

1                   **NEW STATE CONSTRUCTION SET ASIDE FOR ART**

2                                   **AMENDMENTS**

3   2020 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Don L. Ipson**

6                                   House Sponsor: Francis D. Gibson

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**LONG TITLE**

8 **General Description:**

9                   This bill modifies a provision relating to a new state construction set aside for art.

10 **Highlighted Provisions:**

11                   This bill:

- 12                   ▶ reduces the amount that may be set aside from the amount appropriated for the
- 13 construction of any new state building or facility; and
- 14                   ▶ places an annual limit on the amount that may be set aside.

15 **Money Appropriated in this Bill:**

16                   None

17 **Other Special Clauses:**

18                   None

19 **Utah Code Sections Affected:**

20 AMENDS:

21                   **63A-5-209**, as last amended by Laws of Utah 2019, Chapter 468

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

23                   Section 1. Section **63A-5-209** is amended to read:

24                   **63A-5-209. Building appropriations supervised by director -- Contingencies --**

25 **Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program.**



- 28 (1) The director shall:
- 29 (a) (i) supervise the expenditure of funds in providing plans, engineering
- 30 specifications, sites, and construction of the buildings for which legislative appropriations are
- 31 made; and
- 32 (ii) specifically allocate money appropriated when more than one project is included in
- 33 any single appropriation without legislative directive;
- 34 (b) (i) expend the amount necessary from appropriations for planning, engineering, and
- 35 architectural work; and
- 36 (ii) (A) allocate amounts from appropriations necessary to cover expenditures
- 37 previously made from the planning fund under Section [63A-5-211](#) in the preparation of plans,
- 38 engineering, and specifications; and
- 39 (B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and
- 40 (c) hold in a statewide contingency reserve the amount budgeted for contingencies:
- 41 (i) in appropriations for the construction or remodeling of facilities; and
- 42 (ii) which may be over and above all amounts obligated by contract for planning,
- 43 engineering, architectural work, sites, and construction contracts.
- 44 (2) (a) The director shall base the amount budgeted for contingencies on a sliding scale
- 45 percentage of the construction cost ranging from:
- 46 (i) 4-1/2% to 6-1/2% for new construction; and
- 47 (ii) 6% to 9-1/2% for remodeling projects.
- 48 (b) The director shall hold the statewide contingency funds to cover:
- 49 (i) costs of change orders; and
- 50 (ii) unforeseen, necessary costs beyond those specifically budgeted for the project.
- 51 (c) (i) The Legislature shall annually review the percentage and the amount held in the
- 52 statewide contingency reserve.
- 53 (ii) The Legislature may reappropriate to other building needs, including the cost of
- 54 administering building projects, any amount from the statewide contingency reserve that is in
- 55 excess of the reserve required to meet future contingency needs.
- 56 (3) (a) The director shall hold in a separate reserve those state appropriated funds
- 57 accrued through bid savings and project residual as a project reserve.
- 58 (b) The director shall account for the funds accrued under Subsection (3)(a) in separate

59 accounts as follows:

60 (i) bid savings and project residual from a capital improvement project, as defined in  
61 Section 63A-5-104; and

62 (ii) bid savings and project residual from a capital development project, as defined in  
63 Section 63A-5-104.

64 (c) The State Building Board may authorize the use of project reserve funds in the  
65 account described in Subsection (3)(b)(i) for a capital improvement project:

66 (i) approved under Section 63A-5-104; and

67 (ii) for which funds are not allocated.

68 (d) The director may:

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

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

75 (iii) use project reserve funds for any emergency capital improvement project, whether  
76 or not the emergency capital improvement project is related to a project that has exceeded its  
77 construction budget.

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

80 (i) an authorization under Subsection (3)(c); or

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

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

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

90           (5) (a) (i) One quarter of one percent of the amount appropriated for the construction of  
91 any new state building or facility may be appropriated and set aside for the Utah  
92 Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6,  
93 Part 4, Utah Percent-for-Art Act.

94           (ii) The total annual amount appropriated under Subsection (5)(a)(i) may not exceed  
95 \$100,000.

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

99           (c) Funds from appropriations for any state building or facility of which any part is  
100 derived from the issuance of bonds, to the extent it would jeopardize the federal income tax  
101 exemption otherwise allowed for interest paid on bonds, may not be set aside.