

**Senator David G. Buxton** proposes the following substitute bill:

**STATE FACILITIES MANAGEMENT AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David G. Buxton**

House Sponsor: Brady Brammer

**LONG TITLE**

**General Description:**

This bill modifies provisions relating to the management of state facilities.

**Highlighted Provisions:**

This bill:

- ▶ eliminates the State Building Board;
- ▶ gives duties of the former State Building Board to the Division of Facilities Construction and Management and the Department of Government Operations;
- ▶ increases the limit of the value of property that the Division of Facilities Construction and Management may acquire without legislative approval from \$250,000 to \$500,000;
- ▶ with respect to code provisions dealing with the disposal of property owned by the Division of Facilities Construction and Management, increases the limit of the value of property not subject to those code provisions from \$250,000 to \$500,000;
- ▶ modifies provisions relating to the supervision and control of the allocation of space for institutions of higher education and courts;
- ▶ provides that the disposition of property owned by the Division of Facilities Construction and Management in connection with the establishment of a state liquor store or the construction of student housing is not subject to provisions otherwise



26 applicable to the disposition of division-owned property;  
27       ▶ for a diagnostic, treatment, parole, probation, or other secured facility project,  
28 increases the threshold for that project from \$250,000 to \$500,000 to trigger a  
29 requirement for the director of the Division of Facilities Construction and  
30 Management to notify a local government entity affected by the project; and  
31       ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33       None

34 **Other Special Clauses:**

35       This bill provides a special effective date.

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38       **17B-2a-818.5**, as last amended by Laws of Utah 2020, Chapters 32 and 152
- 39       **19-1-206**, as last amended by Laws of Utah 2020, Chapters 32 and 152
- 40       **53B-2a-112 (Superseded 07/01/22)**, as last amended by Laws of Utah 2020, Chapter
- 41 365
- 42       **53B-2a-112 (Effective 07/01/22)**, as last amended by Laws of Utah 2021, Second
- 43 Special Session, Chapter 1
- 44       **53B-2a-117**, as last amended by Laws of Utah 2020, Chapters 152 and 365
- 45       **53B-7-101**, as last amended by Laws of Utah 2020, Chapter 365
- 46       **53B-22-204**, as last amended by Laws of Utah 2020, Chapter 152
- 47       **63A-5b-102**, as last amended by Laws of Utah 2021, Chapter 187
- 48       **63A-5b-303**, as enacted by Laws of Utah 2020, Chapter 152
- 49       **63A-5b-402**, as enacted by Laws of Utah 2020, Chapter 152
- 50       **63A-5b-403**, as last amended by Laws of Utah 2021, Chapter 187
- 51       **63A-5b-404**, as enacted by Laws of Utah 2020, Chapter 152
- 52       **63A-5b-503**, as renumbered and amended by Laws of Utah 2020, Chapter 152
- 53       **63A-5b-601**, as enacted by Laws of Utah 2020, Chapter 152
- 54       **63A-5b-603**, as enacted by Laws of Utah 2020, Chapter 152
- 55       **63A-5b-604**, as enacted by Laws of Utah 2020, Chapter 152
- 56       **63A-5b-802**, as renumbered and amended by Laws of Utah 2020, Chapter 152

- 57           **63A-5b-803**, as last amended by Laws of Utah 2020, Chapter 365
- 58           **63A-5b-806**, as renumbered and amended by Laws of Utah 2020, Chapter 152
- 59           **63A-5b-901**, as renumbered and amended by Laws of Utah 2020, Chapter 152
- 60           **63A-5b-902**, as renumbered and amended by Laws of Utah 2020, Chapter 152
- 61           **63A-5b-904**, as renumbered and amended by Laws of Utah 2020, Chapter 152
- 62           **63A-5b-905**, as last amended by Laws of Utah 2021, Chapters 84 and 345
- 63           **63A-5b-907**, as renumbered and amended by Laws of Utah 2020, Chapter 152
- 64           **63A-5b-910**, as renumbered and amended by Laws of Utah 2020, Chapter 152
- 65           **63A-5b-1001**, as enacted by Laws of Utah 2020, Chapter 152
- 66           **63A-5b-1003**, as renumbered and amended by Laws of Utah 2020, Chapter 152
- 67           **63A-5b-1104**, as enacted by Laws of Utah 2020, Chapter 152
- 68           **63B-1-101**, as last amended by Laws of Utah 2003, Chapter 2
- 69           **63B-1-304**, as last amended by Laws of Utah 2020, Chapter 152
- 70           **63C-9-403**, as last amended by Laws of Utah 2020, Chapters 32 and 152
- 71           **63G-6a-103**, as last amended by Laws of Utah 2021, Chapters 179, 179, 344, and 345
- 72           **63G-6a-109**, as last amended by Laws of Utah 2020, Chapter 257
- 73           **63G-6a-204**, as last amended by Laws of Utah 2020, Chapters 257 and 354
- 74           **63G-6a-303**, as last amended by Laws of Utah 2021, Chapter 344
- 75           **63G-6a-1302**, as last amended by Laws of Utah 2020, Chapter 257
- 76           **63H-6-103**, as last amended by Laws of Utah 2021, Chapters 33, 84, and 345
- 77           **63H-6-108**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 2
- 78           **72-6-107.5**, as last amended by Laws of Utah 2020, Chapters 32 and 152
- 79           **79-2-404**, as last amended by Laws of Utah 2020, Chapters 32 and 152

80 ENACTS:

- 81           **63A-5b-907.5**, Utah Code Annotated 1953

82 REPEALS:

- 83           **63A-5b-201**, as last amended by Laws of Utah 2021, Chapter 382
- 84           **63A-5b-202**, as last amended by Laws of Utah 2021, Chapters 187 and 344
- 85           **63A-5b-203**, as enacted by Laws of Utah 2020, Chapter 152



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

88 Section 1. Section **17B-2a-818.5** is amended to read:

89 **17B-2a-818.5. Contracting powers of public transit districts -- Health insurance**  
90 **coverage.**

91 (1) As used in this section:

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

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

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

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

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

101 (d) "Health benefit plan" means:

102 (i) the same as that term is defined in Section [31A-1-301](#); or

103 (ii) an employee welfare benefit plan:

104 (A) established under the Employee Retirement Income Security Act of 1974, 29  
105 U.S.C. Sec. 1001 et seq.;

106 (B) for an employer with 100 or more employees; and

107 (C) in which the employer establishes a self-funded or partially self-funded group  
108 health plan to provide medical care for the employer's employees and dependents of the  
109 employees.

110 (e) "Qualified health coverage" means the same as that term is defined in Section  
111 [26-40-115](#).

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

113 (g) "Third party administrator" or "administrator" means the same as that term is  
114 defined in Section [31A-1-301](#).

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

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

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

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

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

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

126 (c) the contract is an emergency procurement.

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

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

133 (i) the contractor offers qualified health coverage that complies with Section  
134 [26-40-115](#);

135 (ii) is from:

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

137 (B) an underwriter who is responsible for developing the employer group's premium  
138 rates; or

139 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
140 an actuary or underwriter selected by a third party administrator; and

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

142 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)  
143 shall provide the actuary or underwriter selected by an administrator, as described in  
144 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's  
145 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the  
146 requirements of qualified health coverage.

147 (ii) A contractor may not make a change to the contractor's contribution to the health  
148 benefit plan, unless the contractor provides notice to:

149 (A) the actuary or underwriter selected by an administrator as described in Subsection

150 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in  
151 Subsection (5)(a) in compliance with this section; and

152 (B) the public transit district.

153 (c) A contractor that is subject to the requirements of this section shall:

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

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

160 (A) the subcontractor offers qualified health coverage that complies with Section  
161 [26-40-115](#);

162 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an  
163 underwriter who is responsible for developing the employer group's premium rates, or if the  
164 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or  
165 underwriter selected by an administrator; and

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

168 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as  
169 described in Subsection (5)(a) during the duration of the contract is subject to penalties in  
170 accordance with an ordinance adopted by the public transit district under Subsection (6).

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

173 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
174 coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to  
175 penalties in accordance with an ordinance adopted by the public transit district under  
176 Subsection (6).

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

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

180 (a) in coordination with:

- 181 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 182 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 183 (iii) the ~~[State Building Board]~~ Division of Facilities Construction and Management in  
184 accordance with Section 63A-5b-607;
- 185 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and
- 186 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 187 (b) that establish:
- 188 (i) the requirements and procedures a contractor and a subcontractor shall follow to  
189 demonstrate compliance with this section, including:
- 190 (A) that a contractor or subcontractor's compliance with this section is subject to an  
191 audit by the public transit district or the Office of the Legislative Auditor General;
- 192 (B) that a contractor that is subject to the requirements of this section shall obtain a  
193 written statement described in Subsection (5)(a); and
- 194 (C) that a subcontractor that is subject to the requirements of this section shall obtain a  
195 written statement described in Subsection (5)(c)(ii);
- 196 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
197 violates the provisions of this section, which may include:
- 198 (A) a three-month suspension of the contractor or subcontractor from entering into  
199 future contracts with the public transit district upon the first violation;
- 200 (B) a six-month suspension of the contractor or subcontractor from entering into future  
201 contracts with the public transit district upon the second violation;
- 202 (C) an action for debarment of the contractor or subcontractor in accordance with  
203 Section 63G-6a-904 upon the third or subsequent violation; and
- 204 (D) monetary penalties which may not exceed 50% of the amount necessary to  
205 purchase qualified health coverage for employees and dependents of employees of the  
206 contractor or subcontractor who were not offered qualified health coverage during the duration  
207 of the contract; and
- 208 (iii) a website on which the district shall post the commercially equivalent benchmark,  
209 for the qualified health coverage identified in Subsection (1)(e), that is provided by the  
210 Department of Health, in accordance with Subsection 26-40-115(2).
- 211 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor

212 or subcontractor who intentionally violates the provisions of this section is liable to the  
213 employee for health care costs that would have been covered by qualified health coverage.

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

216 (A) the employer relied in good faith on a written statement described in Subsection  
217 (5)(a) or (5)(c)(ii); or

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

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

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

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

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

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

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

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

233 (10) An administrator, including an administrator's actuary or underwriter, who  
234 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
235 coverage of a contractor or subcontractor who provides a health benefit plan described in  
236 Subsection (1)(d)(ii):

237 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
238 unless the administrator commits gross negligence in preparing the written statement;

239 (b) is not liable for any error in the written statement if the administrator relied in good  
240 faith on information from the contractor or subcontractor; and

241 (c) may require as a condition of providing the written statement that a contractor or  
242 subcontractor hold the administrator harmless for an action arising under this section.



243 Section 2. Section **19-1-206** is amended to read:

244 **19-1-206. Contracting powers of department -- Health insurance coverage.**

245 (1) As used in this section:

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

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

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

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

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

255 (d) "Health benefit plan" means:

256 (i) the same as that term is defined in Section [31A-1-301](#); or

257 (ii) an employee welfare benefit plan:

258 (A) established under the Employee Retirement Income Security Act of 1974, 29  
259 U.S.C. Sec. 1001 et seq.;

260 (B) for an employer with 100 or more employees; and

261 (C) in which the employer establishes a self-funded or partially self-funded group  
262 health plan to provide medical care for the employer's employees and dependents of the  
263 employees.

264 (e) "Qualified health coverage" means the same as that term is defined in Section  
265 [26-40-115](#).

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

267 (g) "Third party administrator" or "administrator" means the same as that term is  
268 defined in Section [31A-1-301](#).

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

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

273 (b) a subcontractor of a contractor of a design or construction contract entered into by,

274 or delegated to, the department, or a division or board of the department, on or after July 1,  
275 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

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

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

279 (b) the contract or agreement is between:

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

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

282 (B) the federal government;

283 (C) another state;

284 (D) an interstate agency;

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

286 (F) a political subdivision of another state;

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

290 (d) the contract is:

291 (i) a sole source contract; or

292 (ii) an emergency procurement.

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

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

299 (i) the contractor offers qualified health coverage that complies with Section  
300 [26-40-115](#);

301 (ii) is from:

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

303 (B) an underwriter who is responsible for developing the employer group's premium  
304 rates; or

305 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
306 an actuary or underwriter selected by a third party administrator; and

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

308 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)  
309 shall provide the actuary or underwriter selected by an administrator, as described in  
310 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's  
311 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the  
312 requirements of qualified health coverage.

313 (ii) A contractor may not make a change to the contractor's contribution to the health  
314 benefit plan, unless the contractor provides notice to:

315 (A) the actuary or underwriter selected by an administrator, as described in Subsection  
316 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in  
317 Subsection (5)(a) in compliance with this section; and

318 (B) the department.

319 (c) A contractor that is subject to the requirements of this section shall:

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

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

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

328 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an  
329 underwriter who is responsible for developing the employer group's premium rates, or if the  
330 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or  
331 underwriter selected by an administrator; and

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

334 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage  
335 described in Subsection (5)(a) during the duration of the contract is subject to penalties in

336 accordance with administrative rules adopted by the department under Subsection (6).

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

339 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
340 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to  
341 penalties in accordance with administrative rules adopted by the department under Subsection  
342 (6).

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

345 (6) The department shall adopt administrative rules:

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

347 (b) in coordination with:

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

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

350 (iii) the ~~[State Building Board]~~ Division of Facilities Construction and Management in  
351 accordance with Section [63A-5b-607](#);

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

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

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

355 (c) that establish:

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

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

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

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

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

366 (A) a three-month suspension of the contractor or subcontractor from entering into

367 future contracts with the state upon the first violation;

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

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

372 (D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50%  
373 of the amount necessary to purchase qualified health coverage for an employee and the  
374 dependents of an employee of the contractor or subcontractor who was not offered qualified  
375 health coverage during the duration of the contract; and

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

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

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

384 (A) the employer relied in good faith on a written statement described in Subsection  
385 (5)(a) or (5)(c)(ii); or

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

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

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

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

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

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

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

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

401 (10) An administrator, including an administrator's actuary or underwriter, who  
402 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
403 coverage of a contractor or subcontractor who provides a health benefit plan described in  
404 Subsection (1)(d)(ii):

405 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
406 unless the administrator commits gross negligence in preparing the written statement;

407 (b) is not liable for any error in the written statement if the administrator relied in good  
408 faith on information from the contractor or subcontractor; and

409 (c) may require as a condition of providing the written statement that a contractor or  
410 subcontractor hold the administrator harmless for an action arising under this section.

411 Section 3. Section **53B-2a-112 (Superseded 07/01/22)** is amended to read:

412 **53B-2a-112 (Superseded 07/01/22). Technical colleges -- Relationships with other**  
413 **public and higher education institutions -- Agreements -- Priorities -- New capital**  
414 **facilities.**

415 (1) As used in this section, "higher education institution" means:

416 (a) Utah State University for:

417 (i) Bridgerland Technical College;

418 (ii) Tooele Technical College; and

419 (iii) Uintah Basin Technical College;

420 (b) Weber State University for:

421 (i) Ogden-Weber Technical College; and

422 (ii) Davis Technical College;

423 (c) Utah Valley University for Mountainland Technical College;

424 (d) Southern Utah University for Southwest Technical College; and

425 (e) Dixie State University for Dixie Technical College.

426 (2) A technical college may enter into agreements:

427 (a) with other higher education institutions to cultivate cooperative relationships; or

428 (b) with other public and higher education institutions to enhance career and technical

429 education within the technical college's region.

430 (3) Before a technical college develops new instructional facilities, the technical  
431 college shall give priority to:

432 (a) maintaining the technical college's existing instructional facilities for both  
433 secondary and adult students;

434 (b) coordinating with the president of the technical college's higher education  
435 institution and entering into any necessary agreements to provide career and technical  
436 education to secondary and adult students that:

437 (i) maintain and support existing higher education career and technical education  
438 programs; and

439 (ii) maximize the use of existing higher education facilities; and

440 (c) developing cooperative agreements with school districts, charter schools, other  
441 higher education institutions, businesses, industries, and community and private agencies to  
442 maximize the availability of career and technical education instructional facilities for both  
443 secondary and adult students.

444 (4) (a) Before submitting a funding request pertaining to new capital facilities and land  
445 purchases to the board, a technical college shall:

446 (i) ensure that all available instructional facilities are maximized in accordance with  
447 Subsections (3)(a) through (c); and

448 (ii) coordinate the request with the president of the technical college's higher education  
449 institution, if applicable.

450 (b) The [~~State Building Board~~] Division of Facilities Construction and Management  
451 shall make a finding that the requirements of this section are met before the [~~State Building~~  
452 ~~Board~~] Division of Facilities Construction and Management may consider a funding request  
453 from the board pertaining to new capital facilities and land purchases for a technical college.

454 (c) A technical college may not construct, approve the construction of, plan for the  
455 design or construction of, or consent to the construction of a career and technical education  
456 facility without approval of the Legislature.

457 (5) Before acquiring new fiscal and administrative support structures, a technical  
458 college shall:

459 (a) review the use of existing public or higher education administrative and accounting

460 systems, financial record systems, and student and financial aid systems for the delivery of  
461 career and technical education in the region;

462 (b) determine the feasibility of using existing systems; and

463 (c) with the approval of the technical college board of trustees and the board, use the  
464 existing systems.

465 Section 4. Section **53B-2a-112 (Effective 07/01/22)** is amended to read:

466 **53B-2a-112 (Effective 07/01/22). Technical colleges -- Relationships with other**  
467 **public and higher education institutions -- Agreements -- Priorities -- New capital**  
468 **facilities.**

469 (1) As used in this section, "higher education institution" means:

470 (a) Utah State University for:

471 (i) Bridgerland Technical College;

472 (ii) Tooele Technical College; and

473 (iii) Uintah Basin Technical College;

474 (b) Weber State University for:

475 (i) Ogden-Weber Technical College; and

476 (ii) Davis Technical College;

477 (c) Utah Valley University for Mountainland Technical College;

478 (d) Southern Utah University for Southwest Technical College; and

479 (e) Utah Tech University for Dixie Technical College.

