correctional facilities on the selected site, including:

3017 (i) the acquisition of land, interests in land, easements, or rights-of-way;

3018 (ii) site improvement; and

3019 (iii) the acquisition, construction, equipping, or furnishing of facilities, structures,
3020 infrastructure, roads, parking facilities, utilities, and improvements, whether on or off the
3021 selected site, that are necessary, incidental, or convenient to the development of new
3022 correctional facilities on the selected site.

3023 (d) "Selected site" means the site selected [~~under Subsection [63C-15-203\(2\)](#)~~] as the site
3024 for new correctional facilities.

3025 (2) In consultation with the committee, the division shall oversee the prison project, as
3026 provided in this section.

3027 (3) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this
3028 section, the division shall:

3029 (i) enter into contracts with persons providing professional and construction services
3030 for the prison project;

3031 (ii) provide reports to the committee regarding the prison project, as requested by the
3032 [~~commission~~] committee; and

3033 (iii) consider input from the committee on the prison project, subject to Subsection
3034 (3)(b).

3035 (b) The division may not consult with or receive input from the committee regarding:

3036 (i) the evaluation of proposals from persons seeking to provide professional and

3037 construction services for the prison project; or

3038 (ii) the selection of persons to provide professional and construction services for the

3039 prison project.

3040 (c) A contract with a project manager or person with a comparable position on the

3041 prison project shall include a provision that requires the project manager or other person to

3042 provide reports to the committee regarding the prison project, as requested by the committee.

3043 (4) All contracts associated with the design or construction of new correctional

3044 facilities shall be awarded and managed by the division in accordance with Title 63G, Chapter

3045 6a, Utah Procurement Code, and this section.

3046 (5) The division shall coordinate with the Department of Corrections, created in

3047 Section [64-13-2](#), and the State Commission on Criminal and Juvenile Justice, created in

3048 Section [63M-7-201](#), during the prison project to help ensure that the design and construction of

3049 new correctional facilities are conducive to and consistent with, and help to implement any

3050 reforms of or changes to, the state's corrections system and corrections programs.

3051 (6) (a) There is created within the General Fund a restricted account known as the

3052 "Prison Development Restricted Account."

3053 (b) The account created in Subsection (6)(a) is funded by legislative appropriations.

3054 (c) (i) The account shall earn interest or other earnings.

3055 (ii) The Division of Finance shall deposit interest or other earnings derived from the

3056 investment of account funds into the account.

3057 (d) Upon appropriation from the Legislature, money from the account shall be used to

3058 fund the Prison Project Fund created in Subsection (7).

3059 (7) (a) There is created a capital projects fund known as the "Prison Project Fund."

3060 (b) The fund consists of:

3061 (i) money appropriated to the fund by the Legislature; and

3062 (ii) proceeds from the issuance of bonds authorized in Section [63B-25-101](#) to provide

3063 funding for the prison project.

3064 (c) (i) The fund shall earn interest or other earnings.

3065 (ii) The Division of Finance shall deposit interest or other earnings derived from the

3066 investment of fund money into the fund.

3067 (d) Money in the fund shall be used by the division to fund the prison project.

3068 Section 74. Section **63B-1-304** is amended to read:

3069 **63B-1-304. State Building Ownership Authority created -- Members --**

3070 **Compensation -- Location in Department of Administrative Services.**

3071 (1) There is created a body politic and corporate to be known as the State Building
3072 Ownership Authority composed of:

3073 (a) the governor;

3074 (b) the state treasurer; and

3075 (c) the chair of the [~~State Building Board~~] state building board created under Section
3076 [~~63A-5-101~~] 63A-5b-201.

3077 (2) A member may not receive compensation or benefits for the member's service, but
3078 may receive per diem and travel expenses in accordance with:

3079 (a) Section 63A-3-106;

3080 (b) Section 63A-3-107; and

3081 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
3082 63A-3-107.

3083 (3) (a) Upon request, the division shall provide staff support to the State Building
3084 Ownership Authority.

3085 (b) The State Building Ownership Authority may seek and obtain independent financial
3086 advice, support, and information from the state financial advisor created under Section
3087 67-4-16.

3088 Section 75. Section **63B-2-301** is amended to read:

3089 **63B-2-301. Legislative intent -- Additional projects.**

3090 It is the intent of the Legislature that:

3091 (1) The Department of Employment Security use money in the special administrative
3092 fund to plan, design, and construct a Davis County facility under the supervision of the director
3093 of the Division of Facilities Construction and Management unless supervisory authority is
3094 delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604.

3095 (2) The University of Utah may use donated funds to plan, design, and construct the
3096 Nora Eccles Harrison addition under the supervision of the director of the Division of Facilities

3097 Construction and Management unless supervisory authority is delegated by him as authorized
3098 by Section [~~63A-5-206~~] [63A-5b-604](#).

3099 (3) The University of Utah may use hospital funds to plan, design, and construct the
3100 West Patient Services Building under the supervision of the director of the Division of
3101 Facilities Construction and Management unless supervisory authority is delegated by him as
3102 authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3103 (4) The University of Utah may use federal funds to plan, design, and construct the
3104 Computational Science Building under the supervision of the director of the Division of
3105 Facilities Construction and Management unless supervisory authority is delegated by him as
3106 authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3107 (5) The Board of Regents may issue revenue bonds to provide:

3108 (a) \$6,700,000 to plan, design, and construct single student housing at Utah State
3109 University under the supervision of the director of the Division of Facilities Construction and
3110 Management unless supervisory authority is delegated by him as authorized by Section
3111 [~~63A-5-206~~] [63A-5b-604](#); and

3112 (b) additional money necessary to:

3113 (i) pay costs incident to the issuance and sale of the bonds;

3114 (ii) pay interest on the bonds that accrues during construction and acquisition of the
3115 project and for up to one year after construction is completed; and

3116 (iii) fund any reserve requirements for the bonds.

3117 (6) Utah State University may use federal funds to plan, design, and construct the
3118 Natural Resources Lab addition under the supervision of the director of the Division of
3119 Facilities Construction and Management unless supervisory authority is delegated by him as
3120 authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3121 (7) Utah State University may use funds derived from property sales to plan, design,
3122 and construct emergency relocation facilities for the Farmington Botanical Gardens under the
3123 supervision of the director of the Division of Facilities Construction and Management unless
3124 supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3125 (8) Utah State University may use institutional funds to plan, design, and construct an
3126 institutional residence for the president under the supervision of the director of the Division of
3127 Facilities Construction and Management unless supervisory authority is delegated by him as

3128 authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3129 (9) Weber State University may use discretionary funds to construct a remodel and
3130 expansion of the stores building and mail service facilities under the supervision of the director
3131 of the Division of Facilities Construction and Management unless supervisory authority is
3132 delegated by him as authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3133 (10) Weber State University may use fees and auxiliary revenue to plan, design, and
3134 construct a remodel and expansion of the Shepherd Student Union Building under the
3135 supervision of the director of the Division of Facilities Construction and Management unless
3136 supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3137 (11) Southern Utah University may use donated funds to plan, design, and construct an
3138 alumni house under the supervision of the director of the Division of Facilities Construction
3139 and Management unless supervisory authority is delegated by him as authorized by Section
3140 [~~63A-5-206~~] [63A-5b-604](#).

3141 (12) Utah State University Eastern may use auxiliary revenues and other fees to:

3142 (a) make lease or other payments;

3143 (b) redeem revenue bonds or repay loans issued on behalf of the college; and

3144 (c) plan, design, and construct a 200 person residence hall under the supervision of the
3145 director of the Division of Facilities Construction and Management unless supervisory
3146 authority is delegated by him as authorized by Section [~~63A-5-206~~] [63A-5b-604](#).

3147 (13) The Sevier Valley Applied Technology Center may use private and Community
3148 Impact Board funds, if approved, to plan, design, and construct a performing arts/multi-use
3149 facility under the supervision of the director of the Division of Facilities Construction and
3150 Management unless supervisory authority is delegated by him as authorized by Section
3151 [~~63A-5-206~~] [63A-5b-604](#).

3152 (14) Ogden City and Weber County may have offices and related space for their
3153 attorneys included in the Ogden Courts building if the city and county are able to provide
3154 upfront funding to cover all costs associated with the design and construction of that space. In
3155 addition, the city and county shall cover their proportionate share of all operations and
3156 maintenance costs of their facility, including future major repairs to the building.

3157 (15) If the Legislature authorizes the Division of Facilities Construction and
3158 Management to enter into a lease purchase agreement for the Department of Human Services

3159 facility at 1385 South State Street in Salt Lake City or for the State Board of Education facility
3160 and adjacent space in Salt Lake City, or for both of those facilities, the State Building
3161 Ownership Authority, at the reasonable rates and amounts it may determine, and with technical
3162 assistance from the state treasurer, the director of the Division of Finance, and the executive
3163 director of the Governor's Office of Management and Budget, may seek out the most cost
3164 effective lease purchase plans available to the state and may, pursuant to Title 63B, Chapter 1,
3165 Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the
3166 authority pertaining to:

3167 (a) the lease purchase obligation; or

3168 (b) lease rental payments under the lease purchase obligation.

3169 (16) Salt Lake Community College may use donated funds to plan, design, and
3170 construct an amphitheater under the supervision of the director of the Division of Facilities
3171 Construction and Management unless supervisory authority is delegated by him as authorized
3172 by Section ~~[63A-5-206]~~ [63A-5b-604](#).

3173 (17) For the Tax Commission building, that:

3174 (a) All costs associated with the construction and furnishing of the Tax Commission
3175 building that are incurred before the issuance of the 1993 general obligation bonds be
3176 reimbursed by bond proceeds.

3177 (b) The maximum amount of cost that may be reimbursed from the 1993 general
3178 obligation bond proceeds for the Tax Commission building and furnishings may not exceed
3179 \$14,230,000.

3180 (c) This intent statement for Subsection (17) constitutes a declaration of official intent
3181 under Section 1.103-18 of the U.S. Treasury Regulations.

3182 Section 76. Section **63B-4-201** is amended to read:

3183 **63B-4-201. Legislative intent statements -- Capital facilities.**

3184 (1) (a) It is the intent of the Legislature that the University of Utah use institutional and
3185 other funds to plan, design, and construct two campus child care centers under the supervision
3186 of the director of the Division of Facilities Construction and Management unless supervisory
3187 authority is delegated by the director.

3188 (b) The university shall work with Salt Lake City and the surrounding neighborhood to
3189 ensure site compatibility for future recreational development by the city.

3190 (2) It is the intent of the Legislature that the University of Utah use institutional funds
3191 to plan, design, and construct:

3192 (a) the Union Parking structure under the supervision of the director of the Division of
3193 Facilities Construction and Management unless supervisory authority is delegated by the
3194 director;

3195 (b) the stadium renovation under the supervision of the director of the Division of
3196 Facilities Construction and Management unless supervisory authority is delegated by the
3197 director;

3198 (c) the Huntsman Cancer Institute under the supervision of the director of the Division
3199 of Facilities Construction and Management unless supervisory authority is delegated by the
3200 director;

3201 (d) the Business Case Method Building under the supervision of the director of the
3202 Division of Facilities Construction and Management unless supervisory authority is delegated
3203 by the director; and

3204 (e) the Fine Arts Museum expansion under the supervision of the director of the
3205 Division of Facilities Construction and Management unless supervisory authority is delegated
3206 by the director.

3207 (3) It is the intent of the Legislature that Utah State University use institutional funds to
3208 plan, design, and construct:

3209 (a) a student health services facility under the supervision of the director of the
3210 Division of Facilities Construction and Management unless supervisory authority is delegated
3211 by the director;

3212 (b) a women's softball field under the supervision of the director of the Division of
3213 Facilities Construction and Management unless supervisory authority is delegated by the
3214 director;

3215 (c) an addition to the Nutrition and Food Services Building under the supervision of
3216 the director of the Division of Facilities Construction and Management unless supervisory
3217 authority is delegated by the director; and

3218 (d) a Human Resource Research Center under the supervision of the director of the
3219 Division of Facilities Construction and Management unless supervisory authority is delegated
3220 by the director.

3221 (4) It is the intent of the Legislature that Weber State University use institutional funds
3222 to plan, design, and construct:

3223 (a) a track renovation under the supervision of the director of the Division of Facilities
3224 Construction and Management unless supervisory authority is delegated by the director; and

3225 (b) the Dee Events Center offices under the supervision of the director of the Division
3226 of Facilities Construction and Management unless supervisory authority is delegated by the
3227 director.

3228 (5) It is the intent of the Legislature that Southern Utah University use:

3229 (a) institutional funds to plan, design, and construct an institutional residence under the
3230 supervision of the director of the Division of Facilities Construction and Management unless
3231 supervisory authority is delegated by the director; and

3232 (b) project revenues and other funds to plan, design, and construct the Shakespearean
3233 Festival support facilities under the supervision of the director of the Division of Facilities
3234 Construction and Management unless supervisory authority is delegated by the director.

3235 (6) It is the intent of the Legislature that Dixie College use institutional funds to plan,
3236 design, and construct an institutional residence under the supervision of the director of the
3237 Division of Facilities Construction and Management unless supervisory authority is delegated
3238 by the director.

3239 (7) It is the intent of the Legislature that the Division of Forestry, Fire, and State Lands
3240 use federal and other funds to plan, design, and construct a wetlands enhancement facility
3241 under the supervision of the director of the Division of Facilities Construction and
3242 Management unless supervisory authority is delegated by the director.

3243 (8) (a) As provided in Subsection [~~63A-5-209(2)~~] [63A-5b-609\(2\)](#), the funds
3244 appropriated to the Project Reserve Fund may only be used for the award of contracts in excess
3245 of the construction budget if these funds are required to meet the intent of the project.

3246 (b) It is the intent of the Legislature that:

3247 (i) up to \$2,000,000 of the amount may be used to award the construction contract for
3248 the Ogden Court Building; and

3249 (ii) the need for any funds remaining as of December 31, 1995 be reviewed by the 1996
3250 Legislature.

3251 (9) (a) It is the intent of the Legislature that the State Building Ownership Authority,

3252 under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue
3253 or execute obligations or enter into or arrange for a lease purchase agreement in which
3254 participation interests may be created to provide up to \$539,700 for the purchase and
3255 demolition of the Keyston property and construction of parking facilities adjacent to the State
3256 Board of Education building in Salt Lake City, with additional amounts necessary to:

- 3257 (i) pay costs of issuance;
- 3258 (ii) pay capitalized interest; and
- 3259 (iii) fund any debt service reserve requirements.

3260 (b) It is the intent of the Legislature that the authority seek out the most cost effective
3261 and prudent lease purchase plan available with technical assistance from the state treasurer, the
3262 director of the Division of Finance, and the executive director of the Governor's Office of
3263 Management and Budget.

3264 (10) (a) It is the intent of the Legislature that the money appropriated for Phase One of
3265 the Remodeling/Life Safety Upgrades of the Browning Fine Arts Center at Weber State
3266 University is to include design of full code compliance, life safety, space necessary to maintain
3267 required programs, and seismic upgrades.

3268 (b) The design shall identify the full scope and cost of Phase Two of the remodeling for
3269 funding consideration in the fiscal year 1997 budget cycle.

3270 (11) It is the intent of the Legislature that:

3271 (a) the fiscal year 1996 appropriation for the Davis County Higher Education land
3272 purchase includes up to \$250,000 for planning purposes;

3273 (b) the Division of Facilities Construction and Management, the Board of Regents, and
3274 the assigned institution of higher education work jointly to ensure the following elements are
3275 part of the planning process:

- 3276 (i) projections of student enrollment and programmatic needs for the next 10 years;
- 3277 (ii) review and make recommendations for better use of existing space, current
3278 technologies, public/private partnerships, and other alternatives as a means to reduce the need
3279 for new facilities and still accommodate the projected student needs; and

3280 (iii) use of a master plan that includes issues of utilities, access, traffic circulation,
3281 drainage, rights of way, future developments, and other infrastructure items considered
3282 appropriate; and

3283 (c) every effort is used to minimize expenditures for this part until a definitive decision
3284 has been made by BRACC relative to Hill Air Force Base.

