

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

**DISPOSITION OF STATE PROPERTY AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David G. Buxton**

House Sponsor: Calvin R. Musselman

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to the sale, long-term lease, or other disposition of state property.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to the sale, long-term lease, or other disposition of real property, water rights, or water shares associated with the Utah State Developmental Center;
- ▶ modifies the duties and the authority of the Division of Facilities Construction and Management (division);
- ▶ modifies provisions related to the purchase or exchange of division-owned real property; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**



26 AMENDS:

- 27 **26B-6-507**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 28 **63A-5b-303 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapter
- 29 329
- 30 **63A-5b-303 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters
- 31 329, 394
- 32 **63A-5b-806**, as last amended by Laws of Utah 2022, Chapter 421
- 33 **63A-5b-902**, as last amended by Laws of Utah 2023, Chapter 263
- 34 **63A-5b-904**, as last amended by Laws of Utah 2022, Chapter 421
- 35 **63A-5b-905**, as last amended by Laws of Utah 2022, Chapter 421
- 36 **63A-5b-908**, as renumbered and amended by Laws of Utah 2020, Chapter 152
- 37 **63A-5b-909**, as last amended by Laws of Utah 2022, Chapter 101

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

40 Section 1. Section **26B-6-507** is amended to read:

41 **26B-6-507. Utah State Developmental Center land and water rights.**

42 (1) As used in this section, "long-term lease" means:

- 43 (a) a lease with a term of five years or more; or
- 44 (b) a lease with a term of less than five years that may be unilaterally renewed by the
- 45 lessee.

46 (2) (a) Notwithstanding Section **65A-4-1**, any sale, long-term lease, or other disposition  
47 of real property, water rights, or water shares associated with the developmental center shall be  
48 conducted as provided in this Subsection (2).

49 (b) Any person who proposes a sale, long-term lease, or other disposition of real  
50 property, water rights, or water shares associated with the developmental center shall submit  
51 the proposal to the board.

52 (c) ~~[The]~~ Within 30 days after receiving a proposal described in Subsection (2)(b), the  
53 board shall[:] review the proposal and submit the proposal and the board's recommendation  
54 concerning the proposal to the Division of Facilities Construction and Management and the  
55 Executive Appropriations Committee.

56 ~~[(t)]~~ (d) ~~[approve]~~ The Executive Appropriations Committee shall review a proposal

57 and the board's recommendation described in Subsection (2)(c) and make a recommendation to  
 58 the Division of Facilities Construction and Management concerning the sale, long-term lease,  
 59 or other disposition of real property, water rights, or water shares associated with the  
 60 developmental center[;].

61 ~~[(ii) secure the approval of the Legislature before offering the real property, water~~  
 62 ~~rights, or water shares for sale, long-term lease, or other disposition; and]~~

63 ~~[(iii) (e) [if the Legislature's approval is secured, as described in Subsection (2)(b)(ii),~~  
 64 ~~direct] After receiving the Executive Appropriations Committee's recommendation, the~~  
 65 Division of Facilities Construction and Management [to] may convey, lease, or dispose of the  
 66 real property, water rights, or water shares associated with the developmental center according  
 67 to [the board's determination] Subsection [63A-5b-303\(1\)\(a\)\(viii\)](#).

68 Section 2. Section **63A-5b-303 (Superseded 07/01/24)** is amended to read:

69 **63A-5b-303 (Superseded 07/01/24). Duties and authority of division.**

70 (1) (a) The division shall:

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

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

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

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

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

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

86 (B) include in a market analysis a comparison of the division's rates and fees with the  
 87 rates and fees of other public or private sector providers of comparable services, if rates and

88 fees for comparable services are reasonably available;

89 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and  
90 Efficiency, including responsibilities[?]

91 [~~(A)~~] to implement the state building energy efficiency program under Section  
92 63A-5b-1002[~~; and~~].

93 [~~(B)~~] ~~related to the approval of loans from the State Facility Energy Efficiency Fund~~  
94 ~~under Section 63A-5b-1003;~~

95 (viii) convey, lease, or dispose of the real property, water rights, or water shares  
96 associated with the Utah State Developmental Center [~~if directed to do so by the Utah State~~  
97 ~~Developmental Center board,~~] as provided in Subsection 26B-6-507(2); [~~and~~]

98 (ix) except as provided in Subsection (2)(c), convey, lease, or dispose of  
99 division-owned real property for fair market value, as determined by the division; and

100 [~~(ix)~~] (x) take all other action that the division is required to do under this chapter or  
101 other applicable statute.

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

104 (c) The division may, without legislative approval, acquire title to real property for use  
105 by the state or an agency if [~~the acquisition cost~~]:

106 (i) the acquisition cost does not exceed \$500,000[?], as estimated by the division; or

107 (ii) the real property is part or all of the consideration received in exchange for  
108 division-owned real property conveyed, leased, or disposed of under Subsection (1)(a)(ix).