480 (2) A technical college may enter into agreements:

481 (a) with other higher education institutions to cultivate cooperative relationships; or

482 (b) with other public and higher education institutions to enhance career and technical  
483 education within the technical college's region.

484 (3) Before a technical college develops new instructional facilities, the technical  
485 college shall give priority to:

486 (a) maintaining the technical college's existing instructional facilities for both  
487 secondary and adult students;

488 (b) coordinating with the president of the technical college's higher education  
489 institution and entering into any necessary agreements to provide career and technical  
490 education to secondary and adult students that:



491 (i) maintain and support existing higher education career and technical education  
492 programs; and

493 (ii) maximize the use of existing higher education facilities; and

494 (c) developing cooperative agreements with school districts, charter schools, other  
495 higher education institutions, businesses, industries, and community and private agencies to  
496 maximize the availability of career and technical education instructional facilities for both  
497 secondary and adult students.

498 (4) (a) Before submitting a funding request pertaining to new capital facilities and land  
499 purchases to the board, a technical college shall:

500 (i) ensure that all available instructional facilities are maximized in accordance with  
501 Subsections (3)(a) through (c); and

502 (ii) coordinate the request with the president of the technical college's higher education  
503 institution, if applicable.

504 (b) The ~~[State Building Board]~~ Division of Facilities Construction and Management  
505 shall make a finding that the requirements of this section are met before the ~~[State Building~~  
506 ~~Board]~~ Division of Facilities Construction and Management may consider a funding request  
507 from the board pertaining to new capital facilities and land purchases for a technical college.

508 (c) A technical college may not construct, approve the construction of, plan for the  
509 design or construction of, or consent to the construction of a career and technical education  
510 facility without approval of the Legislature.

511 (5) Before acquiring new fiscal and administrative support structures, a technical  
512 college shall:

513 (a) review the use of existing public or higher education administrative and accounting  
514 systems, financial record systems, and student and financial aid systems for the delivery of  
515 career and technical education in the region;

516 (b) determine the feasibility of using existing systems; and

517 (c) with the approval of the technical college board of trustees and the board, use the  
518 existing systems.

519 Section 5. Section **53B-2a-117** is amended to read:

520 **53B-2a-117. Legislative approval -- Capital development projects --**  
521 **Prioritization.**

522 (1) As used in this section:

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

525 (b) "Fund" means the Technical Colleges Capital Projects Fund created in Section  
526 [53B-2a-118](#).

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

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

532 (4) The board shall:

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

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

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

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

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

541 (i) the governor;

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

543 (iii) the Higher Education Appropriations Subcommittee; and

544 ~~[(iv) the State Building Board for the State Building Board's:]~~

545 (iv) the Division of Facilities Construction and Management for a:

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

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

548 (5) A dedicated project:

549 (a) is subject to the ~~[State Building Board's]~~ recommendation of the Division of  
550 Facilities Construction and Management as described in Section [63A-5b-403](#); and

551 (b) is not subject to the ~~[State Building Board's]~~ prioritization of the Division of  
552 Facilities Construction and Management as described in Section [63A-5b-403](#).

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

- 555 (i) growth and capacity;
- 556 (ii) effectiveness and support of critical programs;
- 557 (iii) cost effectiveness;
- 558 (iv) building deficiencies and life safety concerns; and
- 559 (v) alternative funding sources.

560 (b) The board shall establish:

- 561 (i) how the board will measure each factor described in Subsection (6)(a); and
- 562 (ii) procedures for prioritizing funding requests for capital development projects  
563 described in this section.

564 (7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board  
565 may annually prioritize:

- 566 (i) up to three nondedicated projects if the ongoing appropriation to the fund is less  
567 than \$7,000,000;
- 568 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least  
569 \$7,000,000 but less than \$14,000,000; or
- 570 (iii) one nondedicated project if the ongoing appropriation to the fund is at least  
571 \$14,000,000.

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

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

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

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

581 Section 6. Section **53B-7-101** is amended to read:

582 **53B-7-101. Combined requests for appropriations -- Board review of operating**  
583 **budgets -- Submission of budgets -- Recommendations -- Hearing request --**

584 **Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.**

585 (1) As used in this section:

586 (a) "Higher education institution" or "institution" means an institution of higher  
587 education listed in Section [53B-1-102](#).

588 (b) "Research university" means the University of Utah or Utah State University.

589 (2) (a) Subject to Subsection (3), the board shall recommend a combined appropriation  
590 for the operating budgets of higher education institutions for inclusion in a state appropriations  
591 act.

592 (b) The board's combined budget recommendation shall include:

593 (i) employee compensation;

594 (ii) mandatory costs, including building operations and maintenance, fuel, and power;

595 (iii) performance funding described in Part 7, Performance Funding;

596 (iv) statewide and institutional priorities, including scholarships, financial aid, and  
597 technology infrastructure; and

598 (v) enrollment growth.

599 (c) The board's recommendations shall be available for presentation to the governor  
600 and to the Legislature at least 30 days before the convening of the Legislature, and shall include  
601 schedules showing the recommended amounts for each institution, including separately funded  
602 programs or divisions.

603 (d) The recommended appropriations shall be determined by the board only after the  
604 board has reviewed the proposed institutional operating budgets, and has consulted with the  
605 various institutions and board staff in order to make appropriate adjustments.

606 (3) In the combined request for appropriation, the board shall differentiate between  
607 appropriations requested for academic education and appropriations requested for technical  
608 education.

609 (4) (a) Institutional operating budgets shall be submitted to the board at least 90 days  
610 before the convening of the Legislature in accordance with procedures established by the board.

611 (b) Except as provided in Sections [53B-2a-117](#) and [53B-22-204](#), funding requests  
612 pertaining to capital facilities and land purchases shall be submitted in accordance with  
613 procedures prescribed by the [~~State Building Board~~] Division of Facilities Construction and  
614 Management.

615 (5) (a) The budget recommendations of the board shall be accompanied by full  
616 explanations and supporting data.

617 (b) The appropriations recommended by the board shall be made with the dual  
618 objective of:

619 (i) justifying for higher education institutions appropriations consistent with their  
620 needs, and consistent with the financial ability of the state; and

621 (ii) determining an equitable distribution of funds among the respective institutions in  
622 accordance with the aims and objectives of the statewide master plan for higher education.

623 (6) (a) The board shall request a hearing with the governor on the recommended  
624 appropriations.

625 (b) After the governor delivers his budget message to the Legislature, the board shall  
626 request hearings on the recommended appropriations with the Higher Education  
627 Appropriations Subcommittee.

628 (c) If either the total amount of the state appropriations or its allocation among the  
629 institutions as proposed by the Legislature or the Higher Education Appropriations  
630 Subcommittee is substantially different from the recommendations of the board, the board may  
631 request further hearings with the Legislature or the Higher Education Appropriations  
632 Subcommittee to reconsider both the total amount and the allocation.

633 (7) The board may devise, establish, periodically review, and revise formulas for the  
634 board's use and for the use of the governor and the Higher Education Appropriations  
635 Subcommittee in making appropriation recommendations.

636 (8) (a) The board shall recommend to each session of the Legislature the minimum  
637 tuitions, resident and nonresident, for each institution which it considers necessary to  
638 implement the budget recommendations.

639 (b) The board may fix the tuition, fees, and charges for each institution at levels the  
640 board finds necessary to meet budget requirements.

641 (9) Money allocated to each institution by legislative appropriation may be budgeted in  
642 accordance with institutional work programs approved by the board, provided that the  
643 expenditures funded by appropriations for each institution are kept within the appropriations  
644 for the applicable period.

645 (10) The dedicated credits, including revenues derived from tuitions, fees, federal

646 grants, and proceeds from sales received by the institutions are appropriated to the respective  
647 institutions to be used in accordance with institutional work programs.

648 (11) An institution may do the institution's own purchasing, issue the institution's own  
649 payrolls, and handle the institution's own financial affairs under the general supervision of the  
650 board.

651 (12) If the Legislature appropriates money in accordance with this section, the money  
652 shall be distributed to the board and higher education institutions to fund the items described in  
653 Subsection (2)(b).

654 Section 7. Section **53B-22-204** is amended to read:

655 **53B-22-204. Funding request for capital development project -- Legislative**  
656 **approval -- Board prioritization, approval, and review.**

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

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

661 (3) The board shall:

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

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

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

665 (iii) fulfills a critical institutional facility need;

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

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

668 (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection  
669 (5); and

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

671 (i) the governor;

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

673 (iii) the Higher Education Appropriations Subcommittee; and

674 ~~[(iv) the State Building Board for the State Building Board's:]~~

675 (iv) the Division of Facilities Construction and Management for a:

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

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

678 (4) A dedicated project:

679 (a) is subject to the [~~State Building Board's~~] recommendation of the Division of  
680 Facilities Construction and Management as described in Section [63A-5b-403](#); and

681 (b) is not subject to the [~~State Building Board's~~] prioritization of the Division of  
682 Facilities Construction and Management as described in Section [63A-5b-403](#).

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

685 (i) capital facility need;

686 (ii) utilization of facilities;

687 (iii) maintenance and condition of facilities; and

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

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

691 (i) how the board will measure each factor described in Subsection (5)(a); and

692 (ii) procedures for prioritizing requests.

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

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

697 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least  
698 \$50,000,000 but less than \$100,000,000; or

699 (iii) one nondedicated project if the ongoing appropriation to the fund is at least  
700 \$100,000,000.

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

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

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

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

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

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

713 Section 8. Section **63A-5b-102** is amended to read:

714 **63A-5b-102. Definitions.**

715 As used in this chapter:

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

717 [~~(2)~~] (1) "Capitol hill facilities" means the same as that term is defined in Section  
718 [63C-9-102](#).

719 [~~(3)~~] (2) "Capitol hill grounds" means the same as that term is defined in Section  
720 [63C-9-102](#).

721 [~~(4)~~] (3) "Compliance agency" means the same as that term is defined in Section  
722 [15A-1-202](#).

723 [~~(5)~~] (4) "Director" means the division director, appointed under Section [63A-5b-302](#).

724 [~~(6)~~] (5) "Division" means the Division of Facilities Construction and Management  
725 created in Section [63A-5b-301](#).

726 [~~(7)~~] (6) "Institution of higher education" means an institution listed in Subsection  
727 [53B-2-101](#)(1).

728 [~~(8)~~] (7) "Trust lands administration" means the School and Institutional Trust Lands  
729 Administration established in Section [53C-1-201](#).

730 [~~(9)~~] (8) "Utah Board of Higher Education" means the Utah Board of Higher Education  
731 established in Section [53B-1-402](#).

732 Section 9. Section **63A-5b-303** is amended to read:

733 **63A-5b-303. Duties and authority of division.**

734 (1) (a) The division shall:

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



- 739 (ii) assure the efficient use of all building space under the division's supervision and  
740 control;
- 741 (iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by  
742 the state or an agency, as authorized by the Legislature through an appropriation act, other  
743 legislation, or statute, subject to Subsection (1)(c);
- 744 (iv) except as otherwise provided by statute, hold title to all real property, buildings,  
745 fixtures, and appurtenances owned by the state or an agency;
- 746 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing  
747 title to or an interest in property belonging to the state or ~~[of]~~ to the state's departments, except  
748 institutions of higher education and the trust lands administration;
- 749 (vi) (A) periodically conduct a market analysis of proposed rates and fees; and  
750 (B) include in a market analysis a comparison of the division's rates and fees with the  
751 rates and fees of other public or private sector providers of comparable services, if rates and  
752 fees for comparable services are reasonably available;
- 753 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and  
754 Efficiency, including responsibilities:
- 755 (A) to implement the state building energy efficiency program under Section  
756 63A-5b-1002; and
- 757 (B) related to the approval of loans from the State Facility Energy Efficiency Fund  
758 under Section 63A-5a-1003;
- 759 (viii) convey, lease, or dispose of the real property, water rights, or water shares  
760 associated with the Utah State Developmental Center if directed to do so by the Utah State  
761 Developmental Center board, as provided in Subsection 62A-5-206.6(2); and
- 762 (ix) take all other action that the division is required to do under this chapter or other  
763 applicable statute.
- 764 (b) In making an allocation of space under Subsection (1)(a)(i), the division shall  
765 conduct one or more studies to determine the actual needs of each agency.
- 766 (c) The division may, without legislative approval, acquire title to real property for use  
767 by the state or an agency if the acquisition cost does not exceed [~~\$250,000~~] \$500,000.
- 768 (2) The division may:
- 769 (a) sue and be sued;

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

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

774 (3) (a) The division may not supervise or control the allocation of space for ~~[an~~  
775 ~~institution of higher education or]~~ an entity in the public education system.

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

777 ~~[(c) The supervision and control of the trial courts area is reserved to the judiciary.]~~

778 ~~[(d)]~~ (c) The supervision and control of capitol hill facilities and capitol hill grounds is  
779 reserved to the State Capitol Preservation Board.

780 (d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of  
781 space for an institution of higher education is reserved to the Utah Board of Higher Education.

782 (ii) The Utah Board of Higher Education shall consult and cooperate with the division  
783 in the establishment and enforcement of standards for the supervision and control of the  
784 allocation of space for an institution of higher education.

785 (e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of  
786 space for the courts of record listed in Subsection [78A-1-101\(1\)](#) is reserved to the  
787 Administrative Office of the Courts referred to in Subsection [78A-2-108\(3\)](#).

788 (ii) The Administrative Office of the Courts shall consult and cooperate with the  
789 division in the establishment and enforcement of standards for the supervision and control of  
790 the allocation of space for the courts of record listed in Subsection [78A-1-101\(1\)](#).

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

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

796 (b) obtain the approval of the Legislature as required by Section [63J-1-410](#).

797 Section 10. Section **63A-5b-402** is amended to read:

798 **63A-5b-402. Capital development process -- Approval requirements.**

799 (1) Except as provided in Section [63A-5b-404](#), the ~~[board]~~ division shall, on behalf of  
800 all agencies, submit capital development project recommendations and priorities to the

801 Legislature for approval and prioritization.

802 (2) An agency that requests an appropriation for a capital development project shall  
 803 submit to the division for transmission to the ~~[board]~~ Legislature a capital development project  
 804 request and a feasibility study relating to the capital development project.

805 (3) (a) The division shall, ~~[in consultation with the board and]~~ in accordance with Title  
 806 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards and  
 807 requirements for a capital development project request and feasibility study.

808 (b) The rules shall include:

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

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

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

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

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

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

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

819 (4) The division shall verify the completion and accuracy of a feasibility study that an  
 820 agency submits under Subsection (2) prior to ~~[transmitting the feasibility study to the board]~~  
 821 submitting capital development project recommendations and priorities under Subsection (1).

822 Section 11. Section **63A-5b-403** is amended to read:

823 **63A-5b-403. Institutions of higher education -- Capital development projects --**  
 824 **Dedicated and nondedicated projects -- Recommendations and prioritization.**

825 (1) As used in this section:

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

827 (i) Section **53B-2a-101**, for a capital development project under Title 53B, Chapter 2a,  
 828 Technical Education; or

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

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

832 (i) Section 53B-2a-101, for a capital development project under Title 53B, Chapter 2a,  
833 Technical Education; or

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

836 (2) (a) The [board] division shall submit recommendations to the Legislature in  
837 accordance with:

838 (i) Section 53B-2a-117, for a dedicated project under Title 53B, Chapter 2a, Technical  
839 Education; or

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

842 (b) A dedicated project is not subject to prioritization by the [board] division.

843 (3) (a) The [board] division shall prioritize nondedicated projects in accordance with:

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

845 (ii) (A) Section 53B-2a-117, for a nondedicated project under Title 53B, Chapter 2a,  
846 Technical Education; or

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

849 (b) In the [board's] division's scoring process for prioritizing nondedicated projects, the  
850 [board] division shall give more weight to a request that is designated as a higher priority by  
851 the Utah Board of Higher Education than a request that is designated as a lower priority by the  
852 Utah Board of Higher Education only for determining the order of prioritization among  
853 requests submitted by the Utah Board of Higher Education.

854 (4) The [board] division shall require that an institution of higher education that  
855 submits a request for a capital development project address whether and how, as a result of the  
856 project, the institution of higher education will:

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

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

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

862 (d) help meet commitments made by the Governor's Office of Economic Opportunity,

863 including relating to training and incentives;

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

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

866 (5) The division shall:

867 (a) (i) assist institutions of higher education in providing the information required by  
868 Subsection [~~(3)~~] (4); and

869 (ii) verify the completion and accuracy of the information submitted by an institution  
870 of higher education under Subsection [~~(3)~~] (4);

871 (b) assist the Utah Board of Higher Education to fulfill the requirements of Section  
872 53B-2a-112 in connection with the finding that the [~~technical college~~] division is required to  
873 make under Subsection 53B-2a-112[~~(5)~~](4)(b); and

874 (c) assist the Utah Board of Higher Education in submitting a list of dedicated projects  
875 to the [~~board~~] division for approval and nondedicated projects to the [~~board~~] division for  
876 recommendation and prioritization pursuant to Section 53B-22-204.

877 Section 12. Section 63A-5b-404 is amended to read:

878 **63A-5b-404. Exceptions to requirement of legislative approval for capital**  
879 **development projects.**

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

882 (b) The [~~board~~] division may authorize a capital development project on state property  
883 without legislative approval only as provided in this section.

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

886 (i) the [~~board~~] division determines that the requesting agency has provided adequate  
887 assurance that state funds will not be used for the design or construction of the facility;

888 (ii) the agency provides to the [~~board~~] division a written document, signed by the head  
889 of the agency:

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

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

896 (iii) the ~~[board]~~ division determines that the use of the state property:

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

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

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

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

902 (ii) increased state capital improvement funding.

903 (3) Legislative approval is not required for:

904 (a) a facility:

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

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

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

912 (c) a project that:

913 (i) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization  
914 Fund; and

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

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

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

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

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

923 (i) an exchange of real property under Section 72-5-111; or

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

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

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

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

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

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

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

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

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

933 be built or improved.