3285 (12) (a) It is the intent of the Legislature that the State Building Ownership Authority,
3286 under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue
3287 or execute obligations or enter into or arrange for a lease purchase agreement in which
3288 participation interests may be created, to provide up to \$7,400,000 for the acquisition and
3289 improvement of the Human Services Building located at 120 North 200 West, Salt Lake City,
3290 Utah, with associated parking for the Department of Human Services together with additional
3291 amounts necessary to:

- 3292 (i) pay costs of issuance;
3293 (ii) pay capitalized interest; and
3294 (iii) fund any debt service reserve requirements.

3295 (b) It is the intent of the Legislature that the authority seek out the most cost effective
3296 and prudent lease purchase plan available with technical assistance from the state treasurer, the
3297 director of the Division of Finance, and the executive director of the Governor's Office of
3298 Management and Budget.

3299 (13) (a) It is the intent of the Legislature that the State Building Ownership Authority,
3300 under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue
3301 or execute obligations or enter into or arrange for a lease purchase agreement in which
3302 participation interests may be created to provide up to \$63,218,600 for the construction of a
3303 Salt Lake Courts Complex together with additional amounts necessary to:

- 3304 (i) pay costs of issuance;
3305 (ii) pay capitalized interest; and
3306 (iii) fund any debt service reserve requirements.

3307 (b) It is the intent of the Legislature that the authority seek out the most cost effective
3308 and prudent lease purchase plan available with technical assistance from the state treasurer, the
3309 director of the Division of Finance, and the executive director of the Governor's Office of
3310 Management and Budget.

3311 (c) It is the intent of the Legislature that the Division of Facilities Construction and
3312 Management lease land to the State Building Ownership Authority for the construction of a
3313 Salt Lake Courts Complex.

3314 (14) It is the intent of the Legislature that:

3315 (a) the Board of Regents use the higher education design project money to design no
3316 more than two higher education projects from among the following projects:

3317 (i) Utah State University Eastern - Student Center;

3318 (ii) Snow College - Noyes Building;

3319 (iii) University of Utah - Gardner Hall;

3320 (iv) Utah State University - Widtsoe Hall; or

3321 (v) Southern Utah University - Physical Education Building; and

3322 (b) the higher education institutions that receive approval from the Board of Regents to
3323 design projects under this chapter design those projects under the supervision of the director of
3324 the Division of Facilities Construction and Management unless supervisory authority is
3325 delegated by the director.

3326 (15) It is the intent of the Legislature that:

3327 (a) the Board of Regents may authorize the University of Utah to use institutional
3328 funds and donated funds to design Gardner Hall; and

3329 (b) if authorized by the Board of Regents, the University of Utah may use institutional
3330 funds and donated funds to design Gardner Hall under the supervision of the director of the
3331 Division of Facilities Construction and Management unless supervisory authority is delegated
3332 by the director.

3333 (16) It is the intent of the Legislature that the Division of Facilities Construction and
3334 Management use up to \$250,000 of the capital improvement money to fund the site
3335 improvements required at the San Juan campus of the Utah State University Eastern.

3336 Section 77. Section **63B-9-103** is amended to read:

3337 **63B-9-103. Other capital facility authorizations and intent language.**

3338 (1) It is the intent of the Legislature that:

3339 (a) Utah State University use institutional funds to plan, design, and construct a
3340 renovation and expansion of the Edith Bowen School under the direction of the director of the
3341 Division of Facilities Construction and Management unless supervisory authority has been
3342 delegated;

3343 (b) no state funds be used for any portion of this project; and

3344 (c) the university may request state funds for operations and maintenance to the extent

3345 that the university is able to demonstrate to the Board of Regents that the facility meets
3346 approved academic and training purposes under Board of Regents policy R710.

3347 (2) It is the intent of the Legislature that:

3348 (a) the University of Utah use institutional funds to plan, design, and construct a
3349 College of Science Math Center under the direction of the director of the Division of Facilities
3350 Construction and Management unless supervisory authority has been delegated;

3351 (b) no state funds be used for any portion of this project; and

3352 (c) the university may request state funds for operations and maintenance to the extent
3353 that the university is able to demonstrate to the Board of Regents that the facility meets
3354 approved academic and training purposes under Board of Regents policy R710.

3355 (3) It is the intent of the Legislature that:

3356 (a) the University of Utah use institutional funds to plan, design, and construct a
3357 Burbidge Athletics and Academics Building under the direction of the director of the Division
3358 of Facilities Construction and Management unless supervisory authority has been delegated;

3359 (b) no state funds be used for any portion of this project; and

3360 (c) the university may not request state funds for operations and maintenance.

3361 (4) It is the intent of the Legislature that:

3362 (a) the University of Utah use institutional funds to plan, design, and construct an
3363 expansion to the bookstore under the direction of the director of the Division of Facilities
3364 Construction and Management unless supervisory authority has been delegated;

3365 (b) no state funds be used for any portion of this project; and

3366 (c) the university may not request state funds for operations and maintenance.

3367 (5) It is the intent of the Legislature that:

3368 (a) the University of Utah use institutional funds to plan, design, and construct a Health
3369 Sciences/Basic Sciences Building under the direction of the director of the Division of
3370 Facilities Construction and Management unless supervisory authority has been delegated;

3371 (b) no state funds be used for any portion of this project; and

3372 (c) the university may request state funds for operations and maintenance to the extent
3373 that the university is able to demonstrate to the Board of Regents that the facility meets
3374 approved academic and training purposes under Board of Regents policy R710.

3375 (6) It is the intent of the Legislature that:

3376 (a) Weber State University use institutional funds to plan, design, and construct an
3377 expansion to the stadium under the direction of the director of the Division of Facilities
3378 Construction and Management unless supervisory authority has been delegated;

3379 (b) no state funds be used for any portion of this project; and

3380 (c) the university may not request state funds for operations and maintenance.

3381 (7) It is the intent of the Legislature that:

3382 (a) Utah Valley State College use institutional funds to plan, design, and construct a
3383 baseball stadium under the direction of the director of the Division of Facilities Construction
3384 and Management unless supervisory authority has been delegated;

3385 (b) no state funds be used for any portion of this project; and

3386 (c) the college may not request state funds for operations and maintenance.

3387 (8) It is the intent of the Legislature that:

3388 (a) Southern Utah University use institutional funds to plan, design, and construct a
3389 weight training room under the direction of the director of the Division of Facilities
3390 Construction and Management unless supervisory authority has been delegated;

3391 (b) no state funds be used for any portion of this project; and

3392 (c) the university may not request state funds for operations and maintenance.

3393 (9) It is the intent of the Legislature that:

3394 (a) Snow College may lease land at the Snow College Richfield campus to a private
3395 developer for the construction and operation of student housing;

3396 (b) the oversight and inspection of the construction comply with Section [[63A-5-206](#)]
3397 [63A-5b-604](#);

3398 (c) no state funds be used for any portion of this project; and

3399 (d) the college may not request state funds for operations and maintenance.

3400 (10) It is the intent of the Legislature that:

3401 (a) Salt Lake Community College may lease land at the Jordan campus to Jordan
3402 School District for the construction and operation of an Applied Technology Education Center;

3403 (b) the oversight and inspection of the construction comply with Section [[63A-5-206](#)]
3404 [63A-5b-604](#);

3405 (c) no state funds be used for any portion of this project; and

3406 (d) the college may not request state funds for operations and maintenance.

3407 (11) It is the intent of the Legislature that:

3408 (a) the Department of Transportation exchange its maintenance station at Kimball
3409 Junction for property located near Highway 40 in Summit County; and

3410 (b) the Department of Transportation use federal funds, rent paid by the Salt Lake
3411 Organizing Committee for the use of the maintenance station, and any net proceeds resulting
3412 from the exchange of property to construct a replacement facility under the direction of the
3413 director of the Division of Facilities Construction and Management unless supervisory
3414 authority has been delegated.

3415 (12) It is the intent of the Legislature that:

3416 (a) the Department of Transportation sell surplus property in Utah County;

3417 (b) the Department of Transportation use funds from that sale to remodel existing
3418 space and add an addition to the Region 3 Complex; and

3419 (c) the project cost not exceed the funds received through sale of property.

3420 (13) It is the intent of the Legislature that the Department of Workforce Services use
3421 proceeds from property sales to purchase additional property adjacent to its state-owned facility
3422 in Logan.

3423 (14) (a) It is the intent of the Legislature that, because only partial funding is provided
3424 for the Heat Plant/Infrastructure Project at Utah State University, the balance necessary to
3425 complete this project be addressed by future Legislatures, either through appropriations or
3426 through the issuance of bonds.

3427 (b) (i) In compliance with Section [~~63A-5-207~~] [63A-5b-608](#), the division may enter
3428 into contracts for amounts not to exceed the anticipated full project funding but may not allow
3429 work to be performed on those contracts in excess of the funding already authorized by the
3430 Legislature.

3431 (ii) Those contracts shall contain a provision for termination of the contract for the
3432 convenience of the state.

3433 (c) It is also the intent of the Legislature that this authorization to the division does not
3434 bind future Legislatures to fund the Heat Plant/Infrastructure Project at Utah State University.

3435 Section 78. Section **63B-16-201** is amended to read:

3436 **63B-16-201. Revenue bond authorizations -- State Building Ownership**
3437 **Authority.**

3438 (1) It is the intent of the Legislature that:

3439 (a) the State Building Ownership Authority, under the authority of Title 63B, Chapter
3440 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
3441 into or arrange for a lease-purchase agreement in which participation interests may be created,
3442 to provide up to \$5,662,000 for the acquisition and construction of three stores for the
3443 Department of Alcoholic Beverage Control, together with additional amounts necessary to pay
3444 costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

3445 (b) the stores to be addressed through this authorization are:

- 3446 (i) expansion of the North Temple store in Salt Lake County;
- 3447 (ii) expansion of the Taylorsville store in Salt Lake County; and
- 3448 (iii) reconstruction of the Bountiful store in Davis County;

3449 (c) increased sales revenues be used as the primary revenue source for repayment of
3450 any obligation created under authority of this section; and

3451 (d) the Department of Alcoholic Beverage Control may request operation and
3452 maintenance funding from sales revenues.

3453 (2) 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 \$1,476,000 for the acquisition and construction of a production warehouse for
3458 Utah Correctional Industries, together with additional amounts necessary to pay costs of
3459 issuance, pay capitalized interest, and fund any debt service reserve requirements;

3460 (b) Utah Correctional Industries' revenues be used as the primary revenue source for
3461 repayment of any obligation created under authority of this section;

3462 (c) Utah Correctional Industries may plan, design, and construct the production
3463 warehouse subject to requirements in Section [\[63A-5-206\]](#) [63A-5b-604](#); and

3464 (d) Utah Correctional Industries may not request state funds for operation and
3465 maintenance costs or capital improvements.

3466 Section 79. Section **63B-16-202** is amended to read:

3467 **63B-16-202. Revenue bond authorizations -- Board of Regents.**

3468 (1) It is the intent of the Legislature that:

3469 (a) when the University of Utah certifies to the Board of Regents that the university has
3470 obtained reliable commitments, convertible to cash, of \$10,000,000 or more in nonstate funds
3471 to construct an on-campus student life center, the Board of Regents, on behalf of the University
3472 of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the
3473 University of Utah to borrow money on the credit, revenues, and reserves of the University of
3474 Utah, other than appropriations from the Legislature, to finance the cost of constructing an
3475 on-campus student life center;

3476 (b) student recreation fees and non-student fees be used as the primary revenue source
3477 for repayment of any obligation created under authority of this section;

3478 (c) the University of Utah may increase student recreation fees to not more than \$60
3479 per semester for not more than 20 years, and use those revenues, together with the \$15,000,000
3480 collected under Subsection (1)(a), to service the student life center revenue bond debt;

3481 (d) the bonds or other evidences of indebtedness authorized by this section may
3482 provide up to \$42,500,000, together with other amounts necessary to pay costs of issuance, pay
3483 capitalized interest, and fund any debt service reserve requirements;

3484 (e) the University of Utah may plan, design, and construct the on-campus student life
3485 center subject to requirements in Section [~~63A-5-206~~] [63A-5b-604](#); and

3486 (f) the university may not request state funds for operation and maintenance costs or
3487 capital improvements.

3488 (2) It is the intent of the Legislature that:

3489 (a) the Board of Regents, on behalf of Southern Utah University, may issue, sell, and
3490 deliver revenue bonds or other evidences of indebtedness of Southern Utah University to
3491 borrow money on the credit, revenues, and reserves of Southern Utah University, other than
3492 appropriations of the Legislature, to finance the cost of constructing on-campus student
3493 dormitories;

3494 (b) student housing rental fees be used as the primary revenue source for repayment of
3495 any obligation created under authority of this section;

3496 (c) the bonds or other evidences of indebtedness authorized by this section may provide
3497 up to \$17,500,000, together with other amounts necessary to pay costs of issuance, pay
3498 capitalized interest, and fund any debt service reserve requirements;

3499 (d) Southern Utah University may plan, design, and construct the on-campus student

3500 dormitories subject to requirements in Section [\[63A-5-206\]](#) [63A-5b-604](#); and

3501 (e) the university may not request state funds for operation and maintenance costs or
3502 capital improvements.

3503 Section 80. Section **63B-16-301** is amended to read:

3504 **63B-16-301. Authorizations to construct capital facilities using institutional or**
3505 **agency funds.**

3506 (1) It is the intent of the Legislature that:

3507 (a) Utah State University may, subject to requirements in Section [\[63A-5-206\]](#)
3508 [63A-5b-604](#), plan, design, and construct a classroom building funded and owned by Tooele
3509 County on the university's Tooele campus;

3510 (b) no state funds be used for any portion of this project, including for future purchase
3511 or otherwise acquiring the building from Tooele County;

3512 (c) the university may not request state funds for operation and maintenance costs or
3513 capital improvements while the building is not owned by the university; and

3514 (d) the university may request state funds for operations and maintenance costs and
3515 capital improvements if the building is donated to the university and if the university is able to
3516 demonstrate to the Board of Regents that the facility meets approved academic and training
3517 purposes under Board of Regents policy R710.

3518 (2) It is the intent of the Legislature that:

3519 (a) Weber State University may, subject to requirements in Section [\[63A-5-206\]](#)
3520 [63A-5b-604](#), use donations and other institutional funds to plan, design, and construct a
3521 Lifelong Learning Center;

3522 (b) no state funds be used for any portion of this project; and

3523 (c) the university may request state funds for operations and maintenance costs and
3524 capital improvements to the extent that the university is able to demonstrate to the Board of
3525 Regents that the facility meets approved academic and training purposes under Board of
3526 Regents policy R710.

3527 (3) It is the intent of the Legislature that:

3528 (a) Salt Lake Community College may, subject to requirements in Section [\[63A-5-206\]](#)
3529 [63A-5b-604](#), use institutional funds to plan, design, and construct a Facilities/Security/Parking
3530 Services Building;

3531 (b) no state funds be used for any portion of this project; and
3532 (c) the college may request state funds for operations and maintenance costs and capital
3533 improvements to the extent that the college is able to demonstrate to the Board of Regents that
3534 the facility meets approved academic and training purposes under Board of Regents policy
3535 R710.

3536 Section 81. Section **63B-17-201** is amended to read:

3537 **63B-17-201. Revenue bond authorizations -- State Building Ownership**

3538 **Authority.**

3539 (1) The Legislature intends that:

3540 (a) the State Building Ownership Authority, under the authority of Title 63B, Chapter
3541 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
3542 into or arrange for a lease purchase agreement in which participation interests may be created,
3543 to provide up to \$90,000,000 for the acquisition and construction of phase II-B of a cancer
3544 clinical research hospital facility adjacent to the University of Utah Medical Center, together
3545 with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund
3546 any debt service reserve requirements;

3547 (b) the University of Utah use institutional funds as the primary revenue source for
3548 repayment of any obligation created under authority of this section;

3549 (c) the university may plan, design, and construct phase II-B of a cancer clinical
3550 research hospital facility subject to the requirements of Section [~~63A-5-206~~] [63A-5b-604](#); and

3551 (d) the university may not request state funds for operation and maintenance costs or
3552 capital improvements.

3553 (2) The Legislature intends that:

3554 (a) the State Building Ownership Authority, under the authority of Title 63B, Chapter
3555 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
3556 into or arrange for a lease-purchase agreement in which participation interests may be created,
3557 to provide up to \$23,700,000 for the acquisition and construction of five stores for the
3558 Department of Alcoholic Beverage Control, together with additional amounts necessary to pay
3559 costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

3560 (b) the stores to be addressed through this authorization are:

3561 (i) the replacement of a liquor store in Cedar City;

- 3562 (ii) a new Utah County North liquor store;
- 3563 (iii) a new Utah County South liquor store;
- 3564 (iv) a new Washington County South liquor store; and
- 3565 (v) a new Wasatch County Heber/Midway liquor store;
- 3566 (c) the Department of Alcoholic Beverage Control use increased sales revenues as the
- 3567 primary revenue source for repayment of any obligation created under authority of this section;
- 3568 and
- 3569 (d) the Department of Alcoholic Beverage Control may request operation and
- 3570 maintenance funding from sales revenues.

3571 Section 82. Section **63B-17-202** is amended to read:

3572 **63B-17-202. Revenue bond authorizations -- Board of Regents.**

3573 (1) The Legislature intends that:

3574 (a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and

3575 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow

3576 money on the credit, revenues, and reserves of the university, other than appropriations of the

3577 Legislature, to finance the cost of constructing a northwest campus parking structure;

3578 (b) the University of Utah use parking fees and donations as the primary revenue

3579 source for repayment of any obligation created under authority of this section;

3580 (c) the maximum amount of revenue bonds or other evidences of indebtedness

3581 authorized by this section is \$21,280,000, together with other amounts necessary to pay costs

3582 of issuance, pay capitalized interest, and fund any debt service reserve requirements;

3583 (d) the university may plan, design, and construct the northwest campus parking

3584 structure subject to the requirements of Section [~~63A-5-206~~] [63A-5b-604](#); and

3585 (e) the university may not request state funds for operation and maintenance costs or

3586 capital improvements.

3587 (2) The Legislature intends that:

3588 (a) the Board of Regents, on behalf of Utah State University, may issue, sell, and

3589 deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow

3590 money on the credit, revenues, and reserves of the university, other than appropriations of the

3591 Legislature, to finance the cost of constructing an early childhood education research center;

3592 (b) Utah State University use institutional funds as the primary revenue source for

3593 repayment of any obligation created under authority of this section;

3594 (c) the maximum amount of revenue bonds or other evidences of indebtedness
3595 authorized by this section is \$15,828,000, together with other amounts necessary to pay costs
3596 of issuance, pay capitalized interest, and fund any debt service reserve requirements;

3597 (d) the university may plan, design, and construct the early childhood education
3598 research center subject to the requirements of Section [[63A-5-206](#)] [63A-5b-604](#); and

3599 (e) the university may request state funds for operation and maintenance costs and
3600 capital improvements to the extent that the university is able to demonstrate to the Board of
3601 Regents that the facility meets approved academic and training purposes under Board of
3602 Regents policy R710.

3603 (3) It is the intent of the Legislature that:

3604 (a) the Board of Regents, on behalf of Southern Utah University, may issue, sell, and
3605 deliver revenue bonds or other evidences of indebtedness of Southern Utah University to
3606 borrow money on the credit, revenues, and reserves of the university, other than appropriations
3607 of the Legislature, to finance the cost of constructing a Shakespearean theater;

3608 (b) Southern Utah University institutional funds be used as the primary revenue source
3609 for repayment of any obligation created under authority of this section;

3610 (c) the bonds or other evidences of indebtedness authorized by this section may provide
3611 up to \$5,000,000, together with other amounts necessary to pay costs of issuance, pay
3612 capitalized interest, and fund any debt service reserve requirements;

3613 (d) the university may plan, design, and construct the theater subject to the
3614 requirements of Section [[63A-5-206](#)] [63A-5b-604](#); and

3615 (e) the university may request state funds for operation and maintenance costs and
3616 capital improvements to the extent that the university is able to demonstrate to the Board of
3617 Regents that the facility meets approved academic and training purposes under Board of
3618 Regents policy R710.

3619 Section 83. Section **63B-17-301** is amended to read:

3620 **63B-17-301. Authorizations to construct capital facilities using institutional or**
3621 **agency funds.**

3622 (1) The Legislature intends that:

3623 (a) the University of Utah may, subject to requirements in Section [[63A-5-206](#)]

3624 [63A-5b-604](#), use clinical fees and donations to plan, design, and construct a neuropsychiatric
3625 institute expansion;

3626 (b) no state funds be used for any portion of this project; and

3627 (c) the university may not request state funds for operation and maintenance costs or
3628 capital improvements.

3629 (2) The Legislature intends that:

3630 (a) the University of Utah may, subject to the requirements of Section [[63A-5-206](#)]

3631 [63A-5b-604](#), use donations to plan, design, and construct an arboretum visitor center addition;

3632 (b) no state funds be used for any portion of this project; and

3633 (c) the university may request state funds for operation and maintenance costs and
3634 capital improvements to the extent that the university is able to demonstrate to the Board of
3635 Regents that the facility meets approved academic and training purposes under Board of
3636 Regents policy R710.

3637 (3) The Legislature intends that:

3638 (a) Utah State University may, subject to the requirements of Section [[63A-5-206](#)]

3639 [63A-5b-604](#), use donations to plan, design, and construct a business building addition;

3640 (b) no state funds be used for any portion of this project; and

3641 (c) the university may request state funds for operation and maintenance costs and
3642 capital improvements to the extent that the university is able to demonstrate to the Board of
3643 Regents that the facility meets approved academic and training purposes under Board of
3644 Regents policy R710.

3645 (4) The Legislature intends that:

3646 (a) Utah State University may, subject to the requirements of Section [[63A-5-206](#)]

3647 [63A-5b-604](#), use donations to plan, design, and construct a Vernal entrepreneurship and energy
3648 research center;

3649 (b) no state funds be used for any portion of this project; and

3650 (c) the university may request state funds for operation and maintenance costs and
3651 capital improvements to the extent that the university is able to demonstrate to the Board of
3652 Regents that the facility meets approved academic and training purposes under Board of
3653 Regents policy R710.

3654 (5) The Legislature intends that:

3655 (a) Utah State University may, subject to the requirements of Section [~~63A-5-206~~]
3656 ~~63A-5b-604~~, use research grants and other institutional funds to plan, design, and construct a
3657 hydraulics laboratory addition to the water laboratory;

3658 (b) no state funds be used for any portion of this project; and

3659 (c) the university may not request state funds for operation and maintenance costs or
3660 capital improvements.

3661 (6) The Legislature intends that:

3662 (a) Utah State University may, subject to the requirements of Section [~~63A-5-206~~]
3663 ~~63A-5b-604~~, use insurance claim funds and other institutional funds to plan, design, and
3664 construct a structures laboratory enclosure;

3665 (b) no state funds be used for any portion of this project; and

3666 (c) the university may not request state funds for operation and maintenance costs or
3667 capital improvements.

3668 (7) The Legislature intends that:

3669 (a) Utah Valley University may, subject to the requirements of Section [~~63A-5-206~~]
3670 ~~63A-5b-604~~, use donations to plan, design, and construct a children's theater;

3671 (b) no state funds be used for any portion of this project; and

3672 (c) the university may request state funds for operation and maintenance costs and
3673 capital improvements to the extent that the university is able to demonstrate to the Board of
3674 Regents that the facility meets approved academic and training purposes under Board of
3675 Regents policy R710.

3676 (8) The Legislature intends that:

3677 (a) Southern Utah University may, subject to the requirements of Section [~~63A-5-206~~]
3678 ~~63A-5b-604~~, use donations to plan and design a science center addition;

3679 (b) this authorization and the existence of plans and designs do not guarantee nor
3680 improve the chances for legislative approval of the remainder of the building in any subsequent
3681 year; and

3682 (c) no state funds be used for any portion of this planning and design.

3683 Section 84. Section **63B-23-101** is amended to read:

3684 **63B-23-101. Revenue bond authorizations -- Board of Regents.**

3685 (1) The Legislature intends that:

3686 (a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and
3687 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
3688 money on the credit, revenues, and reserves of the university, other than appropriations of the
3689 Legislature, to finance the cost of constructing the Lasonde Living Center;

3690 (b) the University of Utah use student fees and rents as the primary revenue sources for
3691 repayment of any obligation created under authority of this Subsection (1);

3692 (c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
3693 this Subsection (1) is \$45,238,000, together with other amounts necessary to pay costs of
3694 issuance, pay capitalized interest, and fund any debt service reserve requirements;

3695 (d) the university shall plan, design, and construct the Lasonde Living Center subject
3696 to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities
3697 Construction and Management; and

3698 (e) the university may not request state funds for operation and maintenance costs or
3699 capital improvements.

3700 (2) 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, except as provided in Subsection
3704 (2)(f), other than appropriations of the Legislature, to finance the cost of replacing the
3705 University of Utah's utility distribution infrastructure;

3706 (b) the University of Utah impose a power bill surcharge as the primary revenue source
3707 for the repayment of any obligation created under authority of this Subsection (2);

3708 (c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
3709 this Subsection (2) is \$32,000,000 together with other amounts necessary to pay costs of
3710 issuance, pay capitalized interest, and fund any debt service reserve requirements;

3711 (d) the revenue bonds or evidences of indebtedness authorized by this Subsection (2)
3712 may not mature later than 10 years after the date of issuance;

3713 (e) the university shall plan, design, and construct the University of Utah's replacement
3714 utility distribution infrastructure subject to the requirements of Title 63A, Chapter 5, State
3715 Building Board - Division of Facilities Construction and Management; and

3716 (f) until July 1, 2024, the Division of Facilities Construction and Management annually

3717 allocate up to \$1,500,000 of the capital improvement funding allocation given to the University
3718 of Utah under Section [~~63A-5-228~~] [63A-5b-405](#) to be used to pay the debt service on the bonds
3719 authorized under this Subsection (2).

3720 Section 85. Section **63B-25-101** is amended to read:

3721 **63B-25-101. General obligation bonds for prison project -- Maximum amount --**
3722 **Use of proceeds.**

3723 (1) As used in this section:

3724 (a) "Prison project" means the same as that term is defined in Section [~~63A-5-225~~]

3725 [63A-5b-1107](#).

3726 (b) "Prison project fund" means the capital projects fund created in Subsection

3727 [~~63A-5-225(7)~~] [63A-5b-1107\(7\)](#).

3728 (2) The commission may issue general obligation bonds as provided in this section.

3729 (3) (a) The total amount of bonds to be issued under this section may not exceed
3730 \$570,000,000 for acquisition and construction proceeds, plus additional amounts necessary to
3731 pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve
3732 requirements, with the total amount of the bonds not to exceed \$575,700,000.

3733 (b) The maturity of bonds issued under this section may not exceed 10 years.

3734 (4) The commission shall ensure that proceeds from the issuance of bonds under this
3735 section are deposited into the Prison Project Fund for use by the division to pay all or part of
3736 the cost of the prison project, including:

3737 (a) interest estimated to accrue on the bonds authorized in this section until the
3738 completion of construction of the prison project, plus a period of 12 months after the end of
3739 construction; and

3740 (b) all related engineering, architectural, and legal fees.

3741 (5) (a) The division may enter into agreements related to the prison project before the
3742 receipt of proceeds of bonds issued under this section.

3743 (b) The division shall make those expenditures from unexpended and unencumbered
3744 building funds already appropriated to the Prison Project Fund.

3745 (c) The division shall reimburse the Prison Project Fund upon receipt of the proceeds
3746 of bonds issued under this chapter.

3747 (d) The state intends to use proceeds of tax-exempt bonds to reimburse itself for

3748 expenditures for costs of the prison project.

3749 (6) Before issuing bonds authorized under this section, the commission shall request
3750 and consider a recommendation from the Legislative Management Committee, created in
3751 Section [36-12-6](#), regarding the timing and amount of the issuance.

3752 Section 86. Section **63C-9-403** is amended to read:

3753 **63C-9-403. Contracting power of executive director -- Health insurance coverage.**

3754 (1) As used in this section:

3755 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
3756 related to a single project.

3757 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

3758 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
3759 "operative" who:

3760 (i) works at least 30 hours per calendar week; and

3761 (ii) meets employer eligibility waiting requirements for health care insurance, which
3762 may not exceed the first of the calendar month following 60 days after the day on which the
3763 individual is hired.

3764 (d) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

3765 (e) "Qualified health insurance coverage" means the same as that term is defined in
3766 Section [26-40-115](#).

3767 (f) "Subcontractor" means the same as that term is defined in Section [[63A-5-208](#)]
3768 [63A-5b-605](#).

3769 (2) Except as provided in Subsection (3), the requirements of this section apply to:

3770 (a) a contractor of a design or construction contract entered into by the board, or on
3771 behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount
3772 equal to or greater than \$2,000,000; and

3773 (b) a subcontractor of a contractor of a design or construction contract entered into by
3774 the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an
3775 aggregate amount equal to or greater than \$1,000,000.

3776 (3) The requirements of this section do not apply to a contractor or subcontractor
3777 described in Subsection (2) if:

3778 (a) the application of this section jeopardizes the receipt of federal funds;

3779 (b) the contract is a sole source contract; or
3780 (c) the contract is an emergency procurement.
3781 (4) A person that intentionally uses change orders, contract modifications, or multiple
3782 contracts to circumvent the requirements of this section is guilty of an infraction.
3783 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
3784 executive director that the contractor has and will maintain an offer of qualified health
3785 insurance coverage for the contractor's employees and the employees' dependents during the
3786 duration of the contract by submitting to the executive director a written statement that:
3787 (i) the contractor offers qualified health insurance coverage that complies with Section
3788 [26-40-115](#);
3789 (ii) is from:
3790 (A) an actuary selected by the contractor or the contractor's insurer; or
3791 (B) an underwriter who is responsible for developing the employer group's premium
3792 rates; and
3793 (iii) was created within one year before the day on which the statement is submitted.
3794 (b) A contractor that is subject to the requirements of this section shall:
3795 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
3796 is subject to the requirements of this section shall obtain and maintain an offer of qualified
3797 health insurance coverage for the subcontractor's employees and the employees' dependents
3798 during the duration of the subcontract; and
3799 (ii) obtain from a subcontractor that is subject to the requirements of this section a
3800 written statement that:
3801 (A) the subcontractor offers qualified health insurance coverage that complies with
3802 Section [26-40-115](#);
3803 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an
3804 underwriter who is responsible for developing the employer group's premium rates; and
3805 (C) was created within one year before the day on which the contractor obtains the
3806 statement.
3807 (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance
3808 coverage as described in Subsection (5)(a) during the duration of the contract is subject to
3809 penalties in accordance with administrative rules adopted by the division under Subsection (6).

3810 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
3811 and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

3812 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
3813 insurance coverage described in Subsection (5)(b)(i) during the duration of the subcontract is
3814 subject to penalties in accordance with administrative rules adopted by the department under
3815 Subsection (6).

3816 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
3817 an offer of qualified health insurance coverage described in Subsection (5)(a).

3818 (6) The department shall adopt administrative rules:

3819 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

3820 (b) in coordination with:

3821 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

3822 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

3823 (iii) the State Building Board in accordance with Section [\[63A-5-205.5\]](#) [63A-5b-607](#);

3824 (iv) a public transit district in accordance with Section [17B-2a-818.5](#);

3825 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and

3826 (vi) the Legislature's Administrative Rules Review Committee; and

3827 (c) that establish:

3828 (i) the requirements and procedures a contractor and a subcontractor shall follow to
3829 demonstrate compliance with this section, including:

3830 (A) that a contractor or subcontractor's compliance with this section is subject to an
3831 audit by the department or the Office of the Legislative Auditor General;

3832 (B) that a contractor that is subject to the requirements of this section shall obtain a
3833 written statement described in Subsection (5)(a); and

3834 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
3835 written statement described in Subsection (5)(b)(ii);

3836 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
3837 violates the provisions of this section, which may include:

3838 (A) a three-month suspension of the contractor or subcontractor from entering into
3839 future contracts with the state upon the first violation;

3840 (B) a six-month suspension of the contractor or subcontractor from entering into future

3841 contracts with the state upon the second violation;

3842 (C) an action for debarment of the contractor or subcontractor in accordance with
3843 Section 63G-6a-904 upon the third or subsequent violation; and

3844 (D) monetary penalties which may not exceed 50% of the amount necessary to
3845 purchase qualified health insurance coverage for employees and dependents of employees of
3846 the contractor or subcontractor who were not offered qualified health insurance coverage
3847 during the duration of the contract; and

3848 (iii) a website on which the department shall post the commercially equivalent
3849 benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is
3850 provided by the Department of Health, in accordance with Subsection 26-40-115(2).