934 Section 13. Section **63A-5b-503** is amended to read:

935 **63A-5b-503. Planning Fund expenditures authorized -- Ceiling on expenditures --**  
936 **Recovery.**

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

940 (2) The director may make expenditures from the Planning Fund in order to provide  
941 planning information to [~~the board;~~] the governor[;] and the Legislature, up to a maximum of  
942 \$350,000 in outstanding Planning Fund commitments.

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

944 (b) Payments from the Planning Fund shall be a charge on the project for which they  
945 were drawn.

946 (c) If the Legislature appropriates money for a building project for which planning  
947 costs have previously been paid from the Planning Fund, the director shall credit that amount to  
948 the Planning Fund.

949 (4) (a) The director may expend money from the Planning Fund for architectural and  
950 engineering services incident to the planning and preparation of applications for funds on  
951 construction financed by other than state sources, including federal grants.

952 (b) Upon approval of financing referred to in Subsection (4)(a), the director shall  
953 reimburse to the Planning Fund the money spent for architectural and engineering services.

954 Section 14. Section **63A-5b-601** is amended to read:

955 **63A-5b-601. Definitions.**

956 As used in this part:

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

959 (i) on property [~~owned by~~] that the state[;] or any of the state's departments,  
960 commissions, institutions, or agencies owns; or

961 (ii) by the state[;] or any of the state's departments, commissions, institutions, or  
962 agencies on property [~~not owned by~~] that the state does not own.

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

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

968 Section 15. Section **63A-5b-603** is amended to read:

969 **63A-5b-603. Contracting powers of director -- Bids -- Retainage.**

970 (1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the director  
971 may enter into a contract for any work or professional service that the division [~~or board~~] may  
972 do or have done.

973 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
974 the director may make rules establishing circumstances under which bids may be modified  
975 when all bids for a construction project exceed available funds as determined by the director.

976 (b) In making the rules described in Subsection (2)(a), the director shall provide for the  
977 fair and equitable treatment of bidders.

978 (c) The judgment of the director as to the responsibility and qualifications of a bidder is  
979 conclusive, except in case of fraud or bad faith.

980 (3) The division shall make all payments to the contractor for completed work in  
981 accordance with Section [15-6-2](#) and pay the interest specified in Section [15-6-3](#) on any  
982 payments that are late.

983 (4) If the division retains or withholds a payment on a contract with a private contractor  
984 to do work for the division, the division shall retain or withhold and release the payment as  
985 provided in Section [13-8-5](#).

986 Section 16. Section **63A-5b-604** is amended to read:



987           **63A-5b-604. Construction, alteration, and repair of state facilities -- Powers of**  
988 **director -- Exceptions -- Expenditure of appropriations -- Compliance agency role.**

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

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

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

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

999           (2) The director may enter into a capital improvement partnering agreement with an  
1000 institution of higher education that permits the institution of higher education to exercise direct  
1001 supervision for a capital improvement project with oversight from the division.

1002           (3) (a) Subject to Subsection (3)(b), the director may delegate control over design,  
1003 construction, and other aspects of any project to entities of state government on a  
1004 project-by-project basis.

1005           (b) With respect to a delegation of control under Subsection (3)(a), the director may:

1006           (i) impose terms and conditions on the delegation that the director considers necessary  
1007 or advisable to protect the interests of the state; and

1008           (ii) revoke the delegation and assume control of the design, construction, or other  
1009 aspect of a delegated project if the director considers the revocation and assumption of control  
1010 to be necessary to protect the interests of the state.

1011           (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1012 the [board] director may delegate control over design, construction, and all other aspects of any  
1013 project to entities of state government on a categorical basis for projects within a particular  
1014 dollar range and a particular project type.

1015           (b) Rules adopted by the [board] director under Subsection (4)(a) may:

1016           (i) impose the terms and conditions on categorical delegation that the [board] director  
1017 considers necessary or advisable to protect the interests of the state;

1018 (ii) provide for the revocation of the delegation on a categorical [~~or project specific~~]  
1019 basis and for the division to assume control of the design, construction, or other aspect of a  
1020 category of delegated projects or a specific delegated project if the [~~board~~] director considers  
1021 revocation of the delegation and assumption of control to be necessary to protect the interests  
1022 of the state;

1023 (iii) require that a categorical delegation be renewed by the [~~board~~] director on an  
1024 annual basis; and

1025 (iv) require the division's oversight of delegated projects.

1026 (5) (a) A state entity to which project control is delegated under this section shall:

1027 (i) assume fiduciary control over project finances;

1028 (ii) assume all responsibility for project budgets and expenditures; and

1029 (iii) receive all funds appropriated for the project, including any contingency funds  
1030 contained in the appropriated project budget.

1031 (b) Notwithstanding a delegation of project control under this section, a state entity to  
1032 which control is delegated is required to comply with the division's codes and guidelines for  
1033 design and construction.

1034 (c) A state entity to which project control is delegated under this section may not  
1035 access, for the delegated project, the division's statewide contingency reserve and project  
1036 reserve authorized in Section [63A-5b-609](#).

1037 (d) For a facility that will be owned, operated, maintained, and repaired by an entity  
1038 that is not an agency and that is located on [~~state~~] property that the state owns or leases as a  
1039 tenant, the director may authorize the facility's owner to administer the design and construction  
1040 of the project relating to that facility.

1041 (6) (a) A project for the construction of a new facility and a project for alterations,  
1042 repairs, and improvements to an existing facility are not subject to Subsection (1) if the project:

1043 (i) occurs on property under the jurisdiction of the State Capitol Preservation Board;

1044 (ii) is within a designated research park at the University of Utah or Utah State  
1045 University;

1046 (iii) occurs within the boundaries of This is the Place State Park and is administered by  
1047 This is the Place Foundation; or

1048 (iv) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah

1049 Percent-for-Art Act.

1050 (b) Notwithstanding Subsection (6)(a)(iii), the This is the Place Foundation may  
1051 request the director to administer the design and construction of a project within the boundaries  
1052 of This is the Place State Park.

1053 (7) (a) The role of compliance agency under Title 15A, State Construction and Fire  
1054 Codes Act, shall be filled by:

1055 (i) the director, for a project administered by the division;

1056 (ii) the entity designated by the State Capitol Preservation Board, for a project under  
1057 Subsection (6)(a)(i);

1058 (iii) the local government, for a project that is:

1059 (A) not subject to the division's administration under Subsection (6)(a)(ii); or

1060 (B) administered by This is the Place Foundation under Subsection (6)(a)(iii);

1061 (iv) the compliance agency designated by the director, for a project under Subsection  
1062 (2), (3), (4), or (5)(d); and

1063 (v) for the installation of art under Subsection (6)(a)(iv), the entity that is acting as the  
1064 compliance officer for the balance of the project for which the art is being installed.

1065 (b) A local government acting as the compliance agency under Subsection (7)(a)(iii)  
1066 may:

1067 (i) only review plans and inspect construction to enforce the state construction code or  
1068 an approved code under Title 15A, State Construction and Fire Codes Act; and

1069 (ii) charge a building permit fee of no more than the amount the local government  
1070 could have charged if the land upon which the improvements are located were not owned by  
1071 the state.

1072 (8) (a) The zoning authority of a local government under [~~Section 10-9a-305~~ or  
1073 ~~17-27a-305~~] Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, or  
1074 Title 17, Chapter 27a, County Land Use, Development, and Management Act, does not apply  
1075 to the use of [state] property that the state owns or any improvements constructed on [state]  
1076 property that the state owns, including improvements constructed by an entity other than a state  
1077 entity.

1078 (b) A state entity controlling the use of [state] property that the state owns shall  
1079 consider any input received from a local government in determining how the property is to be

1080 used.

1081 Section 17. Section **63A-5b-802** is amended to read:

1082 **63A-5b-802. Leasing responsibilities of the director.**

1083 (1) The director shall:

1084 (a) prepare and submit a yearly request to the governor and Legislature for a designated  
1085 amount of square footage by type of space to be leased by the division for that fiscal year;

1086 (b) lease, in the name of the division, all real property space to be occupied by a leasing  
1087 agency;

1088 (c) in leasing space:

1089 (i) use a process consistent with the best interest of the state, the requirements of the  
1090 leasing agency, and the anticipated use of the property; and

1091 (ii) comply with any legislative mandates contained in the appropriations act or other  
1092 legislation;

1093 (d) apply the criteria contained in Subsection (1)(f) to prepare a report evaluating each  
1094 high-cost lease at least 12 months before the lease expires;

1095 (e) evaluate each lease under the division's control and apply the criteria contained in  
1096 Subsection (1)(f), as applicable, to evaluate the lease;

1097 (f) in evaluating leases:

1098 (i) determine whether the lease is cost-effective when the needs of the leasing agency  
1099 to be housed in the leased facilities are considered;

1100 (ii) determine whether another option such as construction, use of other state-owned  
1101 space, or a lease-purchase agreement is more cost-effective than leasing;

1102 (iii) determine whether the significant lease terms are cost-effective and provide the  
1103 state with sufficient flexibility and protection from liability;

1104 (iv) compare the proposed lease payments to the current market rates, and evaluate  
1105 whether the proposed lease payments are reasonable under current market conditions;

1106 (v) compare proposed significant lease terms to the current market, and recommend  
1107 whether these proposed terms are reasonable under current market conditions; and

1108 (vi) if applicable, recommend that the lease or modification to a lease be approved or  
1109 disapproved;

1110 (g) based upon the evaluation, include in the report recommendations that identify

1111 viable alternatives to:

1112 (i) make the lease cost-effective; or

1113 (ii) meet the leasing agency's needs when the lease expires; and

1114 (h) upon request, provide the information included in the report to:

1115 (i) the leasing agency benefitted by the lease; and

1116 (ii) the Office of the Legislative Fiscal Analyst.

1117 (2) The director may:

1118 (a) subject to legislative appropriation, enter into a facility lease with a term of up to 10

1119 years if the length of the lease's term is economically advantageous to the state; and

1120 (b) ~~[with the approval of the board and]~~ subject to legislative appropriation, enter into a

1121 facility lease with a term of more than 10 years if the length of the lease's term is economically

1122 advantageous to the state.

1123 Section 18. Section **63A-5b-803** is amended to read:

1124 **63A-5b-803. Reporting of leasing activity.**

1125 (1) The director shall:

1126 (a) prepare a standard form upon which a leasing agency and another state institution  
1127 or entity can report the current and proposed lease activity of the leasing agency, institution, or  
1128 entity, including any lease renewal; and

1129 (b) develop procedures and mechanisms within the division to:

1130 (i) obtain and share information about each leasing agency's real property needs; and

1131 (ii) provide oversight and review of lessors and lessees during the term of each lease.

1132 (2) Each leasing agency, the ~~[Judicial Council]~~ Administrative Office of the Courts,

1133 and the board of trustees for each institution of higher education, shall report all current and

1134 proposed lease activity on the standard form prepared by the division to:

1135 (a) the division; and

1136 (b) the Office of the Legislative Fiscal Analyst.

1137 Section 19. Section **63A-5b-806** is amended to read:

1138 **63A-5b-806. Division rules on the value of property bought or exchanged --**

1139 **Exception.**

1140 (1) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative

1141 Rulemaking Act, make rules to ensure that, if the division buys or exchanges real property, the

1142 value of the real property is congruent with the proposed price and other terms of the purchase  
1143 or exchange.

1144 (2) The rules:

1145 (a) shall establish procedures for determining the value of the real property;

1146 (b) may provide that an appraisal, as defined in Section 61-2g-102, demonstrates the  
1147 real property's value; and

1148 (c) may require that the appraisal be completed by a state-certified general appraiser, as  
1149 defined in Section 61-2g-102.

1150 (3) The rules adopted under Subsection (1) do not apply to the purchase or exchange of  
1151 real property, or an interest in real property, with a value of less than [~~\$250,000~~] \$500,000, as  
1152 estimated by the division.

1153 Section 20. Section 63A-5b-901 is amended to read:

1154 **63A-5b-901. Definitions.**

1155 As used in this part:

1156 (1) "Applicant" means a person who submits a timely, qualified proposal to the  
1157 division.

1158 (2) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.

1159 [~~(3) "Convey" means:~~]

1160 [~~(a) to provide for a primary state agency's occupancy or use of vacant division-owned  
1161 property; or]~~

1162 [~~(b) to effect a transfer of ownership or lease of vacant division-owned property to a  
1163 secondary state agency, local government entity, public purpose nonprofit entity, or private  
1164 party.]~~

1165 [~~(4)~~] (3) "Division-owned property" means real property, including an interest in real  
1166 property, to which the division holds title, regardless of who occupies or uses the real property.

1167 [~~(5)~~] (4) "Local government entity" means a county, city, town, metro township, local  
1168 district, special service district, community development and renewal agency, conservation  
1169 district, school district, or other political subdivision of the state.

1170 [~~(6)~~] (5) "Primary state agency" means a state agency for which the division holds title  
1171 to real property that the state agency occupies or uses, as provided in Subsection

1172 63A-5b-303(1)(a)(iv).

1173            [(7)] (6) "Private party" means a person who is not a state agency, local government  
1174 entity, or public purpose nonprofit entity.

1175            [(8)] (7) "Public purpose nonprofit entity" means a corporation, association,  
1176 organization, or entity that:

1177            (a) is located within the state;

1178            (b) is not a state agency or local government entity;

1179            (c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue  
1180 Code; and

1181            (d) operates to fulfill a public purpose.

1182            [(9)] (8) "Qualified proposal" means a written proposal that:

1183            (a) meets the criteria established by the division by rule under Section 63A-5b-903;

1184            (b) if submitted by a local government entity or public purpose nonprofit entity,  
1185 explains the public purpose for which the local government entity or public purpose nonprofit  
1186 entity seeks a transfer of ownership or lease of the vacant division-owned property; and

1187            (c) the director determines will, if accepted and implemented, provide a material  
1188 benefit to the state.

1189            [(10)] (9) "Secondary state agency" means a state agency:

1190            (a) that is authorized to hold title to real property that the state agency occupies or uses,  
1191 as provided in [~~Subsection 63A-5b-303(4)~~] Section 63A-5b-304; and

1192            (b) for which the division does not hold title to real property that the state agency  
1193 occupies or uses.

1194            [(11)] (10) "State agency" means a department, division, office, entity, agency, or other  
1195 unit of state government.

1196            [(12)] (11) "Transfer of ownership" includes a transfer of the ownership of vacant  
1197 division-owned property that occurs as part of an exchange of the vacant division-owned  
1198 property for another property.

1199            [(13)] (12) "Vacant division-owned property" means division-owned property that:

1200            (a) a primary state agency [~~has discontinued to occupy or use~~] is not occupying or  
1201 using; and

1202            (b) the director has determined should be made available for:

1203            (i) use or occupancy by a primary state agency; or

1204 (ii) a transfer of ownership or lease to a secondary state agency, local government  
1205 entity, public purpose nonprofit entity, or private party.

1206 [(14)] (13) "Written proposal" means a brief statement in writing that explains:

1207 (a) the proposed use or occupancy, transfer of ownership, or lease of vacant  
1208 division-owned property; and

1209 (b) how the state will benefit from the proposed use or occupancy, transfer of  
1210 ownership, or lease.

1211 Section 21. Section 63A-5b-902 is amended to read:

1212 **63A-5b-902. Application of part.**

1213 (1) The provisions of this part, other than this section, do not apply to:

1214 (a) a conveyance, lease, or disposal under Subsection 63A-5b-303(1)(a)[(ix)](viii); [or]

1215 (b) the division's disposal or lease of division-owned property with a value under  
1216 [~~\$250,000~~] \$500,000, as estimated by the division[-]; or

1217 (c) a conveyance, lease, or disposal of division-owned property in connection with:

1218 (i) the establishment of a state store, as defined in Section 32B-1-102; or

1219 (ii) the construction of student housing.

1220 (2) Nothing in Subsection (1)(b) or (c) may be construed to diminish or eliminate the  
1221 division's responsibility to manage division-owned property in the best interests of the state.

1222 Section 22. Section 63A-5b-904 is amended to read:

1223 **63A-5b-904. Division authority with respect to vacant division-owned property --**  
1224 **Limitations.**

1225 (1) Subject to Section 63A-5b-909, the division may[~~, as provided in this part~~]:

1226 (a) provide for a primary state agency's occupancy or use of vacant division-owned  
1227 property, if the director determines that the primary state agency's occupancy or use is in the  
1228 best interests of the state;

1229 (b) effect a transfer of ownership or lease of vacant division-owned property [~~to a~~  
1230 ~~secondary state agency, local government entity, public purpose nonprofit entity, or private~~  
1231 ~~party~~], as provided in this section; or

1232 (c) refer vacant division-owned property to the Department of Transportation for sale  
1233 by auction, as provided in Section 63A-5b-908.

1234 (2) (a) The division may effect a transfer of ownership or lease of vacant



1235 division-owned property to an applicant for fair market value if the director determines that the  
1236 transfer of ownership or lease to that applicant is in the state's best interest.

1237 (b) In determining the state's best interest under Subsection (2)(a), the director may  
1238 consider:

1239 (i) the price and financial terms of all qualified proposals; and

1240 (ii) the relative benefits to the state of the proposed uses of the vacant division-owned  
1241 property as stated in the qualified proposals.

1242 ~~[(2)]~~ (3) The division may ~~[not]~~ effect a transfer of ownership or lease of vacant  
1243 division-owned property without receiving fair market value in return ~~[unless]~~ if:

1244 (a) the director determines that the transfer of ownership or lease is in the best interests  
1245 of the state;

1246 (b) for a proposed transfer of ownership or lease to a local government entity, public  
1247 purpose nonprofit entity, or private party, the director determines that the local government  
1248 entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a  
1249 public purpose;

1250 (c) the director requests and receives a recommendation on the proposed transfer of  
1251 ownership or lease from the Legislative Executive Appropriations Committee;

1252 (d) the director communicates the Executive Appropriations Committee's  
1253 recommendation to the executive director; and

1254 (e) the executive director approves the transfer of ownership or lease.