3851 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
3852 or subcontractor who intentionally violates the provisions of this section is liable to the
3853 employee for health care costs that would have been covered by qualified health insurance
3854 coverage.

3855 (ii) An employer has an affirmative defense to a cause of action under Subsection
3856 (7)(a)(i) if:

3857 (A) the employer relied in good faith on a written statement described in Subsection
3858 (5)(a) or (5)(b)(ii); or

3859 (B) the department determines that compliance with this section is not required under
3860 the provisions of Subsection (3).

3861 (b) An employee has a private right of action only against the employee's employer to
3862 enforce the provisions of this Subsection (7).

3863 (8) Any penalties imposed and collected under this section shall be deposited into the
3864 Medicaid Restricted Account created in Section 26-18-402.

3865 (9) The failure of a contractor or subcontractor to provide qualified health insurance
3866 coverage as required by this section:

3867 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
3868 or contractor under:

3869 (i) Section 63G-6a-1602; or

3870 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

3871 (b) may not be used by the procurement entity or a prospective bidder, offeror, or

3872 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
3873 or construction.

3874 Section 87. Section **63G-6a-103** is amended to read:

3875 **63G-6a-103. Definitions.**

3876 As used in this chapter:

3877 (1) "Applicable rulemaking authority" means:

3878 (a) for a legislative procurement unit, the Legislative Management Committee;

3879 (b) for a judicial procurement unit, the Judicial Council;

3880 (c) (i) only to the extent of the procurement authority expressly granted to the
3881 procurement unit by statute:

3882 (A) for the building board or the Division of Facilities Construction and Management,
3883 created in Section [~~63A-5-201~~] [63A-5b-301](#), the building board;

3884 (B) for the Office of the Attorney General, the attorney general; and

3885 (C) for the Department of Transportation created in Section [72-1-201](#), the executive
3886 director of the Department of Transportation; and

3887 (ii) for each other executive branch procurement unit, the board;

3888 (d) for a local government procurement unit:

3889 (i) the legislative body of the local government procurement unit; or

3890 (ii) an individual or body designated by the legislative body of the local government
3891 procurement unit;

3892 (e) for a school district or a public school, the board, except to the extent of a school
3893 district's own nonadministrative rules that do not conflict with the provisions of this chapter;

3894 (f) for a state institution of higher education described in:

3895 (i) Subsections [53B-1-102](#)(1)(a) and (c), the State Board of Regents; or

3896 (ii) Subsection [53B-1-102](#)(1)(b), the Utah System of Technical Colleges Board of
3897 Trustees;

3898 (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the
3899 State Board of Education;

3900 (h) for a public transit district, the chief executive of the public transit district;

3901 (i) for a local district other than a public transit district or for a special service district:

3902 (i) before January 1, 2015, the board of trustees of the local district or the governing

- 3903 body of the special service district; or
- 3904 (ii) on or after January 1, 2015, the board, except to the extent that the board of trustees
- 3905 of the local district or the governing body of the special service district makes its own rules:
- 3906 (A) with respect to a subject addressed by board rules; or
- 3907 (B) that are in addition to board rules;
- 3908 (j) for the Utah Educational Savings Plan, created in Section [53B-8a-103](#), the board of
- 3909 directors of the Utah Educational Savings Plan;
- 3910 (k) for the School and Institutional Trust Lands Administration, created in Section
- 3911 [53C-1-201](#), the School and Institutional Trust Lands Board of Trustees;
- 3912 (l) for the School and Institutional Trust Fund Office, created in Section [53D-1-201](#),
- 3913 the School and Institutional Trust Fund Board of Trustees;
- 3914 (m) for the Utah Communications Authority, established in Section [63H-7a-201](#), the
- 3915 Utah Communications Authority Board, created in Section [63H-7a-203](#); or
- 3916 (n) for any other procurement unit, the board.
- 3917 (2) "Approved vendor" means a person who has been approved for inclusion on an
- 3918 approved vendor list through the approved vendor list process.
- 3919 (3) "Approved vendor list" means a list of approved vendors established under Section
- 3920 [63G-6a-507](#).
- 3921 (4) "Approved vendor list process" means the procurement process described in
- 3922 Section [63G-6a-507](#).
- 3923 (5) "Bidder" means a person who submits a bid or price quote in response to an
- 3924 invitation for bids.
- 3925 (6) "Bidding process" means the procurement process described in Part 6, Bidding.
- 3926 (7) "Board" means the Utah State Procurement Policy Board, created in Section
- 3927 [63G-6a-202](#).
- 3928 (8) "Building board" means the State Building Board, created in Section [~~[63A-5-101](#)~~]
- 3929 [63A-5b-201](#).
- 3930 (9) "Change directive" means a written order signed by the procurement officer that
- 3931 directs the contractor to suspend work or make changes, as authorized by contract, without the
- 3932 consent of the contractor.
- 3933 (10) "Change order" means a written alteration in specifications, delivery point, rate of

3934 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual
3935 agreement of the parties to the contract.

3936 (11) "Chief procurement officer" means the chief procurement officer appointed under
3937 Subsection [63G-6a-302\(1\)](#).

3938 (12) "Conducting procurement unit" means a procurement unit that conducts all
3939 aspects of a procurement:

3940 (a) except:

3941 (i) reviewing a solicitation to verify that it is in proper form; and

3942 (ii) causing the publication of a notice of a solicitation; and

3943 (b) including:

3944 (i) preparing any solicitation document;

3945 (ii) appointing an evaluation committee;

3946 (iii) conducting the evaluation process, except as provided in Subsection

3947 [63G-6a-707\(6\)\(b\)](#) relating to scores calculated for costs of proposals;

3948 (iv) selecting and recommending the person to be awarded a contract;

3949 (v) negotiating the terms and conditions of a contract, subject to the issuing

3950 procurement unit's approval; and

3951 (vi) contract administration.

3952 (13) "Conservation district" means the same as that term is defined in Section

3953 [17D-3-102](#).

3954 (14) "Construction":

3955 (a) means services, including work, and supplies for a project for the construction,

3956 renovation, alteration, improvement, or repair of a public facility on real property; and

3957 (b) does not include services and supplies for the routine, day-to-day operation, repair,

3958 or maintenance of an existing public facility.

3959 (15) "Construction manager/general contractor":

3960 (a) means a contractor who enters into a contract:

3961 (i) for the management of a construction project; and

3962 (ii) that allows the contractor to subcontract for additional labor and materials that are

3963 not included in the contractor's cost proposal submitted at the time of the procurement of the

3964 contractor's services; and

3965 (b) does not include a contractor whose only subcontract work not included in the
3966 contractor's cost proposal submitted as part of the procurement of the contractor's services is to
3967 meet subcontracted portions of change orders approved within the scope of the project.

3968 (16) "Construction subcontractor":

3969 (a) means a person under contract with a contractor or another subcontractor to provide
3970 services or labor for the design or construction of a construction project;

3971 (b) includes a general contractor or specialty contractor licensed or exempt from
3972 licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

3973 (c) does not include a supplier who provides only materials, equipment, or supplies to a
3974 contractor or subcontractor for a construction project.

3975 (17) "Contract" means an agreement for a procurement.

3976 (18) "Contract administration" means all functions, duties, and responsibilities
3977 associated with managing, overseeing, and carrying out a contract between a procurement unit
3978 and a contractor, including:

3979 (a) implementing the contract;

3980 (b) ensuring compliance with the contract terms and conditions by the conducting
3981 procurement unit and the contractor;

3982 (c) executing change orders;

3983 (d) processing contract amendments;

3984 (e) resolving, to the extent practicable, contract disputes;

3985 (f) curing contract errors and deficiencies;

3986 (g) terminating a contract;

3987 (h) measuring or evaluating completed work and contractor performance;

3988 (i) computing payments under the contract; and

3989 (j) closing out a contract.

3990 (19) "Contractor" means a person who is awarded a contract with a procurement unit.

3991 (20) "Cooperative procurement" means procurement conducted by, or on behalf of:

3992 (a) more than one procurement unit; or

3993 (b) a procurement unit and a cooperative purchasing organization.

3994 (21) "Cooperative purchasing organization" means an organization, association, or
3995 alliance of purchasers established to combine purchasing power in order to obtain the best

3996 value for the purchasers by engaging in procurements in accordance with Section [63G-6a-2105](#).

3997 (22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the
3998 contractor is paid a percentage of the total actual expenses or costs in addition to the
3999 contractor's actual expenses or costs.

4000 (23) "Cost-reimbursement contract" means a contract under which a contractor is
4001 reimbursed for costs which are allowed and allocated in accordance with the contract terms and
4002 the provisions of this chapter, and a fee, if any.

4003 (24) "Days" means calendar days, unless expressly provided otherwise.

4004 (25) "Definite quantity contract" means a fixed price contract that provides for a
4005 specified amount of supplies over a specified period, with deliveries scheduled according to a
4006 specified schedule.

4007 (26) "Design professional" means:

4008 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects
4009 Licensing Act;

4010 (b) an individual licensed as a professional engineer or professional land surveyor
4011 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing
4012 Act; or

4013 (c) an individual certified as a commercial interior designer under Title 58, Chapter 86,
4014 State Certification of Commercial Interior Designers Act.

4015 (27) "Design professional procurement process" means the procurement process
4016 described in Part 15, Design Professional Services.

4017 (28) "Design professional services" means:

4018 (a) professional services within the scope of the practice of architecture as defined in
4019 Section [58-3a-102](#);

4020 (b) professional engineering as defined in Section [58-22-102](#);

4021 (c) master planning and programming services; or

4022 (d) services within the scope of the practice of commercial interior design, as defined
4023 in Section [58-86-102](#).

4024 (29) "Design-build" means the procurement of design professional services and
4025 construction by the use of a single contract.

4026 (30) "Director" means the director of the division.

4027 (31) "Division" means the Division of Purchasing and General Services, created in
4028 Section [63A-2-101](#).

4029 (32) "Educational procurement unit" means:

4030 (a) a school district;

4031 (b) a public school, including a local school board or a charter school;

4032 (c) the Utah Schools for the Deaf and the Blind;

4033 (d) the Utah Education and Telehealth Network;

4034 (e) an institution of higher education of the state described in Section [53B-1-102](#); or

4035 (f) the State Board of Education.

4036 (33) "Established catalogue price" means the price included in a catalogue, price list,
4037 schedule, or other form that:

4038 (a) is regularly maintained by a manufacturer or contractor;

4039 (b) is published or otherwise available for inspection by customers; and

4040 (c) states prices at which sales are currently or were last made to a significant number
4041 of any category of buyers or buyers constituting the general buying public for the supplies or
4042 services involved.

4043 (34) "Executive branch procurement unit" means a department, division, office,
4044 bureau, agency, or other organization within the state executive branch.

4045 (35) "Fixed price contract" means a contract that provides a price, for each
4046 procurement item obtained under the contract, that is not subject to adjustment except to the
4047 extent that:

4048 (a) the contract provides, under circumstances specified in the contract, for an
4049 adjustment in price that is not based on cost to the contractor; or

4050 (b) an adjustment is required by law.

4051 (36) "Fixed price contract with price adjustment" means a fixed price contract that
4052 provides for an upward or downward revision of price, precisely described in the contract, that:

4053 (a) is based on the consumer price index or another commercially acceptable index,
4054 source, or formula; and

4055 (b) is not based on a percentage of the cost to the contractor.

4056 (37) "Grant" means an expenditure of public funds or other assistance, or an agreement
4057 to expend public funds or other assistance, for a public purpose authorized by law, without

4058 acquiring a procurement item in exchange.
4059 (38) "Head of a procurement unit" means:
4060 (a) for a legislative procurement unit, any person designated by rule made by the
4061 applicable rulemaking authority;
4062 (b) for an executive branch procurement unit:
4063 (i) the director of the division; or
4064 (ii) any other person designated by the board, by rule;
4065 (c) for a judicial procurement unit:
4066 (i) the Judicial Council; or
4067 (ii) any other person designated by the Judicial Council, by rule;
4068 (d) for a local government procurement unit:
4069 (i) the legislative body of the local government procurement unit; or
4070 (ii) any other person designated by the local government procurement unit;
4071 (e) for a local district other than a public transit district, the board of trustees of the
4072 local district or a designee of the board of trustees;
4073 (f) for a special service district, the governing body of the special service district or a
4074 designee of the governing body;
4075 (g) for a local building authority, the board of directors of the local building authority
4076 or a designee of the board of directors;
4077 (h) for a conservation district, the board of supervisors of the conservation district or a
4078 designee of the board of supervisors;
4079 (i) for a public corporation, the board of directors of the public corporation or a
4080 designee of the board of directors;
4081 (j) for a school district or any school or entity within a school district, the board of the
4082 school district, or the board's designee;
4083 (k) for a charter school, the individual or body with executive authority over the charter
4084 school, or the individual's or body's designee;
4085 (l) for an institution of higher education described in Section [53B-2-101](#), the president
4086 of the institution of higher education, or the president's designee;
4087 (m) for a public transit district, the board of trustees or a designee of the board of
4088 trustees;

4089 (n) for the State Board of Education, the State Board of Education or a designee of the
4090 State Board of Education; or

4091 (o) for the Utah Communications Authority, established in Section [63H-7a-201](#), the
4092 executive director of the Utah Communications Authority or a designee of the executive
4093 director.

4094 (39) "Immaterial error":

4095 (a) means an irregularity or abnormality that is:

4096 (i) a matter of form that does not affect substance; or

4097 (ii) an inconsequential variation from a requirement of a solicitation that has no, little,
4098 or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

4099 (b) includes:

4100 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a
4101 professional license, bond, or insurance certificate;

4102 (ii) a typographical error;

4103 (iii) an error resulting from an inaccuracy or omission in the solicitation; and

4104 (iv) any other error that the chief procurement officer or the head of a procurement unit
4105 with independent procurement authority reasonably considers to be immaterial.

4106 (40) "Indefinite quantity contract" means a fixed price contract that:

4107 (a) is for an indefinite amount of procurement items to be supplied as ordered by a
4108 procurement unit; and

4109 (b) (i) does not require a minimum purchase amount; or

4110 (ii) provides a maximum purchase limit.

4111 (41) "Independent procurement authority" means authority granted to a procurement
4112 unit under Subsection [63G-6a-106\(4\)\(a\)](#).

4113 (42) "Invitation for bids":

4114 (a) means a document used to solicit:

4115 (i) bids to provide a procurement item to a procurement unit; or

4116 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and

4117 (b) includes all documents attached to or incorporated by reference in a document
4118 described in Subsection (42)(a).

4119 (43) "Issuing procurement unit" means a procurement unit that:

- 4120 (a) reviews a solicitation to verify that it is in proper form;
- 4121 (b) causes the notice of a solicitation to be published; and
- 4122 (c) negotiates and approves the terms and conditions of a contract.
- 4123 (44) "Judicial procurement unit" means:
- 4124 (a) the Utah Supreme Court;
- 4125 (b) the Utah Court of Appeals;
- 4126 (c) the Judicial Council;
- 4127 (d) a state judicial district; or
- 4128 (e) an office, committee, subcommittee, or other organization within the state judicial
- 4129 branch.
- 4130 (45) "Labor hour contract" is a contract under which:
- 4131 (a) the supplies and materials are not provided by, or through, the contractor; and
- 4132 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and
- 4133 profit for a specified number of labor hours or days.
- 4134 (46) "Legislative procurement unit" means:
- 4135 (a) the Legislature;
- 4136 (b) the Senate;
- 4137 (c) the House of Representatives;
- 4138 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
- 4139 (e) a committee, subcommittee, commission, or other organization:
- 4140 (i) within the state legislative branch; or
- 4141 (ii) (A) that is created by statute to advise or make recommendations to the Legislature;
- 4142 (B) the membership of which includes legislators; and
- 4143 (C) for which the Office of Legislative Research and General Counsel provides staff
- 4144 support.
- 4145 (47) "Local building authority" means the same as that term is defined in Section
- 4146 [17D-2-102](#).
- 4147 (48) "Local district" means the same as that term is defined in Section [17B-1-102](#).
- 4148 (49) "Local government procurement unit" means:
- 4149 (a) a county or municipality, and each office or agency of the county or municipality,
- 4150 unless the county or municipality adopts its own procurement code by ordinance;

4151 (b) a county or municipality that has adopted this entire chapter by ordinance, and each
4152 office or agency of that county or municipality; or

4153 (c) a county or municipality that has adopted a portion of this chapter by ordinance, to
4154 the extent that a term in the ordinance is used in the adopted portion of this chapter, and each
4155 office or agency of that county or municipality.

4156 (50) "Multiple award contracts" means the award of a contract for an indefinite
4157 quantity of a procurement item to more than one person.

4158 (51) "Multiyear contract" means a contract that extends beyond a one-year period,
4159 including a contract that permits renewal of the contract, without competition, beyond the first
4160 year of the contract.

4161 (52) "Municipality" means a city, town, or metro township.

4162 (53) "Nonadopting local government procurement unit" means:

4163 (a) a county or municipality that has not adopted Part 16, Protests, Part 17,
4164 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,
4165 General Provisions Related to Protest or Appeal; and

4166 (b) each office or agency of a county or municipality described in Subsection (53)(a).

4167 (54) "Offeror" means a person who submits a proposal in response to a request for
4168 proposals.

4169 (55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference
4170 under the requirements of this chapter.

4171 (56) "Procure" means to acquire a procurement item through a procurement.

4172 (57) "Procurement":

4173 (a) means a procurement unit's acquisition of a procurement item through an
4174 expenditure of public funds, or an agreement to expend public funds, including an acquisition
4175 through a public-private partnership;

4176 (b) includes all functions that pertain to the acquisition of a procurement item,
4177 including:

4178 (i) preparing and issuing a solicitation; and

4179 (ii) (A) conducting a standard procurement process; or

4180 (B) conducting a procurement process that is an exception to a standard procurement
4181 process under Part 8, Exceptions to Procurement Requirements; and

- 4182 (c) does not include a grant.
- 4183 (58) "Procurement item" means a supply, a service, or construction.
- 4184 (59) "Procurement officer" means:
- 4185 (a) for a procurement unit with independent procurement authority:
- 4186 (i) the head of the procurement unit;
- 4187 (ii) a designee of the head of the procurement unit; or
- 4188 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 4189 (b) for the division or a procurement unit without independent procurement authority,
- 4190 the chief procurement officer.
- 4191 (60) "Procurement unit":
- 4192 (a) means:
- 4193 (i) a legislative procurement unit;
- 4194 (ii) an executive branch procurement unit;
- 4195 (iii) a judicial procurement unit;
- 4196 (iv) an educational procurement unit;
- 4197 (v) the Utah Communications Authority, established in Section [63H-7a-201](#);
- 4198 (vi) a local government procurement unit;
- 4199 (vii) a local district;
- 4200 (viii) a special service district;
- 4201 (ix) a local building authority;
- 4202 (x) a conservation district;
- 4203 (xi) a public corporation; or
- 4204 (xii) a public transit district; and
- 4205 (b) does not include a political subdivision created under Title 11, Chapter 13,
- 4206 Interlocal Cooperation Act.
- 4207 (61) "Professional service" means labor, effort, or work that requires an elevated
- 4208 degree of specialized knowledge and discretion, including labor, effort, or work in the field of:
- 4209 (a) accounting;
- 4210 (b) administrative law judge service;
- 4211 (c) architecture;
- 4212 (d) construction design and management;

- 4213 (e) engineering;
- 4214 (f) financial services;
- 4215 (g) information technology;
- 4216 (h) the law;
- 4217 (i) medicine;
- 4218 (j) psychiatry; or
- 4219 (k) underwriting.
- 4220 (62) "Protest officer" means:
- 4221 (a) for the division or a procurement unit with independent procurement authority:
- 4222 (i) the head of the procurement unit;
- 4223 (ii) the head of the procurement unit's designee who is an employee of the procurement
- 4224 unit; or
- 4225 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 4226 (b) for a procurement unit without independent procurement authority, the chief
- 4227 procurement officer or the chief procurement officer's designee who is an employee of the
- 4228 division.
- 4229 (63) "Public corporation" means the same as that term is defined in Section [63E-1-102](#).
- 4230 (64) "Public entity" means any government entity of the state or political subdivision of
- 4231 the state, including:
- 4232 (a) a procurement unit;
- 4233 (b) a municipality or county, regardless of whether the municipality or county has
- 4234 adopted this chapter or any part of this chapter; and
- 4235 (c) any other government entity located in the state that expends public funds.
- 4236 (65) "Public facility" means a building, structure, infrastructure, improvement, or other
- 4237 facility of a public entity.
- 4238 (66) "Public funds" means money, regardless of its source, including from the federal
- 4239 government, that is owned or held by a procurement unit.
- 4240 (67) "Public transit district" means a public transit district organized under Title 17B,
- 4241 Chapter 2a, Part 8, Public Transit District Act.
- 4242 (68) "Public-private partnership" means an arrangement or agreement, occurring on or
- 4243 after January 1, 2017, between a procurement unit and one or more contractors to provide for a

4244 public need through the development or operation of a project in which the contractor or
4245 contractors share with the procurement unit the responsibility or risk of developing, owning,
4246 maintaining, financing, or operating the project.

4247 (69) "Qualified vendor" means a vendor who:

4248 (a) is responsible; and

4249 (b) submits a responsive statement of qualifications under Section [63G-6a-410](#) that
4250 meets the minimum mandatory requirements, evaluation criteria, and any applicable score
4251 thresholds set forth in the request for statement of qualifications.

4252 (70) "Real property" means land and any building, fixture, improvement, appurtenance,
4253 structure, or other development that is permanently affixed to land.

4254 (71) "Request for information" means a nonbinding process through which a
4255 procurement unit requests information relating to a procurement item.

4256 (72) "Request for proposals" means a document used to solicit proposals to provide a
4257 procurement item to a procurement unit, including all other documents that are attached to that
4258 document or incorporated in that document by reference.

4259 (73) "Request for proposals process" means the procurement process described in Part
4260 7, Request for Proposals.

4261 (74) "Request for statement of qualifications" means a document used to solicit
4262 information about the qualifications of a person interested in responding to a potential
4263 procurement, including all other documents attached to that document or incorporated in that
4264 document by reference.

4265 (75) "Requirements contract" means a contract:

4266 (a) under which a contractor agrees to provide a procurement unit's entire requirements
4267 for certain procurement items at prices specified in the contract during the contract period; and

4268 (b) that:

4269 (i) does not require a minimum purchase amount; or

4270 (ii) provides a maximum purchase limit.

4271 (76) "Responsible" means being capable, in all respects, of:

4272 (a) meeting all the requirements of a solicitation; and

4273 (b) fully performing all the requirements of the contract resulting from the solicitation,
4274 including being financially solvent with sufficient financial resources to perform the contract.

4275 (77) "Responsive" means conforming in all material respects to the requirements of a
4276 solicitation.

4277 (78) "Sealed" means manually or electronically secured to prevent disclosure.

4278 (79) "Service":

4279 (a) means labor, effort, or work to produce a result that is beneficial to a procurement
4280 unit;

4281 (b) includes a professional service; and

4282 (c) does not include labor, effort, or work provided under an employment agreement or
4283 a collective bargaining agreement.

4284 (80) "Small purchase process" means the procurement process described in Section
4285 [63G-6a-506](#).

4286 (81) "Sole source contract" means a contract resulting from a sole source procurement.

4287 (82) "Sole source procurement" means a procurement without competition pursuant to
4288 a determination under Subsection [63G-6a-802\(1\)\(a\)](#) that there is only one source for the
4289 procurement item.

4290 (83) "Solicitation" means an invitation for bids, request for proposals, request for
4291 statement of qualifications, or request for information.

4292 (84) "Solicitation response" means:

4293 (a) a bid submitted in response to an invitation for bids;

4294 (b) a proposal submitted in response to a request for proposals; or

4295 (c) a statement of qualifications submitted in response to a request for statement of
4296 qualifications.

4297 (85) "Special service district" means the same as that term is defined in Section
4298 [17D-1-102](#).

4299 (86) "Specification" means any description of the physical or functional characteristics
4300 or of the nature of a procurement item included in an invitation for bids or a request for
4301 proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

4302 (a) a requirement for inspecting or testing a procurement item; or

4303 (b) preparing a procurement item for delivery.

4304 (87) "Standard procurement process" means:

4305 (a) the bidding process;

- 4306 (b) the request for proposals process;
- 4307 (c) the approved vendor list process;
- 4308 (d) the small purchase process; or
- 4309 (e) the design professional procurement process.
- 4310 (88) "State cooperative contract" means a contract awarded by the division for and in
- 4311 behalf of all public entities.
- 4312 (89) "Statement of qualifications" means a written statement submitted to a
- 4313 procurement unit in response to a request for statement of qualifications.
- 4314 (90) "Subcontractor":
- 4315 (a) means a person under contract to perform part of a contractual obligation under the
- 4316 control of the contractor, whether the person's contract is with the contractor directly or with
- 4317 another person who is under contract to perform part of a contractual obligation under the
- 4318 control of the contractor; and
- 4319 (b) includes a supplier, distributor, or other vendor that furnishes supplies or services
- 4320 to a contractor.
- 4321 (91) "Supply" means a good, material, technology, piece of equipment, or any other
- 4322 item of personal property.
- 4323 (92) "Tie bid" means that the lowest responsive bids of responsible bidders are
- 4324 identical in price.
- 4325 (93) "Time and materials contract" means a contract under which the contractor is paid:
- 4326 (a) the actual cost of direct labor at specified hourly rates;
- 4327 (b) the actual cost of materials and equipment usage; and
- 4328 (c) an additional amount, expressly described in the contract, to cover overhead and
- 4329 profit, that is not based on a percentage of the cost to the contractor.
- 4330 (94) "Transitional costs":
- 4331 (a) means the costs of changing:
- 4332 (i) from an existing provider of a procurement item to another provider of that
- 4333 procurement item; or
- 4334 (ii) from an existing type of procurement item to another type;
- 4335 (b) includes:
- 4336 (i) training costs;

- 4337 (ii) conversion costs;
- 4338 (iii) compatibility costs;
- 4339 (iv) costs associated with system downtime;
- 4340 (v) disruption of service costs;
- 4341 (vi) staff time necessary to implement the change;
- 4342 (vii) installation costs; and
- 4343 (viii) ancillary software, hardware, equipment, or construction costs; and
- 4344 (c) does not include:
- 4345 (i) the costs of preparing for or engaging in a procurement process; or
- 4346 (ii) contract negotiation or drafting costs.
- 4347 (95) "Trial use contract" means a contract for a procurement item that the procurement
- 4348 unit acquires for a trial use or testing to determine whether the procurement item will benefit
- 4349 the procurement unit.
- 4350 (96) "Vendor":
- 4351 (a) means a person who is seeking to enter into a contract with a procurement unit to
- 4352 provide a procurement item; and
- 4353 (b) includes:
- 4354 (i) a bidder;
- 4355 (ii) an offeror;
- 4356 (iii) an approved vendor;
- 4357 (iv) a design professional; and
- 4358 (v) a person who submits an unsolicited proposal under Section [63G-6a-712](#).
- 4359 Section 88. Section **63H-6-102** is amended to read:
- 4360 **63H-6-102. Definitions.**
- 4361 As used in this chapter:
- 4362 (1) "Board" means the board of directors of the corporation.
- 4363 (2) "Business related experience" means at least three years of professional experience
- 4364 in business administration, marketing, advertising, economic development, or a related field.
- 4365 (3) "Capital [~~developments~~] development" means the same as [~~that term is~~] capital
- 4366 development project, as defined in Section [~~63A-5-104~~] [63A-5b-401](#).
- 4367 (4) "Capital improvements" means the same as that term is defined in Section

4368 [~~63A-5-104~~] 63A-5b-401.

4369 (5) "Corporation" means the Utah State Fair Corporation created by this chapter.

4370 (6) "Corporation bond" means a bond issued by the corporation in accordance with Part
4371 2, Bonding Authority.

4372 (7) "Division" means the Division of Facilities Construction and Management created
4373 in Section [~~63A-5-201~~] 63A-5b-301.

4374 (8) "Executive director" means the executive director hired by the board in accordance
4375 with Section 63H-6-105.

4376 (9) (a) "State fair park" means the property owned by the state located at:

4377 (i) 155 North 1000 West, Salt Lake City, Utah, consisting of approximately 50 acres;

4378 (ii) 1139 West North Temple, Salt Lake City, Utah, consisting of approximately 10.5
4379 acres; and

4380 (iii) 1220 West North Temple, Salt Lake City, Utah, consisting of approximately two
4381 acres.

4382 (b) "State fair park" includes each building and each improvement on the property
4383 described in Subsection (9)(a) that is owned by the state.

4384 Section 89. Section **63H-6-103** is amended to read:

4385 **63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.**

4386 (1) There is created an independent public nonprofit corporation known as the "Utah
4387 State Fair Corporation."

4388 (2) The board shall file articles of incorporation for the corporation with the Division
4389 of Corporations and Commercial Code.

4390 (3) The corporation, subject to this chapter, has all powers and authority permitted
4391 nonprofit corporations by law.

4392 (4) The corporation shall:

4393 (a) manage, supervise, and control:

4394 (i) all activities relating to the annual exhibition described in Subsection (4)(j); and

4395 (ii) except as otherwise provided by statute, all state expositions, including setting the
4396 time, place, and purpose of any state exposition;

4397 (b) for public entertainment, displays, and exhibits or similar events:

4398 (i) provide, sponsor, or arrange the events;

- 4399 (ii) publicize and promote the events; and
- 4400 (iii) secure funds to cover the cost of the exhibits from:
- 4401 (A) private contributions;
- 4402 (B) public appropriations;
- 4403 (C) admission charges; and
- 4404 (D) other lawful means;
- 4405 (c) acquire and designate exposition sites;
- 4406 (d) use generally accepted accounting principles in accounting for the corporation's
- 4407 assets, liabilities, and operations;
- 4408 (e) seek corporate sponsorships for the state fair park or for individual buildings or
- 4409 facilities within the fair park;
- 4410 (f) work with county and municipal governments, the Salt Lake Convention and
- 4411 Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote
- 4412 expositions and the use of the state fair park;
- 4413 (g) develop and maintain a marketing program to promote expositions and the use of
- 4414 the state fair park;
- 4415 (h) in accordance with provisions of this part, operate and maintain the state fair park,
- 4416 including the physical appearance and structural integrity of the state fair park and the
- 4417 buildings located at the state fair park;
- 4418 (i) prepare an economic development plan for the state fair park;
- 4419 (j) hold an annual exhibition that:
- 4420 (i) is called the state fair or a similar name;
- 4421 (ii) promotes and highlights agriculture throughout the state;
- 4422 (iii) includes expositions of livestock, poultry, agricultural, domestic science,
- 4423 horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic
- 4424 animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and
- 4425 educational pursuits and the sharing of talents among the people of Utah;
- 4426 (iv) includes the award of premiums for the best specimens of the exhibited articles
- 4427 and animals;
- 4428 (v) permits competition by livestock exhibited by citizens of other states and territories
- 4429 of the United States; and

- 4430 (vi) is arranged according to plans approved by the board;
- 4431 (k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j);
- 4432 and
- 4433 (l) publish a list of premiums that will be awarded at the annual exhibition described in
- 4434 Subsection (4)(j) for the best specimens of exhibited articles and animals.
- 4435 (5) In addition to the annual exhibition described in Subsection (4)(j), the corporation
- 4436 may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural,
- 4437 floricultural, mineral and industrial products, manufactured articles, and domestic animals that,
- 4438 in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational
- 4439 pursuits and the sharing of talents among the people of Utah.
- 4440 (6) The corporation may:
- 4441 (a) employ advisers, consultants, and agents, including financial experts and
- 4442 independent legal counsel, and fix their compensation;
- 4443 (b) (i) participate in the state's Risk Management Fund created under Section
- 4444 [63A-4-201](#); or
- 4445 (ii) procure insurance against any loss in connection with the corporation's property
- 4446 and other assets, including mortgage loans;
- 4447 (c) receive and accept aid or contributions of money, property, labor, or other things of
- 4448 value from any source, including any grants or appropriations from any department, agency, or
- 4449 instrumentality of the United States or Utah;
- 4450 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the
- 4451 purposes of the corporation, subject to the conditions, if any, upon which the aid and
- 4452 contributions were made;
- 4453 (e) enter into management agreements with any person or entity for the performance of
- 4454 the corporation's functions or powers;
- 4455 (f) establish whatever accounts and procedures as necessary to budget, receive, and
- 4456 disburse, account for, and audit all funds received, appropriated, or generated;
- 4457 (g) subject to Subsection (8), lease any of the facilities at the state fair park;
- 4458 (h) sponsor events as approved by the board; and
- 4459 (i) enter into one or more agreements to develop the state fair park.
- 4460 (7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the

4461 corporation is exempt from:

- 4462 (i) Title 51, Chapter 5, Funds Consolidation Act;
- 4463 (ii) Title 51, Chapter 7, State Money Management Act;
- 4464 (iii) Title 63A, Utah Administrative Services Code;
- 4465 (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 4466 (v) Title 67, Chapter 19, Utah State Personnel Management Act.