1255 ~~[(3)]~~ (4) (a) If the division effects a transfer of ownership of vacant division-owned  
1256 property without receiving fair market value in return, ~~[as provided in this part,]~~ the division  
1257 shall require the documents memorializing the transfer of ownership to preserve to the  
1258 division:

1259 (i) in the case of a transfer of ownership of vacant division-owned property to a  
1260 secondary state agency, local government entity, or public purpose nonprofit entity for no or  
1261 nominal consideration, a right of reversion, providing for the ownership of the property to  
1262 revert to the division if the property ceases to be used for the public benefit; or

1263 (ii) in the case of any other transfer of ownership of vacant division-owned property, a  
1264 right of first refusal allowing the division to purchase the property from the transferee for the  
1265 same price that the transferee paid to the division if the transferee wishes to transfer ownership

1266 of the former vacant division-owned property.

1267 (b) Subsection [~~(3)~~] (4)(a) does not apply to the sale of vacant division-owned property  
1268 at an auction under Section 63A-5b-908.

1269 Section 23. Section 63A-5b-905 is amended to read:

1270 **63A-5b-905. Notice required before division may effect a transfer of ownership**  
1271 **or lease of division-owned property.**

1272 (1) Before the division may ~~convey~~ effect a transfer of ownership or lease of vacant  
1273 division-owned property, the division shall give notice as provided in Subsection (2).

1274 (2) A notice required under Subsection (1) shall:

1275 (a) identify and describe the vacant division-owned property;

1276 (b) indicate the availability of the vacant division-owned property;

1277 (c) invite persons interested in the vacant division-owned property to submit a written  
1278 proposal to the division;

1279 (d) indicate the deadline for submitting a written proposal;

1280 (e) be posted on the division's website for at least 60 consecutive days before the  
1281 deadline for submitting a written proposal, in a location specifically designated for notices  
1282 dealing with vacant division-owned property;

1283 (f) be posted on the Utah Public Notice Website created in Section 63A-16-601 for at  
1284 least 60 consecutive days before the deadline for submitting a written proposal; and

1285 (g) be sent by email to each person who has previously submitted to the division a  
1286 written request to receive notices under this section.

1287 Section 24. Section 63A-5b-907 is amended to read:

1288 **63A-5b-907. Priorities for vacant division-owned property -- Division to convey**  
1289 **vacant division-owned property.**

1290 (1) This section applies to a proposed transfer of ownership or lease of vacant  
1291 division-owned property at less than fair market value.

1292 [~~(+)~~] (2) (a) [~~A~~] An applicant that is a state agency has priority for vacant  
1293 division-owned property over an applicant that is a local government entity, a public purpose  
1294 nonprofit entity, and a private party.

1295 (b) [~~A~~] An applicant that is a local government entity and an applicant that is a public  
1296 purpose nonprofit entity have:

1297 (i) priority for vacant division-owned property over an applicant that is a private party;  
1298 and

1299 (ii) between them the same priority for vacant division-owned property.

1300 ~~[(2)]~~ (3) If the division receives multiple timely qualified proposals from applicants  
1301 with the highest and same priority, the division shall:

1302 (a) notify the ~~[board]~~ executive director of:

1303 (i) the availability of the vacant division-owned property; and

1304 (ii) the applicants with the highest and same priority that have submitted qualified  
1305 proposals; and

1306 (b) provide the ~~[board]~~ executive director with a copy of the timely qualified proposals  
1307 submitted by the applicants with the highest and same priority.

1308 ~~[(3)]~~ (4) Within 30 days after being notified under Subsection ~~[(2)]~~ (3), the ~~[board]~~  
1309 executive director shall:

1310 (a) determine which applicant's qualified proposal is most likely to result in the highest  
1311 and best public benefit; and

1312 (b) notify the division of the ~~[board's]~~ executive director's decision under Subsection  
1313 ~~[(3)]~~ (4)(a).

1314 ~~[(4)]~~ (5) The division shall ~~[convey]~~ effect a transfer or ownership or lease of the  
1315 vacant division-owned property to:

1316 (a) the applicant with the highest priority under Subsection ~~[(1)]~~ (2), if the division  
1317 receives a timely qualified proposal from a single applicant with the highest priority; or

1318 (b) the applicant whose qualified proposal was determined by the ~~[board]~~ executive  
1319 director under Subsection ~~[(3)]~~ (4) to be most likely to result in the highest and best public  
1320 benefit, if the division receives multiple timely qualified proposals from applicants with the  
1321 highest and same priority.

1322 ~~[(5)(a) If the division leases vacant division-owned property to a private party, the~~  
1323 ~~division shall, within 30 days after a lease agreement is executed, provide written notice of the~~  
1324 ~~lease to:]~~

1325 ~~[(i) the municipality in which the vacant division-owned property is located, if the~~  
1326 ~~vacant division-owned property is within a municipality; or]~~

1327 ~~[(ii) the county in whose unincorporated area the vacant division-owned property is~~

1328 located, if the vacant division-owned property is not located within a municipality.]

1329 ~~[(b) Nothing in this chapter may be used by a private party leasing division-owned~~  
1330 ~~property as a basis for not complying with applicable local land use ordinances and~~  
1331 ~~regulations.]~~

1332 Section 25. Section **63A-5b-907.5** is enacted to read:

1333 **63A-5b-907.5. Lease of division-owned property to a private party.**

1334 (1) If the division leases division-owned property to a private party, the division shall,  
1335 within 30 days after a lease agreement is executed, provide written notice of the lease to:

1336 (a) the municipality in which the division-owned property is located, if the  
1337 division-owned property is within a municipality; or

1338 (b) the county in whose unincorporated area the division-owned property is located, if  
1339 the division-owned property is not located within a municipality.

1340 (2) Nothing in this part may be used by a private party leasing division-owned property  
1341 as a basis for not complying with applicable local land use ordinances and regulations.

1342 Section 26. Section **63A-5b-910** is amended to read:

1343 **63A-5b-910. Disposition of proceeds received by division from sale of vacant**  
1344 **division-owned property.**

1345 (1) (a) Except as provided in Section [62A-5-206.7](#), the division shall pay into the state  
1346 treasury the money received from the transfer of ownership or lease of vacant division-owned  
1347 property.

1348 (b) Money paid into the state treasury under Subsection (1)(a):

1349 (i) becomes a part of the funds provided by law for carrying out the building program  
1350 of the state; and

1351 (ii) is appropriated for the purpose described in Subsection (1)(b)(i).

1352 (2) The proceeds from the transfer of ownership or lease of vacant division-owned  
1353 property belonging to or used by a particular state agency shall, to the extent practicable, be  
1354 expended for the construction of buildings or in the performance of other work for the benefit  
1355 of that state agency.

1356 Section 27. Section **63A-5b-1001** is amended to read:

1357 **63A-5b-1001. Definitions.**

1358 As used in this part:

1359 (1) "Energy efficiency measure" means an action taken or initiated by an agency that:

1360 (a) reduces the agency's energy or fuel use or resource energy consumption, water or  
1361 other resource consumption, operation and maintenance costs, or cost of energy, fuel, water, or  
1362 other resource; or

1363 (b) increases the agency's energy or fuel efficiency or resource consumption efficiency.

1364 (2) "Energy efficiency program" means a program established under Section  
1365 [63A-5b-1002](#) for the purpose of improving energy efficiency measures and reducing the energy  
1366 costs for state facilities.

1367 (3) "Fund" means the State Facility Energy Efficiency Fund created in Section  
1368 [63A-5b-1003](#).

1369 (4) "Performance efficiency agreement" means an agreement entered into by an agency  
1370 whereby the agency implements one or more energy efficiency measures and finances the costs  
1371 associated with implementation of performance efficiency measures using the stream of  
1372 expected savings in costs resulting from implementation of the performance efficiency  
1373 measures as a funding source for repayment.

1374 (5) (a) "State facility" means any building, structure, or other improvement that is  
1375 constructed on property [~~owned by~~] that the state, any of the state's departments, commissions,  
1376 institutions, or agencies, or a state institution of higher education owns or leases as a tenant.

1377 (b) "State facility" does not include:

1378 (i) an unoccupied structure that is a component of the state highway system;

1379 (ii) a privately owned structure that is located on property [~~owned by~~] that the state,  
1380 any of the state's departments, commissions, institutions, or agencies, or a state institution of  
1381 higher education owns or leases as a tenant; or

1382 (iii) a structure that is located on land administered by the trust lands administration  
1383 under a lease, permit, or contract with the trust lands administration.

1384 Section 28. Section [63A-5b-1003](#) is amended to read:

1385 **[63A-5b-1003. State Facility Energy Efficiency Fund -- Contents -- Use of fund](#)**  
1386 **money.**

1387 (1) There is created a revolving loan fund known as the "State Facility Energy  
1388 Efficiency Fund."

1389 (2) The fund shall consist of:

- 1390 (a) money transferred from the Stripper Well-Petroleum Violation Escrow Fund;
- 1391 (b) money appropriated by the Legislature;
- 1392 (c) money received for the repayment of loans made from the fund; and
- 1393 (d) interest earned on the fund.

1394 (3) The [board] division shall make a loan from the fund to an agency to finance all or  
1395 part of energy efficiency measures.

1396 (4) (a) (i) An agency requesting a loan shall submit an application to the [board]  
1397 division in the form and containing the information that the [board] division requires, including  
1398 plans and specifications for the proposed energy efficiency measures.

1399 (ii) An agency may request a loan to fund all or part of the cost of energy efficiency  
1400 measures.

1401 (b) If the [board] division rejects the application, the [board] division shall notify the  
1402 applicant stating the reasons for the rejection.

1403 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1404 the [board] division shall make rules establishing:

1405 (i) criteria to determine:

1406 (A) loan eligibility;

1407 (B) energy efficiency measures priority; and

1408 (C) ways to measure energy savings that take into account fluctuations in energy costs  
1409 and temperature; and

1410 (ii) a method of monitoring actual savings resulting from energy efficiency measures  
1411 implemented using loan money from the fund, using objective and verifiable post-construction  
1412 measures, if available.

1413 (b) In making rules that establish prioritization criteria for energy efficiency measures,  
1414 the [board] division may consider:

1415 (i) possible additional sources of revenue;

1416 (ii) the feasibility and practicality of the energy efficiency measures;

1417 (iii) the energy savings attributable to eligible energy efficiency measures;

1418 (iv) the annual energy savings;

1419 (v) the projected energy cost payback of eligible energy efficiency measures;

1420 (vi) other benefits to the state attributable to eligible energy efficiency measures;

1421 (vii) the availability of federal funds for the energy efficiency measures; and  
1422 (viii) whether to require an agency to provide matching funds for the energy efficiency  
1423 measures.

1424 (6) (a) In reviewing energy efficiency measures for possible funding, the [board]  
1425 division shall:

- 1426 (i) review the loan application and the plans and specifications for the energy  
1427 efficiency measures;
- 1428 (ii) determine whether to grant the loan by applying the loan eligibility criteria; and
- 1429 (iii) if the loan is granted, prioritize funding of the energy efficiency measures by  
1430 applying the prioritization criteria.

1431 (b) The [board] division may condition approval of a loan application and the  
1432 availability of funds on assurances from the agency that the [board] division considers  
1433 necessary to ensure that the agency:

- 1434 (i) uses the proceeds to pay the cost of the energy efficiency measures; and
- 1435 (ii) implements the energy efficiency measures.

1436 (7) The division shall annually report to the Government Operations Interim  
1437 Committee of the Legislature the actual savings resulting from energy efficiency measures  
1438 implemented using loan money from the fund, as monitored pursuant to rules adopted under  
1439 Subsection (5)(a)(ii).

1440 ~~[(8) The manager of the energy efficiency program shall provide staff support when the~~  
1441 ~~board performs the duties established in this section.]~~

1442 Section 29. Section **63A-5b-1104** is amended to read:

1443 **63A-5b-1104. Notification to local governments for construction or modification**  
1444 **of certain facilities.**

1445 (1) (a) The director or the director's designee shall notify in writing the elected  
1446 representatives of a local government entity directly and substantively affected by any  
1447 diagnostic, treatment, parole, probation, or other secured facility project exceeding [~~\$250,000~~]  
1448 \$500,000, if:

- 1449 (i) the nature of the project has been significantly altered since an earlier notification;
- 1450 (ii) the project would significantly change the nature of the functions presently  
1451 conducted at the location; or

1452 (iii) the project is new construction.

1453 (b) At the request of the state entity or the local government entity, representatives  
1454 from the state entity and the affected local entity shall conduct or participate in a local public  
1455 hearing or hearings to discuss the issues described in Subsection (1)(a).

1456 (2) (a) (i) Before beginning the construction of student housing on property owned by  
1457 the state or an institution of higher education, the director shall provide written notice of the  
1458 proposed construction, as provided in Subsection (2)(a)(ii), if any of the proposed student  
1459 housing buildings is within 300 feet of privately owned residential property.

1460 (ii) Each notice under Subsection (2)(a)(i) shall be provided to the legislative body and,  
1461 if applicable, the mayor of:

1462 (A) the county in whose unincorporated area the privately owned residential property is  
1463 located; or

1464 (B) the municipality in whose boundary the privately owned residential property is  
1465 located.

1466 (b) (i) Within 21 days after receiving the notice required by Subsection (2)(a)(i), a  
1467 county or municipality entitled to the notice may submit a written request to the director for a  
1468 public hearing on the proposed student housing construction.

1469 (ii) If a county or municipality requests a hearing under Subsection (2)(b)(i), the  
1470 director and the county or municipality shall jointly hold a public hearing to provide  
1471 information to the public and to allow the director and the county or municipality to receive  
1472 input from the public about the proposed student housing construction.

1473 Section 30. Section **63B-1-101** is amended to read:

1474 **63B-1-101. Definitions.**

1475 As used in this title:

1476 [~~(1) "Board" means the State Building Board.~~]

1477 [~~(2)~~] (1) "Bond anticipation note" means:

1478 (a) any financing note issued according to the procedures and requirements of this title  
1479 in anticipation of the receipt of the proceeds of the sale of the bonds authorized under this title;  
1480 and

1481 (b) any renewal of those notes.

1482 [~~(3)~~] (2) "Bonds" means any bonds, bond anticipation notes, or other obligations



1483 authorized under this title for which the full faith, credit, and resources and ad valorem taxing  
 1484 power of the state have been pledged for the payment of the principal of and interest on the  
 1485 bonds.

1486 [(4)] (3) "Capital project" means any land, building, facility, highway, improvement,  
 1487 equipment, or other property, or combination of them, that the state of Utah or any of its  
 1488 agencies, divisions, institutions, or other administrative subunits are authorized by law to  
 1489 acquire or construct.

1490 [(5)] (4) "Commission" means the State Bonding Commission created in Section  
 1491 63B-1-201.

1492 [(6)] (5) "Division" means the Division of Facilities Construction and Management.

1493 [(7)] (6) "Sinking fund" means the fund or account established as provided in this title  
 1494 to hold money to pay the principal and interest on each series of bonds as they become due.

1495 Section 31. Section 63B-1-304 is amended to read:

1496 **63B-1-304. State Building Ownership Authority created -- Members --**

1497 **Compensation -- Location in Department of Administrative Services.**

1498 (1) There is created a body politic and corporate to be known as the State Building  
 1499 Ownership Authority composed of:

1500 (a) the governor;

1501 (b) the state treasurer; and

1502 (c) the [~~chair of the state building board created under Section 63A-5b-201~~] executive  
 1503 director of the Department of Government Operations.

1504 (2) A member may not receive compensation or benefits for the member's service, but  
 1505 may receive per diem and travel expenses in accordance with:

1506 (a) Section 63A-3-106;

1507 (b) Section 63A-3-107; and

1508 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
 1509 63A-3-107.

1510 (3) (a) Upon request, the division shall provide staff support to the State Building  
 1511 Ownership Authority.

1512 (b) The State Building Ownership Authority may seek and obtain independent financial  
 1513 advice, support, and information from the state financial advisor created under Section

1514 67-4-16.

1515 Section 32. Section 63C-9-403 is amended to read:

1516 **63C-9-403. Contracting power of executive director -- Health insurance coverage.**

1517 (1) As used in this section:

1518 (a) "Aggregate" means the sum of all contracts, change orders, and modifications  
1519 related to a single project.

1520 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

1521 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or  
1522 "operative" who:

1523 (i) works at least 30 hours per calendar week; and

1524 (ii) meets employer eligibility waiting requirements for health care insurance, which  
1525 may not exceed the first of the calendar month following 60 days after the day on which the  
1526 individual is hired.

1527 (d) "Health benefit plan" means:

1528 (i) the same as that term is defined in Section 31A-1-301; or

1529 (ii) an employee welfare benefit plan:

1530 (A) established under the Employee Retirement Income Security Act of 1974, 29  
1531 U.S.C. Sec. 1001 et seq.;

1532 (B) for an employer with 100 or more employees; and

1533 (C) in which the employer establishes a self-funded or partially self-funded group  
1534 health plan to provide medical care for the employer's employees and dependents of the  
1535 employees.

1536 (e) "Qualified health coverage" means the same as that term is defined in Section  
1537 26-40-115.

1538 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

1539 (g) "Third party administrator" or "administrator" means the same as that term is  
1540 defined in Section 31A-1-301.

1541 (2) Except as provided in Subsection (3), the requirements of this section apply to:

1542 (a) a contractor of a design or construction contract entered into by the board, or on  
1543 behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount  
1544 equal to or greater than \$2,000,000; and

1545 (b) a subcontractor of a contractor of a design or construction contract entered into by  
1546 the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an  
1547 aggregate amount equal to or greater than \$1,000,000.

1548 (3) The requirements of this section do not apply to a contractor or subcontractor  
1549 described in Subsection (2) if:

1550 (a) the application of this section jeopardizes the receipt of federal funds;

1551 (b) the contract is a sole source contract; or

1552 (c) the contract is an emergency procurement.

1553 (4) A person that intentionally uses change orders, contract modifications, or multiple  
1554 contracts to circumvent the requirements of this section is guilty of an infraction.

1555 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the  
1556 executive director that the contractor has and will maintain an offer of qualified health  
1557 coverage for the contractor's employees and the employees' dependents during the duration of  
1558 the contract by submitting to the executive director a written statement that:

1559 (i) the contractor offers qualified health coverage that complies with Section  
1560 [26-40-115](#);

1561 (ii) is from:

1562 (A) an actuary selected by the contractor or the contractor's insurer;

1563 (B) an underwriter who is responsible for developing the employer group's premium  
1564 rates; or

1565 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
1566 an actuary or underwriter selected by a third party administrator; and

1567 (iii) was created within one year before the day on which the statement is submitted.

1568 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)  
1569 shall provide the actuary or underwriter selected by the administrator, as described in  
1570 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's  
1571 contribution to the health benefit plan and the health benefit plan's actuarial value meets the  
1572 requirements of qualified health coverage.

1573 (ii) A contractor may not make a change to the contractor's contribution to the health  
1574 benefit plan, unless the contractor provides notice to:

1575 (A) the actuary or underwriter selected by the administrator, as described in Subsection

1576 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in  
1577 Subsection (5)(a) in compliance with this section; and

1578 (B) the executive director.

1579 (c) A contractor that is subject to the requirements of this section shall:

1580 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that  
1581 is subject to the requirements of this section shall obtain and maintain an offer of qualified  
1582 health coverage for the subcontractor's employees and the employees' dependents during the  
1583 duration of the subcontract; and

1584 (ii) obtain from a subcontractor that is subject to the requirements of this section a  
1585 written statement that:

1586 (A) the subcontractor offers qualified health coverage that complies with Section  
1587 [26-40-115](#);

1588 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an  
1589 underwriter who is responsible for developing the employer group's premium rates, or if the  
1590 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or  
1591 underwriter selected by an administrator; and

1592 (C) was created within one year before the day on which the contractor obtains the  
1593 statement.

1594 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as  
1595 described in Subsection (5)(a) during the duration of the contract is subject to penalties in  
1596 accordance with administrative rules adopted by the division under Subsection (6).

1597 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain  
1598 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

1599 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
1600 coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to  
1601 penalties in accordance with administrative rules adopted by the department under Subsection  
1602 (6).

1603 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
1604 an offer of qualified health coverage described in Subsection (5)(a).

1605 (6) The department shall adopt administrative rules:

1606 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

- 1607 (b) in coordination with:
- 1608 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 1609 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 1610 (iii) the ~~[State Building Board]~~ Division of Facilities Construction and Management in  
1611 accordance with Section 63A-5b-607;
- 1612 (iv) a public transit district in accordance with Section 17B-2a-818.5;
- 1613 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 1614 (vi) the Legislature's Administrative Rules Review Committee; and
- 1615 (c) that establish:
- 1616 (i) the requirements and procedures a contractor and a subcontractor shall follow to  
1617 demonstrate compliance with this section, including:
- 1618 (A) that a contractor or subcontractor's compliance with this section is subject to an  
1619 audit by the department or the Office of the Legislative Auditor General;
- 1620 (B) that a contractor that is subject to the requirements of this section shall obtain a  
1621 written statement described in Subsection (5)(a); and
- 1622 (C) that a subcontractor that is subject to the requirements of this section shall obtain a  
1623 written statement described in Subsection (5)(c)(ii);
- 1624 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
1625 violates the provisions of this section, which may include:
- 1626 (A) a three-month suspension of the contractor or subcontractor from entering into  
1627 future contracts with the state upon the first violation;
- 1628 (B) a six-month suspension of the contractor or subcontractor from entering into future  
1629 contracts with the state upon the second violation;
- 1630 (C) an action for debarment of the contractor or subcontractor in accordance with  
1631 Section 63G-6a-904 upon the third or subsequent violation; and
- 1632 (D) monetary penalties which may not exceed 50% of the amount necessary to  
1633 purchase qualified health coverage for employees and dependents of employees of the  
1634 contractor or subcontractor who were not offered qualified health coverage during the duration  
1635 of the contract; and
- 1636 (iii) a website on which the department shall post the commercially equivalent  
1637 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by

1638 the Department of Health, in accordance with Subsection [26-40-115](#)(2).

1639 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor  
1640 or subcontractor who intentionally violates the provisions of this section is liable to the  
1641 employee for health care costs that would have been covered by qualified health coverage.

1642 (ii) An employer has an affirmative defense to a cause of action under Subsection  
1643 (7)(a)(i) if:

1644 (A) the employer relied in good faith on a written statement described in Subsection  
1645 (5)(a) or (5)(c)(ii); or

1646 (B) the department determines that compliance with this section is not required under  
1647 the provisions of Subsection (3).

1648 (b) An employee has a private right of action only against the employee's employer to  
1649 enforce the provisions of this Subsection (7).

1650 (8) Any penalties imposed and collected under this section shall be deposited into the  
1651 Medicaid Restricted Account created in Section [26-18-402](#).

1652 (9) The failure of a contractor or subcontractor to provide qualified health coverage as  
1653 required by this section:

1654 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
1655 or contractor under:

1656 (i) Section [63G-6a-1602](#); or

1657 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

1658 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
1659 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
1660 or construction.

1661 (10) An administrator, including the administrator's actuary or underwriter, who  
1662 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
1663 coverage of a contractor or subcontractor who provides a health benefit plan described in  
1664 Subsection (1)(d)(ii):

1665 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
1666 unless the administrator commits gross negligence in preparing the written statement;

1667 (b) is not liable for any error in the written statement if the administrator relied in good  
1668 faith on information from the contractor or subcontractor; and

1669 (c) may require as a condition of providing the written statement that a contractor or  
1670 subcontractor hold the administrator harmless for an action arising under this section.

1671 Section 33. Section **63G-6a-103** is amended to read:

1672 **63G-6a-103. Definitions.**

1673 As used in this chapter:

1674 (1) "Approved vendor" means a person who has been approved for inclusion on an  
1675 approved vendor list through the approved vendor list process.

1676 (2) "Approved vendor list" means a list of approved vendors established under Section  
1677 [63G-6a-507](#).

1678 (3) "Approved vendor list process" means the procurement process described in  
1679 Section [63G-6a-507](#).

1680 (4) "Bidder" means a person who submits a bid or price quote in response to an  
1681 invitation for bids.

1682 (5) "Bidding process" means the procurement process described in Part 6, Bidding.

1683 (6) "Board" means the Utah State Procurement Policy Board, created in Section  
1684 [63G-6a-202](#).

1685 [~~(7)~~] "~~Building board~~" means the ~~State Building Board~~, created in Section  
1686 [63A-5b-201](#);-

1687 [~~(8)~~] (7) "Change directive" means a written order signed by the procurement officer  
1688 that directs the contractor to suspend work or make changes, as authorized by contract, without  
1689 the consent of the contractor.

1690 [~~(9)~~] (8) "Change order" means a written alteration in specifications, delivery point,  
1691 rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon  
1692 mutual agreement of the parties to the contract.

1693 [~~(10)~~] (9) "Chief procurement officer" means the individual appointed under Section  
1694 [63A-2-102](#).

1695 [~~(11)~~] (10) "Conducting procurement unit" means a procurement unit that conducts all  
1696 aspects of a procurement:

1697 (a) except:

1698 (i) reviewing a solicitation to verify that it is in proper form; and

1699 (ii) causing the publication of a notice of a solicitation; and

- 1700 (b) including:
- 1701 (i) preparing any solicitation document;
- 1702 (ii) appointing an evaluation committee;
- 1703 (iii) conducting the evaluation process, except the process relating to scores calculated
- 1704 for costs of proposals;
- 1705 (iv) selecting and recommending the person to be awarded a contract;
- 1706 (v) negotiating the terms and conditions of a contract, subject to the issuing
- 1707 procurement unit's approval; and
- 1708 (vi) contract administration.

1709 [~~(12)~~] (11) "Conservation district" means the same as that term is defined in Section

1710 17D-3-102.

1711 [~~(13)~~] (12) "Construction project":

1712 (a) means a project for the construction, renovation, alteration, improvement, or repair

1713 of a public facility on real property, including all services, labor, supplies, and materials for the

1714 project; and

1715 (b) does not include services and supplies for the routine, day-to-day operation, repair,

1716 or maintenance of an existing public facility.

1717 [~~(14)~~] (13) "Construction manager/general contractor":

1718 (a) means a contractor who enters into a contract:

1719 (i) for the management of a construction project; and

1720 (ii) that allows the contractor to subcontract for additional labor and materials that are

1721 not included in the contractor's cost proposal submitted at the time of the procurement of the

1722 contractor's services; and

1723 (b) does not include a contractor whose only subcontract work not included in the

1724 contractor's cost proposal submitted as part of the procurement of the contractor's services is to

1725 meet subcontracted portions of change orders approved within the scope of the project.

1726 [~~(15)~~] (14) "Construction subcontractor":

1727 (a) means a person under contract with a contractor or another subcontractor to provide

1728 services or labor for the design or construction of a construction project;

1729 (b) includes a general contractor or specialty contractor licensed or exempt from

1730 licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and



1731 (c) does not include a supplier who provides only materials, equipment, or supplies to a  
1732 contractor or subcontractor for a construction project.

1733 [~~(16)~~] (15) "Contract" means an agreement for a procurement.

1734 [~~(17)~~] (16) "Contract administration" means all functions, duties, and responsibilities  
1735 associated with managing, overseeing, and carrying out a contract between a procurement unit  
1736 and a contractor, including:

1737 (a) implementing the contract;

1738 (b) ensuring compliance with the contract terms and conditions by the conducting  
1739 procurement unit and the contractor;

1740 (c) executing change orders;

1741 (d) processing contract amendments;

1742 (e) resolving, to the extent practicable, contract disputes;

1743 (f) curing contract errors and deficiencies;

1744 (g) terminating a contract;

1745 (h) measuring or evaluating completed work and contractor performance;

1746 (i) computing payments under the contract; and

1747 (j) closing out a contract.

1748 [~~(18)~~] (17) "Contractor" means a person who is awarded a contract with a procurement  
1749 unit.

1750 [~~(19)~~] (18) "Cooperative procurement" means procurement conducted by, or on behalf  
1751 of:

1752 (a) more than one procurement unit; or

1753 (b) a procurement unit and a cooperative purchasing organization.

1754 [~~(20)~~] (19) "Cooperative purchasing organization" means an organization, association,  
1755 or alliance of purchasers established to combine purchasing power in order to obtain the best  
1756 value for the purchasers by engaging in procurements in accordance with Section [63G-6a-2105](#).

1757 [~~(21)~~] (20) "Cost-plus-a-percentage-of-cost contract" means a contract under which the  
1758 contractor is paid a percentage of the total actual expenses or costs in addition to the  
1759 contractor's actual expenses or costs.

1760 [~~(22)~~] (21) "Cost-reimbursement contract" means a contract under which a contractor  
1761 is reimbursed for costs which are allowed and allocated in accordance with the contract terms

1762 and the provisions of this chapter, and a fee, if any.

1763 ~~[(23)]~~ (22) "Days" means calendar days, unless expressly provided otherwise.

1764 ~~[(24)]~~ (23) "Definite quantity contract" means a fixed price contract that provides for a  
1765 specified amount of supplies over a specified period, with deliveries scheduled according to a  
1766 specified schedule.

1767 ~~[(25)]~~ (24) "Design professional" means:

1768 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects  
1769 Licensing Act;

1770 (b) an individual licensed as a professional engineer or professional land surveyor  
1771 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing  
1772 Act; or

1773 (c) an individual certified as a commercial interior designer under Title 58, Chapter 86,  
1774 State Certification of Commercial Interior Designers Act.

1775 ~~[(26)]~~ (25) "Design professional procurement process" means the procurement process  
1776 described in Part 15, Design Professional Services.

1777 ~~[(27)]~~ (26) "Design professional services" means:

1778 (a) professional services within the scope of the practice of architecture as defined in  
1779 Section [58-3a-102](#);

1780 (b) professional engineering as defined in Section [58-22-102](#);

1781 (c) master planning and programming services; or

1782 (d) services within the scope of the practice of commercial interior design, as defined  
1783 in Section [58-86-102](#).

1784 ~~[(28)]~~ (27) "Design-build" means the procurement of design professional services and  
1785 construction by the use of a single contract.

1786 ~~[(29)]~~ (28) "Division" means the Division of Purchasing and General Services, created  
1787 in Section [63A-2-101](#).

1788 ~~[(30)]~~ (29) "Educational procurement unit" means:

1789 (a) a school district;

1790 (b) a public school, including a local school board or a charter school;

1791 (c) the Utah Schools for the Deaf and the Blind;

1792 (d) the Utah Education and Telehealth Network;

1793 (e) an institution of higher education of the state described in Section [53B-1-102](#); or  
1794 (f) the State Board of Education.

1795 ~~[(31)]~~ (30) "Established catalogue price" means the price included in a catalogue, price  
1796 list, schedule, or other form that:

1797 (a) is regularly maintained by a manufacturer or contractor;

1798 (b) is published or otherwise available for inspection by customers; and

1799 (c) states prices at which sales are currently or were last made to a significant number  
1800 of any category of buyers or buyers constituting the general buying public for the supplies or  
1801 services involved.

1802 ~~[(32)]~~ (31) (a) "Executive branch procurement unit" means a department, division,  
1803 office, bureau, agency, or other organization within the state executive branch.

1804 (b) "Executive branch procurement unit" does not include the Colorado River  
1805 Authority of Utah as provided in Section [63M-14-210](#).

1806 ~~[(33)]~~ (32) "Facilities division" means the Division of Facilities Construction and  
1807 Management, created in Section [63A-5b-301](#).

1808 ~~[(34)]~~ (33) "Fixed price contract" means a contract that provides a price, for each  
1809 procurement item obtained under the contract, that is not subject to adjustment except to the  
1810 extent that:

1811 (a) the contract provides, under circumstances specified in the contract, for an  
1812 adjustment in price that is not based on cost to the contractor; or

1813 (b) an adjustment is required by law.

1814 ~~[(35)]~~ (34) "Fixed price contract with price adjustment" means a fixed price contract  
1815 that provides for an upward or downward revision of price, precisely described in the contract,  
1816 that:

1817 (a) is based on the consumer price index or another commercially acceptable index,  
1818 source, or formula; and

1819 (b) is not based on a percentage of the cost to the contractor.

1820 ~~[(36)]~~ (35) "Grant" means an expenditure of public funds or other assistance, or an  
1821 agreement to expend public funds or other assistance, for a public purpose authorized by law,  
1822 without acquiring a procurement item in exchange.

1823 ~~[(37)]~~ (36) "Immaterial error":

- 1824 (a) means an irregularity or abnormality that is:
- 1825 (i) a matter of form that does not affect substance; or
- 1826 (ii) an inconsequential variation from a requirement of a solicitation that has no, little,
- 1827 or a trivial effect on the procurement process and that is not prejudicial to other vendors; and
- 1828 (b) includes:
- 1829 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a
- 1830 professional license, bond, or insurance certificate;
- 1831 (ii) a typographical error;
- 1832 (iii) an error resulting from an inaccuracy or omission in the solicitation; and
- 1833 (iv) any other error that the procurement official reasonably considers to be immaterial.
- 1834 ~~[(38)]~~ (37) "Indefinite quantity contract" means a fixed price contract that:
- 1835 (a) is for an indefinite amount of procurement items to be supplied as ordered by a
- 1836 procurement unit; and
- 1837 (b) (i) does not require a minimum purchase amount; or
- 1838 (ii) provides a maximum purchase limit.
- 1839 ~~[(39)]~~ (38) "Independent procurement unit" means:
- 1840 (a) (i) a legislative procurement unit;
- 1841 (ii) a judicial branch procurement unit;
- 1842 (iii) an educational procurement unit;
- 1843 (iv) a local government procurement unit;
- 1844 (v) a conservation district;
- 1845 (vi) a local building authority;
- 1846 (vii) a local district;
- 1847 (viii) a public corporation;
- 1848 (ix) a special service district; or
- 1849 (x) the Utah Communications Authority, established in Section [63H-7a-201](#);
- 1850 (b) ~~[the building board or]~~ the facilities division, but only to the extent of the
- 1851 procurement authority provided under Title 63A, Chapter 5b, Administration of State
- 1852 Facilities;
- 1853 (c) the attorney general, but only to the extent of the procurement authority provided
- 1854 under Title 67, Chapter 5, Attorney General;

- 1855 (d) the Department of Transportation, but only to the extent of the procurement  
1856 authority provided under Title 72, Transportation Code; or
- 1857 (e) any other executive branch department, division, office, or entity that has statutory  
1858 procurement authority outside this chapter, but only to the extent of that statutory procurement  
1859 authority.
- 1860 ~~[(40)]~~ (39) "Invitation for bids":
- 1861 (a) means a document used to solicit:
- 1862 (i) bids to provide a procurement item to a procurement unit; or
- 1863 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and
- 1864 (b) includes all documents attached to or incorporated by reference in a document  
1865 described in Subsection ~~[(40)]~~ (39)(a).
- 1866 ~~[(41)]~~ (40) "Issuing procurement unit" means a procurement unit that:
- 1867 (a) reviews a solicitation to verify that it is in proper form;
- 1868 (b) causes the notice of a solicitation to be published; and
- 1869 (c) negotiates and approves the terms and conditions of a contract.
- 1870 ~~[(42)]~~ (41) "Judicial procurement unit" means:
- 1871 (a) the Utah Supreme Court;
- 1872 (b) the Utah Court of Appeals;
- 1873 (c) the Judicial Council;
- 1874 (d) a state judicial district; or
- 1875 (e) an office, committee, subcommittee, or other organization within the state judicial  
1876 branch.
- 1877 ~~[(43)]~~ (42) "Labor hour contract" is a contract under which:
- 1878 (a) the supplies and materials are not provided by, or through, the contractor; and
- 1879 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and  
1880 profit for a specified number of labor hours or days.
- 1881 ~~[(44)]~~ (43) "Legislative procurement unit" means:
- 1882 (a) the Legislature;
- 1883 (b) the Senate;
- 1884 (c) the House of Representatives;
- 1885 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or

1886 (e) a committee, subcommittee, commission, or other organization:  
1887 (i) within the state legislative branch; or  
1888 (ii) (A) that is created by statute to advise or make recommendations to the Legislature;  
1889 (B) the membership of which includes legislators; and  
1890 (C) for which the Office of Legislative Research and General Counsel provides staff  
1891 support.