4467 (b) The board shall adopt policies parallel to and consistent with:

- 4468 (i) Title 51, Chapter 5, Funds Consolidation Act;
- 4469 (ii) Title 51, Chapter 7, State Money Management Act;
- 4470 (iii) Title 63A, Utah Administrative Services Code; and
- 4471 (iv) Title 63J, Chapter 1, Budgetary Procedures Act.

4472 (c) The corporation shall comply with:

- 4473 (i) Title 52, Chapter 4, Open and Public Meetings Act;
- 4474 (ii) Title 63G, Chapter 2, Government Records Access and Management Act;
- 4475 (iii) the provisions of Title 63A, Chapter 1, Part 2, Utah Public Finance Website;
- 4476 (iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:
 - 4477 (A) entertainment provided at the state fair park;
 - 4478 (B) judges for competitive exhibits; or
 - 4479 (C) sponsorship of an event at the state fair park; and
- 4480 (v) the legislative approval requirements for new facilities established in Subsection

4481 ~~[63A-5-104(3)]~~ 63A-5b-404(3).

4482 (8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a
4483 term of 10 or more years, the corporation shall:

- 4484 (i) submit the proposed lease to the State Building Board for the State Building Board's
4485 approval or rejection; and
- 4486 (ii) if the State Building Board approves the proposed lease, submit the proposed lease
4487 to the Executive Appropriations Committee for the Executive Appropriation Committee's
4488 review and recommendation in accordance with Subsection (8)(b).

4489 (b) The Executive Appropriations Committee shall review a proposed lease submitted
4490 in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

- 4491 (i) execute the proposed sublease; or

- 4492 (ii) reject the proposed sublease.
- 4493 Section 90. Section **63I-1-263** is amended to read:
- 4494 **63I-1-263. Repeal dates, Titles 63A to 63N.**
- 4495 (1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:
- 4496 (a) Subsection [63A-1-201](#)(1) is repealed;
- 4497 (b) Subsection [63A-1-202](#)(2)(c), the language that states "using criteria established by
- 4498 the board" is repealed;
- 4499 (c) Section [63A-1-203](#) is repealed;
- 4500 (d) Subsections [63A-1-204](#)(1) and (2), the language that states "After consultation with
- 4501 the board, and" is repealed; and
- 4502 (e) Subsection [63A-1-204](#)(1)(b), the language that states "using the standards provided
- 4503 in Subsection [63A-1-203](#)(3)(c)" is repealed.
- 4504 (2) Subsection [~~[63A-5-228](#)~~(2)(h)] [63A-5b-405](#)(5), relating to prioritizing and allocating
- 4505 capital improvement funding, is repealed on July 1, 2024.
- 4506 (3) Section [~~[63A-5-603](#)~~] [63A-5b-1003](#), State Facility Energy Efficiency Fund, is
- 4507 repealed July 1, 2023.
- 4508 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
- 4509 1, 2028.
- 4510 (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
- 4511 2025.
- 4512 (6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1,
- 4513 2020.
- 4514 (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
- 4515 repealed July 1, 2021.
- 4516 (8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1,
- 4517 2023.
- 4518 (9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
- 4519 2025.
- 4520 (10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
- 4521 2020.
- 4522 (11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

- 4523 (a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;
- 4524 (b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;
- 4525 (c) in Subsection 63H-6-104(2)(e), the language that states ", of whom only one may
4526 be a legislator, in accordance with Subsection (3)(e)," is repealed;
- 4527 (d) Subsection 63H-6-104(3)(a)(i) is amended to read:
- 4528 "(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under
4529 Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the
4530 year that the board member was appointed.";
- 4531 (e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states "the
4532 president of the Senate, the speaker of the House, the governor," is repealed and replaced with
4533 "the governor"; and
- 4534 (f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is
4535 repealed.
- 4536 (12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 4537 (13) Section 63M-7-212 is repealed on December 31, 2019.
- 4538 (14) On July 1, 2025:
- 4539 (a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource
4540 Development Coordinating Committee," is repealed;
- 4541 (b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed
4542 sites for the transplant of species to local government officials having jurisdiction over areas
4543 that may be affected by a transplant.";
- 4544 (c) in Subsection 23-14-21(3), the language that states "and the Resource Development
4545 Coordinating Committee" is repealed;
- 4546 (d) in Subsection 23-21-2.3(1), the language that states "the Resource Development
4547 Coordinating Committee created in Section 63J-4-501 and" is repealed;
- 4548 (e) in Subsection 23-21-2.3(2), the language that states "the Resource Development
4549 Coordinating Committee and" is repealed;
- 4550 (f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered
4551 accordingly;
- 4552 (g) Subsections 63J-4-401(5)(a) and (c) are repealed;
- 4553 (h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the

4554 word "and" is inserted immediately after the semicolon;

4555 (i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

4556 (j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;

4557 and

4558 (k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are
4559 renumbered accordingly.

4560 (15) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed
4561 July 1, 2026.

4562 (16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage
4563 Commission, is repealed July 1, 2023.

4564 (17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed
4565 July 1, 2022.

4566 (18) (a) Subsection 63J-1-602.1(53), relating to the Utah Statewide Radio System
4567 Restricted Account, is repealed July 1, 2022.

4568 (b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and
4569 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make
4570 necessary changes to subsection numbering and cross references.

4571 (19) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is
4572 repealed January 1, 2025.

4573 (20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January
4574 1, 2023, is amended to read:

4575 "(1) On or before October 1, the board shall provide an annual written report to the
4576 Social Services Appropriations Subcommittee and the Economic Development and Workforce
4577 Services Interim Committee."

4578 (21) In relation to the Utah Substance Use and Mental Health Advisory Council, on
4579 January 1, 2023:

4580 (a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are
4581 repealed;

4582 (b) Section 63M-7-305, the language that states "council" is replaced with
4583 "commission";

4584 (c) Subsection 63M-7-305(1) is repealed and replaced with:

4585 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

4586 (d) Subsection 63M-7-305(2) is repealed and replaced with:

4587 "(2) The commission shall:

4588 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
4589 Drug-Related Offenses Reform Act; and

4590 (b) coordinate the implementation of Section 77-18-1.1 and related provisions in
4591 Subsections 77-18-1(5)(b)(iii) and (iv).".

4592 (22) The Crime Victim Reparations and Assistance Board, created in Section
4593 63M-7-504, is repealed July 1, 2027.

4594 (23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

4595 (24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed
4596 on January 1, 2023.

4597 (25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

4598 (26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is
4599 repealed January 1, 2021.

4600 (b) Subject to Subsection (26)(c), Sections 59-7-610 and 59-10-1007 regarding tax
4601 credits for certain persons in recycling market development zones, are repealed for taxable
4602 years beginning on or after January 1, 2021.

4603 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

4604 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
4605 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

4606 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
4607 the expenditure is made on or after January 1, 2021.

4608 (d) Notwithstanding Subsections (26)(b) and (c), a person may carry forward a tax
4609 credit in accordance with Section 59-7-610 or 59-10-1007 if:

4610 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

4611 (ii) (A) for the purchase price of machinery or equipment described in Section
4612 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
4613 2020; or

4614 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
4615 expenditure is made on or before December 31, 2020.

4616 (27) Section 63N-2-512 is repealed on July 1, 2021.

4617 (28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
4618 January 1, 2021.

4619 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
4620 calendar years beginning on or after January 1, 2021.

4621 (c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in
4622 accordance with Section 59-9-107 if:

4623 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
4624 31, 2020; and

4625 (ii) the qualified equity investment that is the basis of the tax credit is certified under
4626 Section 63N-2-603 on or before December 31, 2023.

4627 (29) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

4628 (30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed
4629 July 1, 2023.

4630 (31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program,
4631 is repealed January 1, 2023.

4632 (32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

4633 (a) Subsection 63N-10-201(2)(a) is amended to read:

4634 "(2) (a) The governor shall appoint five commission members with the advice and
4635 consent of the Senate.";

4636 (b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

4637 (c) in Subsection 63N-10-201(3)(a), the language that states ", president, or speaker,
4638 respectively," is repealed; and

4639 (d) Subsection 63N-10-201(3)(d) is amended to read:

4640 "(d) The governor may remove a commission member for any reason and replace the
4641 commission member in accordance with this section.".

4642 (33) In relation to the Talent Ready Utah Board, on January 1, 2023:

4643 (a) Subsection 9-22-102(16) is repealed;

4644 (b) in Subsection 9-22-114(2), the language that states "Talent Ready Utah," is
4645 repealed; and

4646 (c) in Subsection 9-22-114(5), the language that states "representatives of Talent Ready

4647 Utah," is repealed.

4648 (34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1,
4649 2023.

4650 Section 91. Section **63J-1-201 (Superseded 07/01/20)** is amended to read:

4651 **63J-1-201 (Superseded 07/01/20). Governor's proposed budget to Legislature --**
4652 **Contents -- Preparation -- Appropriations based on current tax laws and not to exceed**
4653 **estimated revenues.**

4654 (1) The governor shall deliver, not later than 30 days before the date the Legislature
4655 convenes in the annual general session, a confidential draft copy of the governor's proposed
4656 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
4657 requirements of this section.

4658 (2) (a) When submitting a proposed budget, the governor shall, within the first three
4659 days of the annual general session of the Legislature, submit to the presiding officer of each
4660 house of the Legislature:

4661 (i) a proposed budget for the ensuing fiscal year;

4662 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,
4663 with each change clearly itemized and classified; and

4664 (iii) as applicable, a document showing proposed changes in estimated revenues that
4665 are based on changes in state tax laws or rates.

4666 (b) The proposed budget shall include:

4667 (i) a projection of:

4668 (A) estimated revenues by major tax type;

4669 (B) 15-year trends for each major tax type;

4670 (C) estimated receipts of federal funds;

4671 (D) 15-year trends for federal fund receipts; and

4672 (E) appropriations for the next fiscal year;

4673 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
4674 federal grants or assistance programs included in the budget;

4675 (iii) changes to debt service;

4676 (iv) a plan of proposed changes to appropriations and estimated revenues for the next
4677 fiscal year that is based upon the current fiscal year state tax laws and rates and considers

4678 projected changes in federal grants or assistance programs included in the budget;

4679 (v) an itemized estimate of the proposed changes to appropriations for:

4680 (A) the Legislative Department as certified to the governor by the president of the

4681 Senate and the speaker of the House;

4682 (B) the Executive Department;

4683 (C) the Judicial Department as certified to the governor by the state court

4684 administrator;

4685 (D) changes to salaries payable by the state under the Utah Constitution or under law

4686 for lease agreements planned for the next fiscal year; and

4687 (E) all other changes to ongoing or one-time appropriations, including dedicated

4688 credits, restricted funds, nonlapsing balances, grants, and federal funds;

4689 (vi) for each line item, the average annual dollar amount of staff funding associated

4690 with all positions that were vacant during the last fiscal year;

4691 (vii) deficits or anticipated deficits;

4692 (viii) the recommendations for each state agency for new full-time employees for the

4693 next fiscal year, which shall also be provided to the [~~State Building Board~~] director of the

4694 Division of Facilities Construction and Management as required by Subsection [~~63A-5-103(5)~~]

4695 [63A-5b-501\(3\)](#);

4696 (ix) a written description and itemized report submitted by a state agency to the

4697 Governor's Office of Management and Budget under Section [63J-1-220](#), including:

4698 (A) a written description and an itemized report provided at least annually detailing the

4699 expenditure of the state money, or the intended expenditure of any state money that has not

4700 been spent; and

4701 (B) a final written itemized report when all the state money is spent;

4702 (x) any explanation that the governor may desire to make as to the important features

4703 of the budget and any suggestion as to methods for the reduction of expenditures or increase of

4704 the state's revenue; and

4705 (xi) information detailing certain fee increases as required by Section [63J-1-504](#).

4706 (3) For the purpose of preparing and reporting the proposed budget:

4707 (a) The governor shall require the proper state officials, including all public and higher

4708 education officials, all heads of executive and administrative departments and state institutions,

4709 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the
4710 state money, and all institutions applying for state money and appropriations, to provide
4711 itemized estimates of changes in revenues and appropriations.

4712 (b) The governor may require the persons and entities subject to Subsection (3)(a) to
4713 provide other information under these guidelines and at times as the governor may direct,
4714 which may include a requirement for program productivity and performance measures, where
4715 appropriate, with emphasis on outcome indicators.

4716 (c) The governor may require representatives of public and higher education, state
4717 departments and institutions, and other institutions or individuals applying for state
4718 appropriations to attend budget meetings.

4719 (4) (a) The Governor's Office of Management and Budget shall provide to the Office of
4720 Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the
4721 Legislature convenes in the annual general session, data, analysis, or requests used in preparing
4722 the governor's budget recommendations, notwithstanding the restrictions imposed on such
4723 recommendations by available revenue.

4724 (b) The information under Subsection (4)(a) shall include:

4725 (i) actual revenues and expenditures for the fiscal year ending the previous June 30;

4726 (ii) estimated or authorized revenues and expenditures for the current fiscal year;

4727 (iii) requested revenues and expenditures for the next fiscal year;

4728 (iv) detailed explanations of any differences between the amounts appropriated by the
4729 Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and
4730 (iii);

4731 (v) a statement of agency and program objectives, effectiveness measures, and program
4732 size indicators; and

4733 (vi) other budgetary information required by the Legislature in statute.

4734 (c) The budget information under Subsection (4)(a) shall cover:

4735 (i) all items of appropriation, funds, and accounts included in appropriations acts for
4736 the current and previous fiscal years; and

4737 (ii) any new appropriation, fund, or account items requested for the next fiscal year.

4738 (d) The information provided under Subsection (4)(a) may be provided as a shared
4739 record under Section [63G-2-206](#) as considered necessary by the Governor's Office of

4740 Management and Budget.

4741 (5) (a) In submitting the budget for the Department of Public Safety, the governor shall
4742 include a separate recommendation in the governor's budget for maintaining a sufficient
4743 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to
4744 or below the number specified in Subsection 32B-1-201(2).

4745 (b) If the governor does not include in the governor's budget an amount sufficient to
4746 maintain the number of alcohol-related law enforcement officers described in Subsection
4747 (5)(a), the governor shall include a message to the Legislature regarding the governor's reason
4748 for not including that amount.

4749 (6) (a) The governor may revise all estimates, except those relating to the Legislative
4750 Department, the Judicial Department, and those providing for the payment of principal and
4751 interest to the state debt and for the salaries and expenditures specified by the Utah
4752 Constitution or under the laws of the state.

4753 (b) The estimate for the Judicial Department, as certified by the state court
4754 administrator, shall also be included in the budget without revision, but the governor may make
4755 separate recommendations on the estimate.

4756 (7) The total appropriations requested for expenditures authorized by the budget may
4757 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
4758 fiscal year.

4759 (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity
4760 does not affect the budget itself or any other item in it.