1892 [~~(45)~~] (44) "Local building authority" means the same as that term is defined in Section  
1893 17D-2-102.

1894 [~~(46)~~] (45) "Local district" means the same as that term is defined in Section  
1895 17B-1-102.

1896 [~~(47)~~] (46) "Local government procurement unit" means:

1897 (a) a county or municipality, and each office or agency of the county or municipality,  
1898 unless the county or municipality adopts its own procurement code by ordinance;

1899 (b) a county or municipality that has adopted this entire chapter by ordinance, and each  
1900 office or agency of that county or municipality; or

1901 (c) a county or municipality that has adopted a portion of this chapter by ordinance, to  
1902 the extent that a term in the ordinance is used in the adopted portion of this chapter, and each  
1903 office or agency of that county or municipality.

1904 [~~(48)~~] (47) "Multiple award contracts" means the award of a contract for an indefinite  
1905 quantity of a procurement item to more than one person.

1906 [~~(49)~~] (48) "Multiyear contract" means a contract that extends beyond a one-year  
1907 period, including a contract that permits renewal of the contract, without competition, beyond  
1908 the first year of the contract.

1909 [~~(50)~~] (49) "Municipality" means a city, town, or metro township.

1910 [~~(51)~~] (50) "Nonadopting local government procurement unit" means:

1911 (a) a county or municipality that has not adopted Part 16, Protests, Part 17,  
1912 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,  
1913 General Provisions Related to Protest or Appeal; and

1914 (b) each office or agency of a county or municipality described in Subsection [~~(51)~~]  
1915 (50)(a).

1916 [~~(52)~~] (51) "Offeror" means a person who submits a proposal in response to a request

1917 for proposals.

1918           ~~[(53)]~~ (52) "Preferred bidder" means a bidder that is entitled to receive a reciprocal  
1919 preference under the requirements of this chapter.

1920           ~~[(54)]~~ (53) "Procure" means to acquire a procurement item through a procurement.

1921           ~~[(55)]~~ (54) "Procurement" means the acquisition of a procurement item through an  
1922 expenditure of public funds, or an agreement to expend public funds, including an acquisition  
1923 through a public-private partnership.

1924           ~~[(56)]~~ (55) "Procurement item" means an item of personal property, a technology, a  
1925 service, or a construction project.

1926           ~~[(57)]~~ (56) "Procurement official" means:

1927           (a) for a procurement unit other than an independent procurement unit, the chief  
1928 procurement officer;

1929           (b) for a legislative procurement unit, the individual, individuals, or body designated in  
1930 a policy adopted by the Legislative Management Committee;

1931           (c) for a judicial procurement unit, the Judicial Council or an individual or body  
1932 designated by the Judicial Council by rule;

1933           (d) for a local government procurement unit:

1934           (i) the legislative body of the local government procurement unit; or

1935           (ii) an individual or body designated by the local government procurement unit;

1936           (e) for a local district, the board of trustees of the local district or the board of trustees'  
1937 designee;

1938           (f) for a special service district, the governing body of the special service district or the  
1939 governing body's designee;

1940           (g) for a local building authority, the board of directors of the local building authority  
1941 or the board of directors' designee;

1942           (h) for a conservation district, the board of supervisors of the conservation district or  
1943 the board of supervisors' designee;

1944           (i) for a public corporation, the board of directors of the public corporation or the board  
1945 of directors' designee;

1946           (j) for a school district or any school or entity within a school district, the board of the  
1947 school district or the board's designee;

1948 (k) for a charter school, the individual or body with executive authority over the charter  
1949 school or the designee of the individual or body;

1950 (l) for an institution of higher education described in Section 53B-2-101, the president  
1951 of the institution of higher education or the president's designee;

1952 (m) for the State Board of Education, the State Board of Education or the State Board  
1953 of Education's designee;

1954 (n) for the Utah Board of Higher Education, the Commissioner of Higher Education or  
1955 the designee of the Commissioner of Higher Education;

1956 (o) for the Utah Communications Authority, established in Section 63H-7a-201, the  
1957 executive director of the Utah Communications Authority or the executive director's designee;  
1958 or

1959 ~~[(p) (i) for the building board, and only to the extent of procurement activities of the~~  
1960 ~~building board as an independent procurement unit under the procurement authority provided~~  
1961 ~~under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building~~  
1962 ~~board or the director's designee;]~~

1963 ~~[(ii) (i) for the facilities division, and only to the extent of procurement activities~~  
1964 ~~of the facilities division as an independent procurement unit under the procurement authority~~  
1965 ~~provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the~~  
1966 ~~facilities division or the director's designee;~~

1967 ~~[(iii) (ii) for the attorney general, and only to the extent of procurement activities of~~  
1968 ~~the attorney general as an independent procurement unit under the procurement authority~~  
1969 ~~provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney~~  
1970 ~~general's designee;~~

1971 ~~[(iv) (iii) for the Department of Transportation created in Section 72-1-201, and only~~  
1972 ~~to the extent of procurement activities of the Department of Transportation as an independent~~  
1973 ~~procurement unit under the procurement authority provided under Title 72, Transportation~~  
1974 ~~Code, the executive director of the Department of Transportation or the executive director's~~  
1975 ~~designee; or~~

1976 ~~[(v) (iv) for any other executive branch department, division, office, or entity that has~~  
1977 ~~statutory procurement authority outside this chapter, and only to the extent of the procurement~~  
1978 ~~activities of the department, division, office, or entity as an independent procurement unit~~



1979 under the procurement authority provided outside this chapter for the department, division,  
1980 office, or entity, the chief executive officer of the department, division, office, or entity or the  
1981 chief executive officer's designee.

1982 [~~58~~] (57) "Procurement unit":

1983 (a) means:

1984 (i) a legislative procurement unit;

1985 (ii) an executive branch procurement unit;

1986 (iii) a judicial procurement unit;

1987 (iv) an educational procurement unit;

1988 (v) the Utah Communications Authority, established in Section [63H-7a-201](#);

1989 (vi) a local government procurement unit;

1990 (vii) a local district;

1991 (viii) a special service district;

1992 (ix) a local building authority;

1993 (x) a conservation district;

1994 (xi) a public corporation; and

1995 (b) does not include a political subdivision created under Title 11, Chapter 13,  
1996 Interlocal Cooperation Act.

1997 [~~59~~] (58) "Professional service" means labor, effort, or work that requires specialized  
1998 knowledge, expertise, and discretion, including labor, effort, or work in the field of:

1999 (a) accounting;

2000 (b) administrative law judge service;

2001 (c) architecture;

2002 (d) construction design and management;

2003 (e) engineering;

2004 (f) financial services;

2005 (g) information technology;

2006 (h) the law;

2007 (i) medicine;

2008 (j) psychiatry; or

2009 (k) underwriting.

2010            [(60)] (59) "Protest officer" means:

2011            (a) for the division or an independent procurement unit:

2012            (i) the procurement official;

2013            (ii) the procurement official's designee who is an employee of the procurement unit; or

2014            (iii) a person designated by rule made by the rulemaking authority; or

2015            (b) for a procurement unit other than an independent procurement unit, the chief

2016 procurement officer or the chief procurement officer's designee who is an employee of the

2017 division.

2018            [(61)] (60) "Public corporation" means the same as that term is defined in Section

2019 [63E-1-102](#).

2020            [(62)] (61) "Public entity" means the state or any other government entity within the

2021 state that expends public funds.

2022            [(63)] (62) "Public facility" means a building, structure, infrastructure, improvement,

2023 or other facility of a public entity.

2024            [(64)] (63) "Public funds" means money, regardless of its source, including from the

2025 federal government, that is owned or held by a procurement unit.

2026            [(65)] (64) "Public transit district" means a public transit district organized under Title

2027 17B, Chapter 2a, Part 8, Public Transit District Act.

2028            [(66)] (65) "Public-private partnership" means an arrangement or agreement, occurring

2029 on or after January 1, 2017, between a procurement unit and one or more contractors to provide

2030 for a public need through the development or operation of a project in which the contractor or

2031 contractors share with the procurement unit the responsibility or risk of developing, owning,

2032 maintaining, financing, or operating the project.

2033            [(67)] (66) "Qualified vendor" means a vendor who:

2034            (a) is responsible; and

2035            (b) submits a responsive statement of qualifications under Section [63G-6a-410](#) that

2036 meets the minimum mandatory requirements, evaluation criteria, and any applicable score

2037 thresholds set forth in the request for statement of qualifications.

2038            [(68)] (67) "Real property" means land and any building, fixture, improvement,

2039 appurtenance, structure, or other development that is permanently affixed to land.

2040            [(69)] (68) "Request for information" means a nonbinding process through which a

2041 procurement unit requests information relating to a procurement item.

2042 [(70)] (69) "Request for proposals" means a document used to solicit proposals to  
2043 provide a procurement item to a procurement unit, including all other documents that are  
2044 attached to that document or incorporated in that document by reference.

2045 [(71)] (70) "Request for proposals process" means the procurement process described  
2046 in Part 7, Request for Proposals.

2047 [(72)] (71) "Request for statement of qualifications" means a document used to solicit  
2048 information about the qualifications of a person interested in responding to a potential  
2049 procurement, including all other documents attached to that document or incorporated in that  
2050 document by reference.

2051 [(73)] (72) "Requirements contract" means a contract:

2052 (a) under which a contractor agrees to provide a procurement unit's entire requirements  
2053 for certain procurement items at prices specified in the contract during the contract period; and

2054 (b) that:

2055 (i) does not require a minimum purchase amount; or

2056 (ii) provides a maximum purchase limit.

2057 [(74)] (73) "Responsible" means being capable, in all respects, of:

2058 (a) meeting all the requirements of a solicitation; and

2059 (b) fully performing all the requirements of the contract resulting from the solicitation,  
2060 including being financially solvent with sufficient financial resources to perform the contract.

2061 [(75)] (74) "Responsive" means conforming in all material respects to the requirements  
2062 of a solicitation.

2063 [(76)] (75) "Rule" includes a policy or regulation adopted by the rulemaking authority,  
2064 if adopting a policy or regulation is the method the rulemaking authority uses to adopt  
2065 provisions that govern the applicable procurement unit.

2066 [(77)] (76) "Rulemaking authority" means:

2067 (a) for a legislative procurement unit, the Legislative Management Committee;

2068 (b) for a judicial procurement unit, the Judicial Council;

2069 (c) (i) only to the extent of the procurement authority expressly granted to the  
2070 procurement unit by statute:

2071 (A) for [~~the building board or~~] the facilities division, the [~~building board~~] facilities

2072 division;  
2073 (B) for the Office of the Attorney General, the attorney general;  
2074 (C) for the Department of Transportation created in Section 72-1-201, the executive  
2075 director of the Department of Transportation; and  
2076 (D) for any other executive branch department, division, office, or entity that has  
2077 statutory procurement authority outside this chapter, the governing authority of the department,  
2078 division, office, or entity; and  
2079 (ii) for each other executive branch procurement unit, the board;  
2080 (d) for a local government procurement unit:  
2081 (i) the governing body of the local government unit; or  
2082 (ii) an individual or body designated by the local government procurement unit;  
2083 (e) for a school district or a public school, the board, except to the extent of a school  
2084 district's own nonadministrative rules that do not conflict with the provisions of this chapter;  
2085 (f) for a state institution of higher education, the Utah Board of Higher Education;  
2086 (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the  
2087 State Board of Education;  
2088 (h) for a public transit district, the chief executive of the public transit district;  
2089 (i) for a local district other than a public transit district or for a special service district,  
2090 the board, except to the extent that the board of trustees of the local district or the governing  
2091 body of the special service district makes its own rules:  
2092 (i) with respect to a subject addressed by board rules; or  
2093 (ii) that are in addition to board rules;  
2094 (j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah  
2095 Board of Higher Education;  
2096 (k) for the School and Institutional Trust Lands Administration, created in Section  
2097 53C-1-201, the School and Institutional Trust Lands Board of Trustees;  
2098 (l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201,  
2099 the School and Institutional Trust Fund Board of Trustees;  
2100 (m) for the Utah Communications Authority, established in Section 63H-7a-201, the  
2101 Utah Communications Authority board, created in Section 63H-7a-203; or  
2102 (n) for any other procurement unit, the board.

- 2103            [~~(78)~~] (77) "Service":
- 2104            (a) means labor, effort, or work to produce a result that is beneficial to a procurement
- 2105 unit;
- 2106            (b) includes a professional service; and
- 2107            (c) does not include labor, effort, or work provided under an employment agreement or
- 2108 a collective bargaining agreement.
- 2109            [~~(79)~~] (78) "Small purchase process" means the procurement process described in
- 2110 Section [63G-6a-506](#).
- 2111            [~~(80)~~] (79) "Sole source contract" means a contract resulting from a sole source
- 2112 procurement.
- 2113            [~~(81)~~] (80) "Sole source procurement" means a procurement without competition
- 2114 pursuant to a determination under Subsection [63G-6a-802\(1\)\(a\)](#) that there is only one source
- 2115 for the procurement item.
- 2116            [~~(82)~~] (81) "Solicitation" means an invitation for bids, request for proposals, or request
- 2117 for statement of qualifications.
- 2118            [~~(83)~~] (82) "Solicitation response" means:
- 2119            (a) a bid submitted in response to an invitation for bids;
- 2120            (b) a proposal submitted in response to a request for proposals; or
- 2121            (c) a statement of qualifications submitted in response to a request for statement of
- 2122 qualifications.
- 2123            [~~(84)~~] (83) "Special service district" means the same as that term is defined in Section
- 2124 [17D-1-102](#).
- 2125            [~~(85)~~] (84) "Specification" means any description of the physical or functional
- 2126 characteristics or of the nature of a procurement item included in an invitation for bids or a
- 2127 request for proposals, or otherwise specified or agreed to by a procurement unit, including a
- 2128 description of:
- 2129            (a) a requirement for inspecting or testing a procurement item; or
- 2130            (b) preparing a procurement item for delivery.
- 2131            [~~(86)~~] (85) "Standard procurement process" means:
- 2132            (a) the bidding process;
- 2133            (b) the request for proposals process;

2134 (c) the approved vendor list process;

2135 (d) the small purchase process; or

2136 (e) the design professional procurement process.

2137 ~~[(87)]~~ (86) "State cooperative contract" means a contract awarded by the division for  
2138 and in behalf of all public entities.

2139 ~~[(88)]~~ (87) "Statement of qualifications" means a written statement submitted to a  
2140 procurement unit in response to a request for statement of qualifications.

2141 ~~[(89)]~~ (88) "Subcontractor":

2142 (a) means a person under contract to perform part of a contractual obligation under the  
2143 control of the contractor, whether the person's contract is with the contractor directly or with  
2144 another person who is under contract to perform part of a contractual obligation under the  
2145 control of the contractor; and

2146 (b) includes a supplier, distributor, or other vendor that furnishes supplies or services  
2147 to a contractor.

2148 ~~[(90)]~~ (89) "Technology" means the same as "information technology," as defined in  
2149 Section [63A-16-102](#).

2150 ~~[(91)]~~ (90) "Tie bid" means that the lowest responsive bids of responsible bidders are  
2151 identical in price.

2152 ~~[(92)]~~ (91) "Time and materials contract" means a contract under which the contractor  
2153 is paid:

2154 (a) the actual cost of direct labor at specified hourly rates;

2155 (b) the actual cost of materials and equipment usage; and

2156 (c) an additional amount, expressly described in the contract, to cover overhead and  
2157 profit, that is not based on a percentage of the cost to the contractor.

2158 ~~[(93)]~~ (92) "Transitional costs":

2159 (a) means the costs of changing:

2160 (i) from an existing provider of a procurement item to another provider of that  
2161 procurement item; or

2162 (ii) from an existing type of procurement item to another type;

2163 (b) includes:

2164 (i) training costs;

- 2165 (ii) conversion costs;
- 2166 (iii) compatibility costs;
- 2167 (iv) costs associated with system downtime;
- 2168 (v) disruption of service costs;
- 2169 (vi) staff time necessary to implement the change;
- 2170 (vii) installation costs; and
- 2171 (viii) ancillary software, hardware, equipment, or construction costs; and

2172 (c) does not include:

- 2173 (i) the costs of preparing for or engaging in a procurement process; or
- 2174 (ii) contract negotiation or drafting costs.

2175 [~~94~~] (93) "Vendor":

2176 (a) means a person who is seeking to enter into a contract with a procurement unit to  
2177 provide a procurement item; and

2178 (b) includes:

- 2179 (i) a bidder;
- 2180 (ii) an offeror;
- 2181 (iii) an approved vendor;
- 2182 (iv) a design professional; and
- 2183 (v) a person who submits an unsolicited proposal under Section [63G-6a-712](#).

2184 Section 34. Section **63G-6a-109** is amended to read:

2185 **63G-6a-109. Issuing procurement unit and conducting procurement unit.**

2186 (1) With respect to a procurement by an executive branch procurement unit, except for  
2187 a procurement by an executive branch procurement unit that, under Subsection

2188 [63G-6a-103](#)~~[(39)]~~(38)(b), (c), (d), or (e), is designated as an independent procurement unit:

- 2189 (a) the division is the issuing procurement unit; and
- 2190 (b) the executive branch procurement unit is the conducting procurement unit and is  
2191 responsible to ensure that the procurement is conducted in compliance with this chapter.