4761 Section 92. Section 63J-1-201 (Effective 07/01/20) is amended to read:

4762 **63J-1-201 (Effective 07/01/20). Governor's proposed budget to Legislature --**
4763 **Contents -- Preparation -- Appropriations based on current tax laws and not to exceed**
4764 **estimated revenues.**

4765 (1) The governor shall deliver, not later than 30 days before the date the Legislature
4766 convenes in the annual general session, a confidential draft copy of the governor's proposed
4767 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
4768 requirements of this section.

4769 (2) (a) When submitting a proposed budget, the governor shall, within the first three
4770 days of the annual general session of the Legislature, submit to the presiding officer of each

4771 house of the Legislature:

4772 (i) a proposed budget for the ensuing fiscal year;

4773 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,

4774 with each change clearly itemized and classified; and

4775 (iii) as applicable, a document showing proposed changes in estimated revenues that

4776 are based on changes in state tax laws or rates.

4777 (b) The proposed budget shall include:

4778 (i) a projection of:

4779 (A) estimated revenues by major tax type;

4780 (B) 15-year trends for each major tax type;

4781 (C) estimated receipts of federal funds;

4782 (D) 15-year trends for federal fund receipts; and

4783 (E) appropriations for the next fiscal year;

4784 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all

4785 federal grants or assistance programs included in the budget;

4786 (iii) changes to debt service;

4787 (iv) a plan of proposed changes to appropriations and estimated revenues for the next

4788 fiscal year that is based upon the current fiscal year state tax laws and rates and considers

4789 projected changes in federal grants or assistance programs included in the budget;

4790 (v) an itemized estimate of the proposed changes to appropriations for:

4791 (A) the Legislative Department as certified to the governor by the president of the

4792 Senate and the speaker of the House;

4793 (B) the Executive Department;

4794 (C) the Judicial Department as certified to the governor by the state court

4795 administrator;

4796 (D) changes to salaries payable by the state under the Utah Constitution or under law

4797 for lease agreements planned for the next fiscal year; and

4798 (E) all other changes to ongoing or one-time appropriations, including dedicated

4799 credits, restricted funds, nonlapsing balances, grants, and federal funds;

4800 (vi) for each line item, the average annual dollar amount of staff funding associated

4801 with all positions that were vacant during the last fiscal year;

4802 (vii) deficits or anticipated deficits;

4803 (viii) the recommendations for each state agency for new full-time employees for the

4804 next fiscal year, which shall also be provided to the [~~State Building Board~~] director of the

4805 Division of Facilities Construction and Management as required by Subsection [~~63A-5-103(5)~~]

4806 63A-5b-501(3);

4807 (ix) a written description and itemized report submitted by a state agency to the

4808 Governor's Office of Management and Budget under Section 63J-1-220, including:

4809 (A) a written description and an itemized report provided at least annually detailing the

4810 expenditure of the state money, or the intended expenditure of any state money that has not

4811 been spent; and

4812 (B) a final written itemized report when all the state money is spent;

4813 (x) any explanation that the governor may desire to make as to the important features

4814 of the budget and any suggestion as to methods for the reduction of expenditures or increase of

4815 the state's revenue; and

4816 (xi) information detailing certain fee increases as required by Section 63J-1-504.

4817 (3) For the purpose of preparing and reporting the proposed budget:

4818 (a) The governor shall require the proper state officials, including all public and higher

4819 education officials, all heads of executive and administrative departments and state institutions,

4820 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the

4821 state money, and all institutions applying for state money and appropriations, to provide

4822 itemized estimates of changes in revenues and appropriations.

4823 (b) The governor may require the persons and entities subject to Subsection (3)(a) to

4824 provide other information under these guidelines and at times as the governor may direct,

4825 which may include a requirement for program productivity and performance measures, where

4826 appropriate, with emphasis on outcome indicators.

4827 (c) The governor may require representatives of public and higher education, state

4828 departments and institutions, and other institutions or individuals applying for state

4829 appropriations to attend budget meetings.

4830 (4) (a) The Governor's Office of Management and Budget shall provide to the Office of

4831 Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the

4832 Legislature convenes in the annual general session, data, analysis, or requests used in preparing

4833 the governor's budget recommendations, notwithstanding the restrictions imposed on such
4834 recommendations by available revenue.

4835 (b) The information under Subsection (4)(a) shall include:

4836 (i) actual revenues and expenditures for the fiscal year ending the previous June 30;

4837 (ii) estimated or authorized revenues and expenditures for the current fiscal year;

4838 (iii) requested revenues and expenditures for the next fiscal year;

4839 (iv) detailed explanations of any differences between the amounts appropriated by the

4840 Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and

4841 (iii);

4842 (v) a statement of:

4843 (A) agency and program objectives, effectiveness measures, and program size

4844 indicators;

4845 (B) the final status of the program objectives, effectiveness measures, and program size

4846 indicators included in the appropriations act for the fiscal year ending the previous June 30; and

4847 (C) the current status of the program objectives, effectiveness measures, and program

4848 size indicators included in the appropriations act for the current fiscal year; and

4849 (vi) other budgetary information required by the Legislature in statute.

4850 (c) The budget information under Subsection (4)(a) shall cover:

4851 (i) all items of appropriation, funds, and accounts included in appropriations acts for

4852 the current and previous fiscal years; and

4853 (ii) any new appropriation, fund, or account items requested for the next fiscal year.

4854 (d) The information provided under Subsection (4)(a) may be provided as a shared

4855 record under Section [63G-2-206](#) as considered necessary by the Governor's Office of

4856 Management and Budget.

4857 (5) (a) In submitting the budget for the Department of Public Safety, the governor shall

4858 include a separate recommendation in the governor's budget for maintaining a sufficient

4859 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to

4860 or below the number specified in Subsection [32B-1-201\(2\)](#).

4861 (b) If the governor does not include in the governor's budget an amount sufficient to

4862 maintain the number of alcohol-related law enforcement officers described in Subsection

4863 (5)(a), the governor shall include a message to the Legislature regarding the governor's reason

4864 for not including that amount.

4865 (6) (a) The governor may revise all estimates, except those relating to the Legislative
4866 Department, the Judicial Department, and those providing for the payment of principal and
4867 interest to the state debt and for the salaries and expenditures specified by the Utah
4868 Constitution or under the laws of the state.

4869 (b) The estimate for the Judicial Department, as certified by the state court
4870 administrator, shall also be included in the budget without revision, but the governor may make
4871 separate recommendations on the estimate.

4872 (7) The total appropriations requested for expenditures authorized by the budget may
4873 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
4874 fiscal year.

4875 (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity
4876 does not affect the budget itself or any other item in it.

4877 Section 93. Section **63J-1-206** is amended to read:

4878 **63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures --**
4879 **Transfer of funds -- Exclusion.**

4880 (1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly
4881 exempted in the appropriating act:

4882 (i) all money appropriated by the Legislature is appropriated upon the terms and
4883 conditions set forth in this chapter; and

4884 (ii) any department, agency, or institution that accepts money appropriated by the
4885 Legislature does so subject to the requirements of this chapter.

4886 (b) This section does not apply to:

4887 (i) the Legislature and its committees; and

4888 (ii) the Investigation Account of the Water Resources Construction Fund, which is
4889 governed by Section [73-10-8](#).

4890 (2) (a) Each item of appropriation is to be expended subject to any schedule of
4891 programs and any restriction attached to the item of appropriation, as designated by the
4892 Legislature.

4893 (b) Each schedule of programs or restriction attached to an appropriation item:

4894 (i) is a restriction or limitation upon the expenditure of the respective appropriation

4895 made;

4896 (ii) does not itself appropriate any money; and

4897 (iii) is not itself an item of appropriation.

4898 (c) (i) Except as provided in Subsection (2)(c)(ii), an appropriation or any surplus of
4899 any appropriation may not be diverted from any department, agency, institution, division, or
4900 line item to any other department, agency, institution, division, or line item.

4901 (ii) The state superintendent may transfer money appropriated for the Minimum School
4902 Program between line items in accordance with Section [53F-2-205](#).

4903 (iii) If the money appropriated to an agency to pay lease payments under the program
4904 established in [~~Subsection [63A-5-228\(3\)](#)] Section [63A-5b-703](#) exceeds the amount required for
4905 the agency's lease payments to the Division of Facilities Construction and Management, the
4906 agency may:~~

4907 (A) transfer money from the lease payments line item to other line items within the
4908 agency; and

4909 (B) retain and use the excess money for other purposes.

4910 (d) The money appropriated subject to a schedule of programs or restriction may be
4911 used only for the purposes authorized.

4912 (e) In order for a department, agency, or institution to transfer money appropriated to it
4913 from one program to another program within a line item, the department, agency, or institution
4914 shall revise its budget execution plan as provided in Section [63J-1-209](#).

4915 (f) (i) The procedures for transferring money between programs within a line item as
4916 provided by Subsection (2)(e) do not apply to money appropriated to the State Board of
4917 Education for the Minimum School Program or capital outlay programs created in Title 53F,
4918 Chapter 3, State Funding -- Capital Outlay Programs.

4919 (ii) The state superintendent may transfer money appropriated for the programs
4920 specified in Subsection (2)(f)(i) only as provided by Section [53F-2-205](#).

4921 Section 94. Section **63J-1-602.2** is amended to read:

4922 **63J-1-602.2. List of nonlapsing appropriations to programs.**

4923 Appropriations made to the following programs are nonlapsing:

4924 (1) The Legislature and its committees.

4925 (2) The Percent-for-Art Program created in Section [9-6-404](#).

- 4926 (3) The LeRay McAllister Critical Land Conservation Program created in Section
4927 [11-38-301](#).
- 4928 (4) Dedicated credits accrued to the Utah Marriage Commission as provided under
4929 Subsection [17-16-21\(2\)\(d\)\(ii\)](#).
- 4930 (5) The Trip Reduction Program created in Section [19-2a-104](#).
- 4931 (6) The Division of Wildlife Resources for the appraisal and purchase of lands under
4932 the Pelican Management Act, as provided in Section [23-21a-6](#).
- 4933 (7) The primary care grant program created in Section [26-10b-102](#).
- 4934 (8) Sanctions collected as dedicated credits from Medicaid provider under Subsection
4935 [26-18-3\(7\)](#).
- 4936 (9) The Utah Health Care Workforce Financial Assistance Program created in Section
4937 [26-46-102](#).
- 4938 (10) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).
- 4939 (11) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#).
- 4940 (12) Funds that the Department of Alcoholic Beverage Control retains in accordance
4941 with Subsection [32B-2-301\(7\)\(a\)](#) or (b).
- 4942 (13) The General Assistance program administered by the Department of Workforce
4943 Services, as provided in Section [35A-3-401](#).
- 4944 (14) A new program or agency that is designated as nonlapsing under Section
4945 [36-24-101](#).
- 4946 (15) The Utah National Guard, created in Title 39, Militia and Armories.
- 4947 (16) The State Tax Commission under Section [41-1a-1201](#) for the:
4948 (a) purchase and distribution of license plates and decals; and
4949 (b) administration and enforcement of motor vehicle registration requirements.
- 4950 (17) The Search and Rescue Financial Assistance Program, as provided in Section
4951 [53-2a-1102](#).
- 4952 (18) The Motorcycle Rider Education Program, as provided in Section [53-3-905](#).
- 4953 (19) The State Board of Regents for teacher preparation programs, as provided in
4954 Section [53B-6-104](#).
- 4955 (20) The Medical Education Program administered by the Medical Education Council,
4956 as provided in Section [53B-24-202](#).

- 4957 (21) The State Board of Education, as provided in Section [53F-2-205](#).
- 4958 (22) The Division of Services for People with Disabilities, as provided in Section
4959 [62A-5-102](#).
- 4960 (23) The Division of Fleet Operations for the purpose of upgrading underground
4961 storage tanks under Section [63A-9-401](#).
- 4962 (24) The Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).
- 4963 (25) Appropriations to the Department of Technology Services for technology
4964 innovation as provided under Section [63F-4-202](#).
- 4965 (26) The Office of Administrative Rules for publishing, as provided in Section
4966 [63G-3-402](#).
- 4967 (27) The Utah Science Technology and Research Initiative created in Section
4968 [63M-2-301](#).
- 4969 (28) The Governor's Office of Economic Development to fund the Enterprise Zone
4970 Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 4971 (29) Appropriations to fund the Governor's Office of Economic Development's Rural
4972 Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural
4973 Employment Expansion Program.
- 4974 (30) The Department of Human Resource Management user training program, as
4975 provided in Section [67-19-6](#).
- 4976 (31) A public safety answering point's emergency telecommunications service fund, as
4977 provided in Section [69-2-301](#).
- 4978 (32) The Traffic Noise Abatement Program created in Section [72-6-112](#).
- 4979 (33) The Judicial Council for compensation for special prosecutors, as provided in
4980 Section [77-10a-19](#).
- 4981 (34) A state rehabilitative employment program, as provided in Section [78A-6-210](#).
- 4982 (35) The Utah Geological Survey, as provided in Section [79-3-401](#).
- 4983 (36) The Bonneville Shoreline Trail Program created under Section [79-5-503](#).
- 4984 (37) Adoption document access as provided in Sections [78B-6-141](#), [78B-6-144](#), and
4985 [78B-6-144.5](#).
- 4986 (38) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
4987 Defense Commission.

4988 (39) The program established by the Division of Facilities Construction and
4989 Management under [~~Subsection 63A-5-228(3)~~] Section 63A-5b-703 under which state agencies
4990 receive an appropriation and pay lease payments for the use and occupancy of buildings owned
4991 by the Division of Facilities Construction and Management.

4992 Section 95. Section **63J-3-103** is amended to read:

4993 **63J-3-103. Definitions.**

4994 As used in this chapter:

4995 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations
4996 from unrestricted General Fund and Education Fund sources.

4997 (b) "Appropriations" includes appropriations that are contingent upon available
4998 surpluses in the General Fund and Education Fund.

4999 (c) "Appropriations" does not mean:

5000 (i) public education expenditures;

5001 (ii) Utah Education and Telehealth Network expenditures in support of public
5002 education;

5003 (iii) Utah System of Technical Colleges expenditures in support of public education;

5004 (iv) State Tax Commission expenditures related to collection of income taxes in
5005 support of public education;

5006 (v) debt service expenditures;

5007 (vi) emergency expenditures;

5008 (vii) expenditures from all other fund or subfund sources;

5009 (viii) transfers or appropriations from the Education Fund to the Uniform School Fund;

5010 (ix) transfers into, or appropriations made to, the General Fund Budget Reserve
5011 Account established in Section 63J-1-312;

5012 (x) transfers into, or appropriations made to, the Education Budget Reserve Account
5013 established in Section 63J-1-313;

5014 (xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the
5015 Wildland Fire Suppression Fund created in Section 65A-8-204 or the State Disaster Recovery
5016 Restricted Account created in Section 53-2a-603;

5017 (xii) money appropriated to fund the total one-time project costs for the construction of
5018 capital [~~developments~~] development projects as defined in Section [~~63A-5-104~~] 63A-5b-401;

5019 (xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund
5020 created by Section [72-2-118](#);

5021 (xiv) transfers or deposits into or appropriations made to the Transportation Investment
5022 Fund of 2005 created by Section [72-2-124](#);

5023 (xv) transfers or deposits into or appropriations made to:

5024 (A) the Department of Transportation from any source; or

5025 (B) any transportation-related account or fund from any source; or

5026 (xvi) supplemental appropriations from the General Fund to the Division of Forestry,
5027 Fire, and State Lands to provide money for wildland fire control expenses incurred during the
5028 current or previous fire years.

5029 (2) "Base year real per capita appropriations" means the result obtained for the state by
5030 dividing the fiscal year 1985 actual appropriations of the state less debt money by:

5031 (a) the state's July 1, 1983 population; and

5032 (b) the fiscal year 1983 inflation index divided by 100.

5033 (3) "Calendar year" means the time period beginning on January 1 of any given year
5034 and ending on December 31 of the same year.

5035 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate
5036 expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session,
5037 Chapter 4.

5038 (5) "Fiscal year" means the time period beginning on July 1 of any given year and
5039 ending on June 30 of the subsequent year.

5040 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual
5041 capital and operations appropriations from General Fund and non-Uniform School Fund
5042 income tax revenue sources, less debt money.