2192 (2) With respect to a procurement by any other procurement unit, the procurement unit  
2193 is both the issuing procurement unit and the conducting procurement unit.

2194 (3) A conducting procurement unit is responsible for contract administration.

2195 Section 35. Section **63G-6a-204** is amended to read:

2196           **63G-6a-204. Applicability of rules of Utah State Procurement Policy Board and**  
2197 **Division of Facilities Construction and Management -- Report to interim committee.**

2198           (1) Except as provided in Subsection (2), rules made by the board under this chapter  
2199 shall govern all procurement units for which the board is the rulemaking authority.

2200           (2) The [~~building board~~] facilities division rules governing procurement of  
2201 construction, design professional services, and leases apply to the procurement of construction,  
2202 design professional services, and leases of real property by the facilities division.

2203           (3) A rulemaking authority may make its own rules, consistent with this chapter,  
2204 governing procurement by a person over which the rulemaking authority has rulemaking  
2205 authority.

2206           (4) The board shall make a report on or before July 1 of each year to a legislative  
2207 interim committee, designated by the Legislative Management Committee created under  
2208 Section [36-12-6](#), on the establishment, implementation, and enforcement of the rules made  
2209 under Section [63G-6a-203](#).

2210           Section 36. Section **63G-6a-303** is amended to read:

2211           **63G-6a-303. Role, duties, and authority of chief procurement officer.**

2212           (1) The chief procurement officer:

2213           (a) is the director of the division;

2214           (b) serves as the central procurement officer of the state;

2215           (c) serves as a voting member of the board; and

2216           (d) serves as the protest officer for a protest relating to a procurement of an executive  
2217 branch procurement, except an executive branch procurement unit designated under Subsection  
2218 [63G-6a-103](#)~~(39)~~[\(38\)](#)(b), (c), (d), or (e) as an independent procurement unit, or a state  
2219 cooperative contract procurement, unless the chief procurement officer designates another to  
2220 serve as protest officer, as authorized in this chapter.

2221           (2) Except as otherwise provided in this chapter, the chief procurement officer shall:

2222           (a) develop procurement policies and procedures supporting ethical procurement  
2223 practices, fair and open competition among vendors, and transparency within the state's  
2224 procurement process;

2225           (b) administer the state's cooperative purchasing program, including state cooperative  
2226 contracts and associated administrative fees;



2227 (c) enter into an agreement with a public entity for services provided by the division, if  
2228 the agreement is in the best interest of the state;

2229 (d) ensure the division's compliance with any applicable law, rule, or policy, including  
2230 a law, rule, or policy applicable to the division's role as an issuing procurement unit or  
2231 conducting procurement unit, or as the state's central procurement organization;

2232 (e) manage the division's electronic procurement system;

2233 (f) oversee the recruitment, training, career development, certification requirements,  
2234 and performance evaluation of the division's procurement personnel;

2235 (g) make procurement training available to procurement units and persons who do  
2236 business with procurement units;

2237 (h) provide exemplary customer service and continually improve the division's  
2238 procurement operations;

2239 (i) exercise all other authority, fulfill all other duties and responsibilities, and perform  
2240 all other functions authorized under this chapter; and

2241 (j) ensure that any training described in this Subsection (2) complies with Title 63G,  
2242 Chapter 22, State Training and Certification Requirements.

2243 (3) With respect to a procurement or contract over which the chief procurement officer  
2244 has authority under this chapter, the chief procurement officer, except as otherwise provided in  
2245 this chapter:

2246 (a) shall:

2247 (i) manage and supervise a procurement to ensure to the extent practicable that  
2248 taxpayers receive the best value;

2249 (ii) prepare and issue standard specifications for procurement items;

2250 (iii) review contracts, coordinate contract compliance, conduct contract audits, and  
2251 approve change orders;

2252 (iv) in accordance with Section [63A-16-204](#), coordinate with the Division of  
2253 Technology Services, created in Section [63A-16-103](#), with respect to the procurement of  
2254 information technology services by an executive branch procurement unit;

2255 (v) correct, amend, or cancel a procurement at any stage of the procurement process if  
2256 the procurement is out of compliance with this chapter or a board rule;

2257 (vi) after consultation with the attorney general's office, correct, amend, or cancel a

2258 contract at any time during the term of the contract if:

2259 (A) the contract is out of compliance with this chapter or a board rule; and

2260 (B) the chief procurement officer determines that correcting, amending, or canceling

2261 the contract is in the best interest of the state; and

2262 (vii) make a reasonable attempt to resolve a contract dispute, in coordination with the

2263 attorney general's office; and

2264 (b) may:

2265 (i) delegate limited purchasing authority to a state agency, with appropriate oversight

2266 and control to ensure compliance with this chapter;

2267 (ii) delegate duties and authority to an employee of the division, as the chief

2268 procurement officer considers appropriate;

2269 (iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance

2270 with the law and after consultation with the attorney general's office;

2271 (iv) authorize a procurement unit to make a procurement pursuant to a regional

2272 solicitation, as defined in Subsection [63G-6a-2105\(7\)](#), even if the procurement item is also

2273 offered under a state cooperative contract, if the chief procurement officer determines that the

2274 procurement pursuant to a regional solicitation is in the best interest of the acquiring

2275 procurement unit; and

2276 (v) remove an individual from the procurement process or contract administration for:

2277 (A) having a conflict of interest or the appearance of a conflict of interest with a person

2278 responding to a solicitation or with a contractor;

2279 (B) having a bias or the appearance of bias for or against a person responding to a

2280 solicitation or for or against a contractor;

2281 (C) making an inconsistent or unexplainable score for a solicitation response;

2282 (D) having inappropriate contact or communication with a person responding to a

2283 solicitation;

2284 (E) socializing inappropriately with a person responding to a solicitation or with a

2285 contractor;

2286 (F) engaging in any other action or having any other association that causes the chief

2287 procurement officer to conclude that the individual cannot fairly evaluate a solicitation

2288 response or administer a contract; or

2289 (G) any other violation of a law, rule, or policy.

2290 (4) The chief procurement officer may not delegate to an individual outside the  
2291 division the chief procurement officer's authority over a procurement described in Subsection  
2292 (3)(a)(iv).

2293 (5) The chief procurement officer has final authority to determine whether an executive  
2294 branch procurement unit's anticipated expenditure of public funds, anticipated agreement to  
2295 expend public funds, or provision of a benefit constitutes a procurement that is subject to this  
2296 chapter.

2297 (6) Except as otherwise provided in this chapter, the chief procurement officer shall  
2298 review, monitor, and audit the procurement activities and delegated procurement authority of  
2299 an executive branch procurement unit, except to the extent that an executive branch  
2300 procurement unit is designated under Subsection 63G-6a-103(39)(b), (c), (d), or (e) as an  
2301 independent procurement unit, to ensure compliance with this chapter, rules made by the  
2302 applicable rulemaking authority, and division policies.

2303 Section 37. Section **63G-6a-1302** is amended to read:

2304 **63G-6a-1302. Alternative methods of construction contracting management.**

2305 (1) A rulemaking authority shall, by rule provide as many alternative methods of  
2306 construction contracting management as determined to be feasible.

2307 (2) The rules described in Subsection (1) shall:

2308 (a) grant to the procurement official responsible for carrying out the construction  
2309 project the discretion to select the appropriate method of construction contracting management  
2310 for a particular project; and

2311 (b) require the procurement official to execute and include in the contract file a written  
2312 statement describing the facts that led to the selection of a particular method of construction  
2313 contracting management for each project.

2314 (3) Before choosing a construction contracting management method, the procurement  
2315 official responsible for carrying out the construction project shall consider the following  
2316 factors:

2317 (a) when the project must be ready to be occupied;

2318 (b) the type of project;

2319 (c) the extent to which the requirements of the procurement unit, and the way they are

2320 to be met are known;

2321 (d) the location of the project;

2322 (e) the size, scope, complexity, and economics of the project;

2323 (f) the source of funding and any resulting constraints necessitated by the funding  
2324 source;

2325 (g) the availability, qualification, and experience of public personnel to be assigned to  
2326 the project and the amount of time that the public personnel can devote to the project; and

2327 (h) the availability, qualifications, and experience of outside consultants and  
2328 contractors to complete the project under the various methods being considered.

2329 (4) A rulemaking authority may make rules that authorize the use of a construction  
2330 manager/general contractor as one method of construction contracting management.

2331 (5) The rules described in Subsection (2) shall require that:

2332 (a) the construction manager/general contractor be selected using:

2333 (i) a standard procurement process; or

2334 (ii) an exception to the requirement to use a standard procurement process, described in  
2335 Part 8, Exceptions to Procurement Requirements; and

2336 (b) when entering into a subcontract that was not specifically included in the  
2337 construction manager/general contractor's cost proposal, the construction manager/general  
2338 contractor shall procure the subcontractor by using a standard procurement process, or an  
2339 exception to the requirement to use a standard procurement process, described in Part 8,  
2340 Exceptions to Procurement Requirements, in the same manner as if the subcontract work was  
2341 procured directly by the procurement unit.

2342 (6) Procurement rules adopted by the [~~building board~~] facilities division under  
2343 Subsections (1) through (3) for state building construction projects may authorize the use of a  
2344 design-build provider as one method of construction contracting management.

2345 (7) A design-build contract may include a provision for obtaining the site for the  
2346 construction project.

2347 (8) A design-build contract or a construction manager/general contractor contract may  
2348 include provision by the contractor of operations, maintenance, or financing.

2349 Section 38. Section **63H-6-103** is amended to read:

2350 **63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.**

- 2351 (1) There is created an independent public nonprofit corporation known as the "Utah  
2352 State Fair Corporation."
- 2353 (2) The board shall file articles of incorporation for the corporation with the Division  
2354 of Corporations and Commercial Code.
- 2355 (3) The corporation, subject to this chapter, has all powers and authority permitted  
2356 nonprofit corporations by law.
- 2357 (4) The corporation shall:
- 2358 (a) manage, supervise, and control:
- 2359 (i) all activities relating to the annual exhibition described in Subsection (4)(j); and  
2360 (ii) except as otherwise provided by statute, all state expositions, including setting the  
2361 time, place, and purpose of any state exposition;
- 2362 (b) for public entertainment, displays, and exhibits or similar events:
- 2363 (i) provide, sponsor, or arrange the events;  
2364 (ii) publicize and promote the events; and  
2365 (iii) secure funds to cover the cost of the exhibits from:
- 2366 (A) private contributions;  
2367 (B) public appropriations;  
2368 (C) admission charges; and  
2369 (D) other lawful means;
- 2370 (c) acquire and designate exposition sites;
- 2371 (d) use generally accepted accounting principles in accounting for the corporation's  
2372 assets, liabilities, and operations;
- 2373 (e) seek corporate sponsorships for the state fair park or for individual buildings or  
2374 facilities within the fair park;
- 2375 (f) work with county and municipal governments, the Salt Lake Convention and  
2376 Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote  
2377 expositions and the use of the state fair park;
- 2378 (g) develop and maintain a marketing program to promote expositions and the use of  
2379 the state fair park;
- 2380 (h) in accordance with provisions of this part, operate and maintain the state fair park,  
2381 including the physical appearance and structural integrity of the state fair park and the

2382 buildings located at the state fair park;

2383 (i) prepare an economic development plan for the state fair park;

2384 (j) hold an annual exhibition that:

2385 (i) is called the state fair or a similar name;

2386 (ii) promotes and highlights agriculture throughout the state;

2387 (iii) includes expositions of livestock, poultry, agricultural, domestic science,

2388 horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic

2389 animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and

2390 educational pursuits and the sharing of talents among the people of Utah;

2391 (iv) includes the award of premiums for the best specimens of the exhibited articles

2392 and animals;

2393 (v) permits competition by livestock exhibited by citizens of other states and territories

2394 of the United States; and

2395 (vi) is arranged according to plans approved by the board;

2396 (k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j);

2397 and

2398 (l) publish a list of premiums that will be awarded at the annual exhibition described in

2399 Subsection (4)(j) for the best specimens of exhibited articles and animals.

2400 (5) In addition to the annual exhibition described in Subsection (4)(j), the corporation

2401 may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural,

2402 floricultural, mineral and industrial products, manufactured articles, and domestic animals that,

2403 in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational

2404 pursuits and the sharing of talents among the people of Utah.

2405 (6) The corporation may:

2406 (a) employ advisers, consultants, and agents, including financial experts and

2407 independent legal counsel, and fix their compensation;

2408 (b) (i) participate in the state's Risk Management Fund created under Section

2409 [63A-4-201](#) or any captive insurance company created by the risk manager; or

2410 (ii) procure insurance against any loss in connection with the corporation's property

2411 and other assets, including mortgage loans;

2412 (c) receive and accept aid or contributions of money, property, labor, or other things of

2413 value from any source, including any grants or appropriations from any department, agency, or  
2414 instrumentality of the United States or Utah;

2415 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the  
2416 purposes of the corporation, subject to the conditions, if any, upon which the aid and  
2417 contributions were made;

2418 (e) enter into management agreements with any person or entity for the performance of  
2419 the corporation's functions or powers;

2420 (f) establish whatever accounts and procedures as necessary to budget, receive, and  
2421 disburse, account for, and audit all funds received, appropriated, or generated;

2422 (g) subject to Subsection (8), lease any of the facilities at the state fair park;

2423 (h) sponsor events as approved by the board; and

2424 (i) enter into one or more agreements to develop the state fair park.

2425 (7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the  
2426 corporation is exempt from:

2427 (i) Title 51, Chapter 5, Funds Consolidation Act;

2428 (ii) Title 51, Chapter 7, State Money Management Act;

2429 (iii) Title 63A, Utah Government Operations Code;

2430 (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

2431 (v) Title 63A, Chapter 17, Utah State Personnel Management Act.

2432 (b) The board shall adopt policies parallel to and consistent with:

2433 (i) Title 51, Chapter 5, Funds Consolidation Act;

2434 (ii) Title 51, Chapter 7, State Money Management Act;

2435 (iii) Title 63A, Utah Government Operations Code; and

2436 (iv) Title 63J, Chapter 1, Budgetary Procedures Act.

2437 (c) The corporation shall comply with:

2438 (i) Title 52, Chapter 4, Open and Public Meetings Act;

2439 (ii) Title 63G, Chapter 2, Government Records Access and Management Act;

2440 (iii) the provisions of Section [67-3-12](#);

2441 (iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

2442 (A) entertainment provided at the state fair park;

2443 (B) judges for competitive exhibits; or

2444 (C) sponsorship of an event at the state fair park; and  
2445 (v) the legislative approval requirements for new facilities established in Section  
2446 63A-5b-404.

2447 (8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a  
2448 term of 10 or more years, the corporation shall:

2449 (i) submit the proposed lease to the [~~State Building Board~~] division for the [~~State~~  
2450 ~~Building Board's~~] division's approval or rejection; and

2451 (ii) if the [~~State Building Board~~] division approves the proposed lease, submit the  
2452 proposed lease to the Executive Appropriations Committee for the Executive Appropriation  
2453 Committee's review and recommendation in accordance with Subsection (8)(b).

2454 (b) The Executive Appropriations Committee shall review a proposed lease submitted  
2455 in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

2456 (i) execute the proposed sublease; or

2457 (ii) reject the proposed sublease.

2458 Section 39. Section **63H-6-108** is amended to read:

2459 **63H-6-108. Operation of the state fair park.**

2460 (1) The corporation shall:

2461 (a) operate and maintain the state fair park in accordance with the facility maintenance  
2462 standards approved by the [~~State Building Board~~] division;

2463 (b) pay for all costs associated with operating and maintaining the state fair park;

2464 (c) obtain approval from the division before the corporation commences capital  
2465 developments or capital improvements on the state fair park that involve:

2466 (i) a construction project that costs more than \$250,000; or

2467 (ii) the construction of a new building that costs more than \$1,000,000;

2468 (d) obtain a building permit from the division before commencing an activity that  
2469 requires a building permit;

2470 (e) ensure that:

2471 (i) any design plan related to the state fair park satisfies any applicable design standards  
2472 established by the division [~~or the State Building Board~~]; and

2473 (ii) construction performed on the state fair park satisfies any applicable construction  
2474 standards established by the division [~~or the State Building Board~~];



- 2475 (f) for any new construction project on the state fair park that costs \$250,000 or more:  
2476 (i) notify the division before commencing the new construction project; and  
2477 (ii) coordinate with the division regarding review of design plans and construction  
2478 management;
- 2479 (g) obtain approval from the division before the corporation makes any alteration or  
2480 addition to the water system, heating system, plumbing system, air conditioning system, or  
2481 electrical system;
- 2482 (h) obtain approval from the [~~State Building Board~~] division before the corporation  
2483 demolishes a building or facility on the state fair park;
- 2484 (i) keep the state fair park fully insured to protect against loss or damage by fire,  
2485 vandalism, or malicious mischief;
- 2486 (j) in accordance with Subsection (3), at the corporation's expense, and for the mutual  
2487 benefit of the division, maintain general public liability insurance in an amount equal to at least  
2488 \$1,000,000 through one or more companies that are:
- 2489 (i) licensed to do business in the state;  
2490 (ii) selected by the corporation; and  
2491 (iii) approved by the division and the Division of Risk Management;
- 2492 (k) ensure that the division is an additional insured with primary coverage on each  
2493 insurance policy that the corporation obtains in accordance with this section;
- 2494 (l) give the division notice at least 30 days before the day on which the corporation  
2495 cancels any insurance policy that the corporation obtains in accordance with this section; and
- 2496 (m) if any lien is recorded or filed against the state fair park as a result of an act or  
2497 omission of the corporation, cause the lien to be satisfied or cancelled within 10 days after the  
2498 day on which the corporation receives notice of the lien.
- 2499 (2) [~~The State Building Board~~] At least 90 calendar days before demolition work  
2500 begins, the division shall notify the State Historic Preservation Office of any [~~State Building~~  
2501 ~~Board meeting at which the State Building Board will consider approval~~] division plan to  
2502 demolish a facility on the state fair park.
- 2503 (3) The general public liability insurance described in Subsection (1)(j) shall:
- 2504 (a) insure against any claim for personal injury, death, or property damage that occurs  
2505 at the state fair park; and

2506 (b) be a blanket policy that covers all activities of the corporation.