5043 (7) "Inflation index" means the change in the general price level of goods and services
5044 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic
5045 Analysis, U.S. Department of Commerce calculated as provided in Section [63J-3-202](#).

5046 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could
5047 be, or could have been, spent in any given year under the limitations of this chapter.

5048 (b) "Maximum allowable appropriations limit" does not mean actual appropriations
5049 spent or actual expenditures.

5050 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two
5051 fiscal years previous to the fiscal year for which the maximum allowable inflation and
5052 population appropriations limit is being computed under this chapter.

5053 (10) "Most recent fiscal year's population" means the fiscal year population two fiscal
5054 years previous to the fiscal year for which the maximum allowable inflation and population
5055 appropriations limit is being computed under this chapter.

5056 (11) "Population" means the number of residents of the state as of July 1 of each year
5057 as calculated by the Governor's Office of Management and Budget according to the procedures
5058 and requirements of Section [63J-3-202](#).

5059 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and
5060 other monetary exaction and interest connected with it that are recorded as unrestricted revenue
5061 of the General Fund and from non-Uniform School Fund income tax revenues, except as
5062 specifically exempted by this chapter.

5063 (13) "Security" means any bond, note, warrant, or other evidence of indebtedness,
5064 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an
5065 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

5066 Section 96. Section **65A-4-1** is amended to read:

5067 **65A-4-1. Acquisition and disposition of land by state agencies.**

5068 (1) All state agencies may acquire land by gift, devise, bequest, exchange,
5069 compensation for public resource value loss, or in satisfaction of a debt and are authorized to
5070 sell, lease, or otherwise dispose of land no longer needed for public purposes, unless otherwise
5071 provided by law.

5072 (2) The proceeds from the sale, lease, or other disposition of land shall go to the state
5073 agency using or holding the land unless:

5074 (a) the governor or the Legislature order its deposit in the fund from which the state
5075 agency receives its appropriations; or

5076 (b) the use or disposition of the proceeds is specified elsewhere in law.

5077 (3) Subsections (1) and (2) do not apply to division-owned property, as defined in
5078 Section [~~63A-5a-102~~] [63A-5b-901](#).

5079 Section 97. Section **72-6-107.5** is amended to read:

5080 **72-6-107.5. Construction of improvements of highway -- Contracts -- Health**

5081 **insurance coverage.**

5082 (1) As used in this section:

5083 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
5084 related to a single project.

5085 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

5086 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
5087 "operative" who:

5088 (i) works at least 30 hours per calendar week; and

5089 (ii) meets employer eligibility waiting requirements for health care insurance, which
5090 may not exceed the first day of the calendar month following 60 days after the day on which
5091 the individual is hired.

5092 (d) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

5093 (e) "Qualified health insurance coverage" means the same as that term is defined in
5094 Section [26-40-115](#).

5095 (f) "Subcontractor" means the same as that term is defined in Section [~~[63A-5-208](#)~~]
5096 [63A-5b-605](#).

5097 (2) Except as provided in Subsection (3), the requirements of this section apply to:

5098 (a) a contractor of a design or construction contract entered into by the department on
5099 or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than
5100 \$2,000,000; and

5101 (b) a subcontractor of a contractor of a design or construction contract entered into by
5102 the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or
5103 greater than \$1,000,000.

5104 (3) The requirements of this section do not apply to a contractor or subcontractor
5105 described in Subsection (2) if:

5106 (a) the application of this section jeopardizes the receipt of federal funds;

5107 (b) the contract is a sole source contract; or

5108 (c) the contract is an emergency procurement.

5109 (4) A person that intentionally uses change orders, contract modifications, or multiple
5110 contracts to circumvent the requirements of this section is guilty of an infraction.

5111 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the

5112 department that the contractor has and will maintain an offer of qualified health insurance
5113 coverage for the contractor's employees and the employees' dependents during the duration of
5114 the contract by submitting to the department a written statement that:

5115 (i) the contractor offers qualified health insurance coverage that complies with Section
5116 26-40-115;

5117 (ii) is from:

5118 (A) an actuary selected by the contractor or the contractor's insurer; or

5119 (B) an underwriter who is responsible for developing the employer group's premium
5120 rates; and

5121 (iii) was created within one year before the day on which the statement is submitted.

5122 (b) A contractor that is subject to the requirements of this section shall:

5123 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
5124 is subject to the requirements of this section shall obtain and maintain an offer of qualified
5125 health insurance coverage for the subcontractor's employees and the employees' dependents
5126 during the duration of the subcontract; and

5127 (ii) obtain from a subcontractor that is subject to the requirements of this section a
5128 written statement that:

5129 (A) the subcontractor offers qualified health insurance coverage that complies with
5130 Section 26-40-115;

5131 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an
5132 underwriter who is responsible for developing the employer group's premium rates; and

5133 (C) was created within one year before the day on which the contractor obtains the
5134 statement.

5135 (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance
5136 coverage described in Subsection (5)(a) during the duration of the contract is subject to
5137 penalties in accordance with administrative rules adopted by the department under Subsection
5138 (6).

5139 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
5140 and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

5141 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
5142 insurance coverage described in Subsection (5)(b) during the duration of the subcontract is

5143 subject to penalties in accordance with administrative rules adopted by the department under
5144 Subsection (6).

5145 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
5146 an offer of qualified health insurance coverage described in Subsection (5)(a).

5147 (6) The department shall adopt administrative rules:

5148 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5149 (b) in coordination with:

5150 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

5151 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

5152 (iii) the State Building Board in accordance with Section [~~63A-5-205.5~~] [63A-5b-607](#);

5153 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#);

5154 (v) a public transit district in accordance with Section [17B-2a-818.5](#); and

5155 (vi) the Legislature's Administrative Rules Review Committee; and

5156 (c) that establish:

5157 (i) the requirements and procedures a contractor and a subcontractor shall follow to
5158 demonstrate compliance with this section, including:

5159 (A) that a contractor or subcontractor's compliance with this section is subject to an
5160 audit by the department or the Office of the Legislative Auditor General;

5161 (B) that a contractor that is subject to the requirements of this section shall obtain a
5162 written statement described in Subsection (5)(a); and

5163 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
5164 written statement described in Subsection (5)(b)(ii);

5165 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
5166 violates the provisions of this section, which may include:

5167 (A) a three-month suspension of the contractor or subcontractor from entering into
5168 future contracts with the state upon the first violation;

5169 (B) a six-month suspension of the contractor or subcontractor from entering into future
5170 contracts with the state upon the second violation;

5171 (C) an action for debarment of the contractor or subcontractor in accordance with
5172 Section [63G-6a-904](#) upon the third or subsequent violation; and

5173 (D) monetary penalties which may not exceed 50% of the amount necessary to

5174 purchase qualified health insurance coverage for an employee and a dependent of the employee
5175 of the contractor or subcontractor who was not offered qualified health insurance coverage
5176 during the duration of the contract; and

5177 (iii) a website on which the department shall post the commercially equivalent
5178 benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is
5179 provided by the Department of Health, in accordance with Subsection [26-40-115](#)(2).

5180 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
5181 or subcontractor who intentionally violates the provisions of this section is liable to the
5182 employee for health care costs that would have been covered by qualified health insurance
5183 coverage.

5184 (ii) An employer has an affirmative defense to a cause of action under Subsection
5185 (7)(a)(i) if:

5186 (A) the employer relied in good faith on a written statement described in Subsection
5187 (5)(a) or (5)(b)(ii); or

5188 (B) the department determines that compliance with this section is not required under
5189 the provisions of Subsection (3).

5190 (b) An employee has a private right of action only against the employee's employer to
5191 enforce the provisions of this Subsection (7).

5192 (8) Any penalties imposed and collected under this section shall be deposited into the
5193 Medicaid Restricted Account created in Section [26-18-402](#).

5194 (9) The failure of a contractor or subcontractor to provide qualified health insurance
5195 coverage as required by this section:

5196 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
5197 or contractor under:

5198 (i) Section [63G-6a-1602](#); or

5199 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

5200 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
5201 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
5202 or construction.

5203 Section 98. Section **79-2-404** is amended to read:

5204 **79-2-404. Contracting powers of department -- Health insurance coverage.**

5205 (1) As used in this section:

5206 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
5207 related to a single project.

5208 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

5209 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
5210 "operative" who:

5211 (i) works at least 30 hours per calendar week; and

5212 (ii) meets employer eligibility waiting requirements for health care insurance, which
5213 may not exceed the first day of the calendar month following 60 days after the day on which
5214 the individual is hired.

5215 (d) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

5216 (e) "Qualified health insurance coverage" means the same as that term is defined in
5217 Section [26-40-115](#).

5218 (f) "Subcontractor" means the same as that term is defined in Section [~~[63A-5-208](#)~~]
5219 [63A-5b-605](#).

5220 (2) Except as provided in Subsection (3), the requirements of this section apply to:

5221 (a) a contractor of a design or construction contract entered into by, or delegated to, the
5222 department or a division, board, or council of the department on or after July 1, 2009, if the
5223 prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

5224 (b) a subcontractor of a contractor of a design or construction contract entered into by,
5225 or delegated to, the department or a division, board, or council of the department on or after
5226 July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

5227 (3) This section does not apply to contracts entered into by the department or a
5228 division, board, or council of the department if:

5229 (a) the application of this section jeopardizes the receipt of federal funds;

5230 (b) the contract or agreement is between:

5231 (i) the department or a division, board, or council of the department; and

5232 (ii) (A) another agency of the state;

5233 (B) the federal government;

5234 (C) another state;

5235 (D) an interstate agency;

5236 (E) a political subdivision of this state; or
5237 (F) a political subdivision of another state; or
5238 (c) the contract or agreement is:
5239 (i) for the purpose of disbursing grants or loans authorized by statute;
5240 (ii) a sole source contract; or
5241 (iii) an emergency procurement.
5242 (4) A person that intentionally uses change orders, contract modifications, or multiple
5243 contracts to circumvent the requirements of this section is guilty of an infraction.
5244 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
5245 department that the contractor has and will maintain an offer of qualified health insurance
5246 coverage for the contractor's employees and the employees' dependents during the duration of
5247 the contract by submitting to the department a written statement that:
5248 (i) the contractor offers qualified health insurance coverage that complies with Section
5249 [26-40-115](#);
5250 (ii) is from:
5251 (A) an actuary selected by the contractor or the contractor's insurer; or
5252 (B) an underwriter who is responsible for developing the employer group's premium
5253 rates; and
5254 (iii) was created within one year before the day on which the statement is submitted.
5255 (b) A contractor that is subject to the requirements of this section shall:
5256 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
5257 is subject to the requirements of this section shall obtain and maintain an offer of qualified
5258 health insurance coverage for the subcontractor's employees and the employees' dependents
5259 during the duration of the subcontract; and
5260 (ii) obtain from a subcontractor that is subject to the requirements of this section a
5261 written statement that:
5262 (A) the subcontractor offers qualified health insurance coverage that complies with
5263 Section [26-40-115](#);
5264 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an
5265 underwriter who is responsible for developing the employer group's premium rates; and
5266 (C) was created within one year before the day on which the contractor obtains the

5267 statement.

5268 (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance
5269 coverage described in Subsection (5)(a) during the duration of the contract is subject to
5270 penalties in accordance with administrative rules adopted by the department under Subsection
5271 (6).

5272 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
5273 and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

5274 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
5275 insurance coverage described in Subsection (5)(b) during the duration of the subcontract is
5276 subject to penalties in accordance with administrative rules adopted by the department under
5277 Subsection (6).

5278 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
5279 an offer of qualified health insurance coverage described in Subsection (5)(a).

5280 (6) The department shall adopt administrative rules:

5281 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5282 (b) in coordination with:

5283 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

5284 (ii) a public transit district in accordance with Section [17B-2a-818.5](#);

5285 (iii) the State Building Board in accordance with Section [\[63A-5-205.5\]](#) [63A-5b-607](#);

5286 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#);

5287 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and

5288 (vi) the Legislature's Administrative Rules Review Committee; and

5289 (c) that establish:

5290 (i) the requirements and procedures a contractor and a subcontractor shall follow to
5291 demonstrate compliance with this section, including:

5292 (A) that a contractor or subcontractor's compliance with this section is subject to an
5293 audit by the department or the Office of the Legislative Auditor General;

5294 (B) that a contractor that is subject to the requirements of this section shall obtain a
5295 written statement described in Subsection (5)(a); and

5296 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
5297 written statement described in Subsection (5)(b)(ii);

5298 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
5299 violates the provisions of this section, which may include:

5300 (A) a three-month suspension of the contractor or subcontractor from entering into
5301 future contracts with the state upon the first violation;

5302 (B) a six-month suspension of the contractor or subcontractor from entering into future
5303 contracts with the state upon the second violation;

5304 (C) an action for debarment of the contractor or subcontractor in accordance with
5305 Section [63G-6a-904](#) upon the third or subsequent violation; and

5306 (D) monetary penalties which may not exceed 50% of the amount necessary to
5307 purchase qualified health insurance coverage for an employee and a dependent of an employee
5308 of the contractor or subcontractor who was not offered qualified health insurance coverage
5309 during the duration of the contract; and

5310 (iii) a website on which the department shall post the commercially equivalent
5311 benchmark, for the qualified health insurance coverage identified in Subsection (1)(e),
5312 provided by the Department of Health, in accordance with Subsection [26-40-115\(2\)](#).

5313 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
5314 or subcontractor who intentionally violates the provisions of this section is liable to the
5315 employee for health care costs that would have been covered by qualified health insurance
5316 coverage.

5317 (ii) An employer has an affirmative defense to a cause of action under Subsection
5318 (7)(a)(i) if:

5319 (A) the employer relied in good faith on a written statement described in Subsection
5320 (5)(a) or (5)(b)(ii); or

5321 (B) the department determines that compliance with this section is not required under
5322 the provisions of Subsection (3).

5323 (b) An employee has a private right of action only against the employee's employer to
5324 enforce the provisions of this Subsection (7).

5325 (8) Any penalties imposed and collected under this section shall be deposited into the
5326 Medicaid Restricted Account created in Section [26-18-402](#).

5327 (9) The failure of a contractor or subcontractor to provide qualified health insurance
5328 coverage as required by this section:

5329 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
5330 or contractor under:

5331 (i) Section 63G-6a-1602; or

5332 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

5333 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
5334 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
5335 or construction.

5336 Section 99. **Repealer.**

5337 This bill repeals:

5338 Section 63A-5-100, **Definitions.**

5339 Section 63A-5-101, **Creation -- Composition -- Appointment -- Per diem and
5340 expenses -- Administrative services.**

5341 Section 63A-5-101.5, **State Building Board composition -- Appointment -- Per diem
5342 and expenses -- Administrative services.**

5343 Section 63A-5-102, **Meetings of board -- Rules of procedure -- Quorum.**

5344 Section 63A-5-103, **Board -- Powers.**

5345 Section 63A-5-104, **Definitions -- Capital development and capital improvement
5346 process -- Approval requirements -- Limitations on new projects -- Emergencies.**

5347 Section 63A-5-202, **Definitions.**

5348 Section 63A-5-204, **Specific powers and duties of director.**

5349 Section 63A-5-205, **Contracting powers of director -- Retainage.**

5350 Section 63A-5-206, **Construction, alteration, and repair of state facilities -- Powers
5351 of director -- Exceptions -- Expenditure of appropriations -- Notification to local
5352 governments for construction or modification of certain facilities.**

5353 Section 63A-5-216, **Gifts, grants, and donations to division.**

5354 Section 63A-5-223, **Contracts -- Certain indemnification provisions forbidden.**

5355 Section 63A-5-301, **Definitions.**

5356 Section 63A-5-501, **Making keys to buildings of state, political subdivisions or
5357 colleges and universities without permission prohibited.**

5358 Section 63A-5-502, **Violation -- Misdemeanor.**

5359 Section 63A-5-601, **Legislative findings and policy.**

- 5360 Section [63A-5-602](#), **Appropriation for energy efficiency measures.**
- 5361 Section [63A-5a-101](#), **Title.**
- 5362 Section 100. **Effective date.**
- 5363 This bill takes effect on May 12, 2020, except that the amendments to Section
- 5364 [63J-1-201](#) (Effective 07/01/20) take effect on July 1, 2020.