2507 (4) The division shall administer any capital improvements on the state fair park that  
2508 cost more than \$250,000.

2509 (5) Upon 24 hours notice to the corporation, the division may enter the state fair park  
2510 to inspect the state fair park and make any repairs that the division determines necessary.

2511 (6) If the corporation no longer operates as an independent public nonprofit corporation  
2512 as described in this chapter, the state shall assume the responsibilities of the corporation under  
2513 any contract that is:

2514 (a) in effect as of the day on which the status of the corporation changes; and

2515 (b) for the lease, construction, or development of a building or facility on the state fair  
2516 park.

2517 (7) (a) A debt or obligation contracted by the corporation is a debt or obligation of the  
2518 corporation.

2519 (b) The state is not liable and assumes no responsibility for any debt or obligation  
2520 described in Subsection (7)(a), unless the Legislature expressly:

2521 (i) authorizes the corporation to contract for the debt or obligation; and

2522 (ii) accepts liability or assumes responsibility for the debt or obligation.

2523 (8) The provisions of this section apply notwithstanding any contrary provision in Title  
2524 63A, Chapter 5b, Administration of State Facilities.

2525 Section 40. Section **72-6-107.5** is amended to read:

2526 **72-6-107.5. Construction of improvements of highway -- Contracts -- Health**  
2527 **insurance coverage.**

2528 (1) As used in this section:

2529 (a) "Aggregate" means the sum of all contracts, change orders, and modifications  
2530 related to a single project.

2531 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

2532 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or  
2533 "operative" who:

2534 (i) works at least 30 hours per calendar week; and

2535 (ii) meets employer eligibility waiting requirements for health care insurance, which  
2536 may not exceed the first day of the calendar month following 60 days after the day on which

2537 the individual is hired.

2538 (d) "Health benefit plan" means:

2539 (i) the same as that term is defined in Section 31A-1-301; or

2540 (ii) an employee welfare benefit plan:

2541 (A) established under the Employee Retirement Income Security Act of 1974, 29  
2542 U.S.C. Sec. 1001 et seq.;

2543 (B) for an employer with 100 or more employees; and

2544 (C) in which the employer establishes a self-funded or partially self-funded group  
2545 health plan to provide medical care for the employer's employees and dependents of the  
2546 employees.

2547 (e) "Qualified health coverage" means the same as that term is defined in Section  
2548 26-40-115.

2549 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

2550 (g) "Third party administrator" or "administrator" means the same as that term is  
2551 defined in Section 31A-1-301.

2552 (2) Except as provided in Subsection (3), the requirements of this section apply to:

2553 (a) a contractor of a design or construction contract entered into by the department on  
2554 or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than  
2555 \$2,000,000; and

2556 (b) a subcontractor of a contractor of a design or construction contract entered into by  
2557 the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or  
2558 greater than \$1,000,000.

2559 (3) The requirements of this section do not apply to a contractor or subcontractor  
2560 described in Subsection (2) if:

2561 (a) the application of this section jeopardizes the receipt of federal funds;

2562 (b) the contract is a sole source contract; or

2563 (c) the contract is an emergency procurement.

2564 (4) A person that intentionally uses change orders, contract modifications, or multiple  
2565 contracts to circumvent the requirements of this section is guilty of an infraction.

2566 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the  
2567 department that the contractor has and will maintain an offer of qualified health coverage for

2568 the contractor's employees and the employees' dependents during the duration of the contract  
2569 by submitting to the department a written statement that:

2570 (i) the contractor offers qualified health coverage that complies with Section  
2571 26-40-115;

2572 (ii) is from:

2573 (A) an actuary selected by the contractor or the contractor's insurer;

2574 (B) an underwriter who is responsible for developing the employer group's premium  
2575 rates; or

2576 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
2577 an actuary or underwriter selected by a third party administrator; and

2578 (iii) was created within one year before the day on which the statement is submitted.

2579 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)  
2580 shall provide the actuary or underwriter selected by an administrator, as described in  
2581 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's  
2582 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the  
2583 requirements of qualified health coverage.

2584 (ii) A contractor may not make a change to the contractor's contribution to the health  
2585 benefit plan, unless the contractor provides notice to:

2586 (A) the actuary or underwriter selected by an administrator, as described in Subsection  
2587 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in  
2588 Subsection (5)(a) in compliance with this section; and

2589 (B) the department.

2590 (c) A contractor that is subject to the requirements of this section shall:

2591 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that  
2592 is subject to the requirements of this section shall obtain and maintain an offer of qualified  
2593 health coverage for the subcontractor's employees and the employees' dependents during the  
2594 duration of the subcontract; and

2595 (ii) obtain from a subcontractor that is subject to the requirements of this section a  
2596 written statement that:

2597 (A) the subcontractor offers qualified health coverage that complies with Section  
2598 26-40-115;

2599 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an  
2600 underwriter who is responsible for developing the employer group's premium rates, or if the  
2601 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or  
2602 underwriter selected by an administrator; and

2603 (C) was created within one year before the day on which the contractor obtains the  
2604 statement.

2605 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage  
2606 described in Subsection (5)(a) during the duration of the contract is subject to penalties in  
2607 accordance with administrative rules adopted by the department under Subsection (6).

2608 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain  
2609 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

2610 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
2611 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to  
2612 penalties in accordance with administrative rules adopted by the department under Subsection  
2613 (6).

2614 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
2615 an offer of qualified health coverage described in Subsection (5)(a).

2616 (6) The department shall adopt administrative rules:

2617 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2618 (b) in coordination with:

2619 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

2620 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

2621 (iii) the ~~[State Building Board]~~ Division of Facilities Construction and Management in  
2622 accordance with Section 63A-5b-607;

2623 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

2624 (v) a public transit district in accordance with Section 17B-2a-818.5; and

2625 (vi) the Legislature's Administrative Rules Review Committee; and

2626 (c) that establish:

2627 (i) the requirements and procedures a contractor and a subcontractor shall follow to  
2628 demonstrate compliance with this section, including:

2629 (A) that a contractor or subcontractor's compliance with this section is subject to an

2630 audit by the department or the Office of the Legislative Auditor General;

2631 (B) that a contractor that is subject to the requirements of this section shall obtain a  
2632 written statement described in Subsection (5)(a); and

2633 (C) that a subcontractor that is subject to the requirements of this section shall obtain a  
2634 written statement described in Subsection (5)(c)(ii);

2635 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
2636 violates the provisions of this section, which may include:

2637 (A) a three-month suspension of the contractor or subcontractor from entering into  
2638 future contracts with the state upon the first violation;

2639 (B) a six-month suspension of the contractor or subcontractor from entering into future  
2640 contracts with the state upon the second violation;

2641 (C) an action for debarment of the contractor or subcontractor in accordance with  
2642 Section [63G-6a-904](#) upon the third or subsequent violation; and

2643 (D) monetary penalties which may not exceed 50% of the amount necessary to  
2644 purchase qualified health coverage for an employee and a dependent of the employee of the  
2645 contractor or subcontractor who was not offered qualified health coverage during the duration  
2646 of the contract; and

2647 (iii) a website on which the department shall post the commercially equivalent  
2648 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by  
2649 the Department of Health, in accordance with Subsection [26-40-115\(2\)](#).

2650 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor  
2651 or subcontractor who intentionally violates the provisions of this section is liable to the  
2652 employee for health care costs that would have been covered by qualified health coverage.

2653 (ii) An employer has an affirmative defense to a cause of action under Subsection  
2654 (7)(a)(i) if:

2655 (A) the employer relied in good faith on a written statement described in Subsection  
2656 (5)(a) or (5)(c)(ii); or

2657 (B) the department determines that compliance with this section is not required under  
2658 the provisions of Subsection (3).

2659 (b) An employee has a private right of action only against the employee's employer to  
2660 enforce the provisions of this Subsection (7).

2661 (8) Any penalties imposed and collected under this section shall be deposited into the  
2662 Medicaid Restricted Account created in Section 26-18-402.

2663 (9) The failure of a contractor or subcontractor to provide qualified health coverage as  
2664 required by this section:

2665 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
2666 or contractor under:

2667 (i) Section 63G-6a-1602; or

2668 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

2669 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
2670 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
2671 or construction.

2672 (10) An administrator, including an administrator's actuary or underwriter, who  
2673 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
2674 coverage of a contractor or subcontractor who provides a health benefit plan described in  
2675 Subsection (1)(d)(ii):

2676 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
2677 unless the administrator commits gross negligence in preparing the written statement;

2678 (b) is not liable for any error in the written statement if the administrator relied in good  
2679 faith on information from the contractor or subcontractor; and

2680 (c) may require as a condition of providing the written statement that a contractor or  
2681 subcontractor hold the administrator harmless for an action arising under this section.

2682 Section 41. Section 79-2-404 is amended to read:

2683 **79-2-404. Contracting powers of department -- Health insurance coverage.**

2684 (1) As used in this section:

2685 (a) "Aggregate" means the sum of all contracts, change orders, and modifications  
2686 related to a single project.

2687 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

2688 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or  
2689 "operative" who:

2690 (i) works at least 30 hours per calendar week; and

2691 (ii) meets employer eligibility waiting requirements for health care insurance, which

2692 may not exceed the first day of the calendar month following 60 days after the day on which  
2693 the individual is hired.

2694 (d) "Health benefit plan" means:

2695 (i) the same as that term is defined in Section [31A-1-301](#); or

2696 (ii) an employee welfare benefit plan:

2697 (A) established under the Employee Retirement Income Security Act of 1974, 29  
2698 U.S.C. Sec. 1001 et seq.;

2699 (B) for an employer with 100 or more employees; and

2700 (C) in which the employer establishes a self-funded or partially self-funded group  
2701 health plan to provide medical care for the employer's employees and dependents of the  
2702 employees.

2703 (e) "Qualified health coverage" means the same as that term is defined in Section  
2704 [26-40-115](#).

2705 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

2706 (g) "Third party administrator" or "administrator" means the same as that term is  
2707 defined in Section [31A-1-301](#).

2708 (2) Except as provided in Subsection (3), the requirements of this section apply to:

2709 (a) a contractor of a design or construction contract entered into by, or delegated to, the  
2710 department or a division, board, or council of the department on or after July 1, 2009, if the  
2711 prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

2712 (b) a subcontractor of a contractor of a design or construction contract entered into by,  
2713 or delegated to, the department or a division, board, or council of the department on or after  
2714 July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

2715 (3) This section does not apply to contracts entered into by the department or a  
2716 division, board, or council of the department if:

2717 (a) the application of this section jeopardizes the receipt of federal funds;

2718 (b) the contract or agreement is between:

2719 (i) the department or a division, board, or council of the department; and

2720 (ii) (A) another agency of the state;

2721 (B) the federal government;

2722 (C) another state;



- 2723 (D) an interstate agency;
- 2724 (E) a political subdivision of this state; or
- 2725 (F) a political subdivision of another state; or
- 2726 (c) the contract or agreement is:
  - 2727 (i) for the purpose of disbursing grants or loans authorized by statute;
  - 2728 (ii) a sole source contract; or
  - 2729 (iii) an emergency procurement.
- 2730 (4) A person that intentionally uses change orders, contract modifications, or multiple
- 2731 contracts to circumvent the requirements of this section is guilty of an infraction.
- 2732 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
- 2733 department that the contractor has and will maintain an offer of qualified health coverage for
- 2734 the contractor's employees and the employees' dependents during the duration of the contract
- 2735 by submitting to the department a written statement that:
  - 2736 (i) the contractor offers qualified health coverage that complies with Section
  - 2737 [26-40-115](#);
  - 2738 (ii) is from:
    - 2739 (A) an actuary selected by the contractor or the contractor's insurer;
    - 2740 (B) an underwriter who is responsible for developing the employer group's premium
    - 2741 rates; or
    - 2742 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
    - 2743 an actuary or underwriter selected by a third party administrator; and
    - 2744 (iii) was created within one year before the day on which the statement is submitted.
  - 2745 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
  - 2746 shall provide the actuary or underwriter selected by an administrator, as described in
  - 2747 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
  - 2748 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
  - 2749 requirements of qualified health coverage.
    - 2750 (ii) A contractor may not make a change to the contractor's contribution to the health
    - 2751 benefit plan, unless the contractor provides notice to:
      - 2752 (A) the actuary or underwriter selected by an administrator, as described in Subsection
      - 2753 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in

2754 Subsection (5)(a) in compliance with this section; and

2755 (B) the department.

2756 (c) A contractor that is subject to the requirements of this section shall:

2757 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that  
2758 is subject to the requirements of this section shall obtain and maintain an offer of qualified  
2759 health coverage for the subcontractor's employees and the employees' dependents during the  
2760 duration of the subcontract; and

2761 (ii) obtain from a subcontractor that is subject to the requirements of this section a  
2762 written statement that:

2763 (A) the subcontractor offers qualified health coverage that complies with Section  
2764 [26-40-115](#);

2765 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an  
2766 underwriter who is responsible for developing the employer group's premium rates, or if the  
2767 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or  
2768 underwriter selected by an administrator; and

2769 (C) was created within one year before the day on which the contractor obtains the  
2770 statement.

2771 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage  
2772 described in Subsection (5)(a) during the duration of the contract is subject to penalties in  
2773 accordance with administrative rules adopted by the department under Subsection (6).

2774 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain  
2775 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

2776 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
2777 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to  
2778 penalties in accordance with administrative rules adopted by the department under Subsection  
2779 (6).

2780 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
2781 an offer of qualified health coverage described in Subsection (5)(a).

2782 (6) The department shall adopt administrative rules:

2783 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2784 (b) in coordination with:

- 2785 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 2786 (ii) a public transit district in accordance with Section 17B-2a-818.5;
- 2787 (iii) the ~~[State Building Board]~~ Division of Facilities Construction and Management in  
2788 accordance with Section 63A-5b-607;
- 2789 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- 2790 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 2791 (vi) the Legislature's Administrative Rules Review Committee; and
- 2792 (c) that establish:
- 2793 (i) the requirements and procedures a contractor and a subcontractor shall follow to  
2794 demonstrate compliance with this section, including:
- 2795 (A) that a contractor or subcontractor's compliance with this section is subject to an  
2796 audit by the department or the Office of the Legislative Auditor General;
- 2797 (B) that a contractor that is subject to the requirements of this section shall obtain a  
2798 written statement described in Subsection (5)(a); and
- 2799 (C) that a subcontractor that is subject to the requirements of this section shall obtain a  
2800 written statement described in Subsection (5)(c)(ii);
- 2801 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
2802 violates the provisions of this section, which may include:
- 2803 (A) a three-month suspension of the contractor or subcontractor from entering into  
2804 future contracts with the state upon the first violation;
- 2805 (B) a six-month suspension of the contractor or subcontractor from entering into future  
2806 contracts with the state upon the second violation;
- 2807 (C) an action for debarment of the contractor or subcontractor in accordance with  
2808 Section 63G-6a-904 upon the third or subsequent violation; and
- 2809 (D) monetary penalties which may not exceed 50% of the amount necessary to  
2810 purchase qualified health coverage for an employee and a dependent of an employee of the  
2811 contractor or subcontractor who was not offered qualified health coverage during the duration  
2812 of the contract; and
- 2813 (iii) a website on which the department shall post the commercially equivalent  
2814 benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the  
2815 Department of Health, in accordance with Subsection 26-40-115(2).

2816 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor  
2817 or subcontractor who intentionally violates the provisions of this section is liable to the  
2818 employee for health care costs that would have been covered by qualified health coverage.

2819 (ii) An employer has an affirmative defense to a cause of action under Subsection  
2820 (7)(a)(i) if:

2821 (A) the employer relied in good faith on a written statement described in Subsection  
2822 (5)(a) or (5)(c)(ii); or

2823 (B) the department determines that compliance with this section is not required under  
2824 the provisions of Subsection (3).

2825 (b) An employee has a private right of action only against the employee's employer to  
2826 enforce the provisions of this Subsection (7).

2827 (8) Any penalties imposed and collected under this section shall be deposited into the  
2828 Medicaid Restricted Account created in Section [26-18-402](#).

2829 (9) The failure of a contractor or subcontractor to provide qualified health coverage as  
2830 required by this section:

2831 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
2832 or contractor under:

2833 (i) Section [63G-6a-1602](#); or

2834 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

2835 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
2836 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
2837 or construction.

2838 (10) An administrator, including an administrator's actuary or underwriter, who  
2839 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
2840 coverage of a contractor or subcontractor who provides a health benefit plan described in  
2841 Subsection (1)(d)(ii):

2842 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
2843 unless the administrator commits gross negligence in preparing the written statement;

2844 (b) is not liable for any error in the written statement if the administrator relied in good  
2845 faith on information from the contractor or subcontractor; and

2846 (c) may require as a condition of providing the written statement that a contractor or

2847 subcontractor hold the administrator harmless for an action arising under this section.

2848 Section 42. **Repealer.**

2849 This bill repeals:

2850 Section [63A-5b-201](#), **Creation of state building board -- Composition --**

2851 **Appointment -- Per diem and expenses -- Board officers.**

2852 Section [63A-5b-202](#), **State Building Board powers and duties.**

2853 Section [63A-5b-203](#), **Meetings of state building board -- Rules of procedure --**

2854 **Quorum.**

2855 Section 43. **Effective date.**

2856 This bill takes effect on May 4, 2022, except that the amendments to Section

2857 [53B-2a-112](#) (Effective 07/01/22) take effect on July 1, 2022.