109 (2) The division may:

110 (a) sue and be sued;

111 (b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or  
112 otherwise, and hold real or personal property necessary for the discharge of the division's  
113 duties; [~~and~~]

114 (c) convey, lease, or dispose of vacant division-owned real property for less than fair  
115 market value, subject to the requirements of Part 9, Disposal of Division-owned Real Property;  
116 and

117 [~~(c)~~] (d) take all other action necessary for carrying out the purposes of this chapter.

118 (3) (a) The division may not supervise or control the allocation of space for an entity in

119 the public education system.

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

121 (c) The supervision and control of capitol hill facilities and capitol hill grounds is  
122 reserved to the State Capitol Preservation Board.

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

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

128 (e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of  
129 space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the  
130 Administrative Office of the Courts referred to in Subsection 78A-2-108(3).

131 (ii) The Administrative Office of the Courts shall consult and cooperate with the  
132 division in the establishment and enforcement of standards for the supervision and control of  
133 the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

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

137 (a) submit an analysis of the proposed rate, fee, or other amount to the rate committee  
138 created in Section 63A-1-114; and

139 (b) obtain the approval of the Legislature as required by Section 63J-1-410 or  
140 63J-1-504.

141 Section 3. Section 63A-5b-303 (Effective 07/01/24) is amended to read:

142 **63A-5b-303 (Effective 07/01/24). Duties and authority of division.**

143 (1) (a) The division shall:

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

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

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

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

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

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

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

162 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and  
163 Efficiency, including responsibilities[?]

164 [~~(A)~~] to implement the state building energy efficiency program under Section  
165 [63A-5b-1002](#); [~~and~~]

166 [~~(B)~~] related to the approval of loans from the State Facility Energy Efficiency Fund  
167 ~~under Section [63A-5b-1003](#);~~

168 (viii) convey, lease, or dispose of the real property, water rights, or water shares  
169 associated with the Utah State Developmental Center [~~if directed to do so by the Utah State~~  
170 ~~Developmental Center board,~~] as provided in Subsection [26B-6-507\(2\)](#); [~~and~~]

171 (ix) except as provided in Subsection (2)(c), convey, lease, or dispose of  
172 division-owned real property for fair market value, as determined by the division; and

173 [~~(ix)~~] (x) take all other action that the division is required to do under this chapter or  
174 other applicable statute.

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

177 (c) The division may, without legislative approval, acquire title to real property for use  
178 by the state or an agency if [~~the acquisition cost~~]:

179 (i) the acquisition cost does not exceed \$500,000[?], as estimated by the division; or

180 (ii) the real property is part or all of the consideration received in exchange for

181 division-owned real property conveyed, leased, or disposed of under Subsection (1)(a)(ix).

182 (2) The division may:

183 (a) sue and be sued;

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

187 (c) convey, lease, or dispose of vacant division-owned real property for less than fair  
188 market value, subject to the requirements of Part 9, Disposal of Division-owned Real Property;

189 and

190 ~~[(c)]~~ (d) take all other action necessary for carrying out the purposes of this chapter.

191 (3) (a) The division may not supervise or control the allocation of space for an entity in  
192 the public education system.

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

194 (c) The supervision and control of capitol hill facilities and capitol hill grounds is  
195 reserved to the State Capitol Preservation Board.

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

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

201 (e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of  
202 space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the  
203 Administrative Office of the Courts described in Section 78A-2-108.

204 (ii) The Administrative Office of the Courts shall consult and cooperate with the  
205 division in the establishment and enforcement of standards for the supervision and control of  
206 the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

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

210 (a) submit an analysis of the proposed rate, fee, or other amount to the rate committee  
211 created in Section 63A-1-114; and

212 (b) obtain the approval of the Legislature as required by Section 63J-1-410 or  
213 63J-1-504.

214 Section 4. Section 63A-5b-806 is amended to read:

215 **63A-5b-806. Division rules on the value of property bought or exchanged --**  
216 **Exception.**

217 (1) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative  
218 Rulemaking Act, make rules to ensure that, if the division buys or exchanges real property, the  
219 value of the real property is congruent with the proposed price and other terms of the purchase  
220 or exchange.

221 (2) The rules:

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

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

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

227 (3) The rules adopted under Subsection (1) do not apply to the purchase or exchange of  
228 real property, or an interest in real property[-];

229 (a) with a value of less than \$500,000, as estimated by the division[-]; or

230 (b) if the real property is part or all of the consideration received in exchange for  
231 division-owned real property conveyed, leased, or disposed of under Subsection  
232 63A-5b-303(1)(a)(ix).

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

234 **63A-5b-902. Application of part.**

235 (1) [~~The~~] Except as stated in Subsection (1)(e), the provisions of this part, other than  
236 this section, do not apply to:

237 (a) a conveyance, lease, or disposal under Subsection 63A-5b-303(1)(a)(viii);

238 (b) the division's disposal or lease of division-owned property [~~with~~] that would  
239 otherwise be subject to this part, if the division-owned property has a value under \$500,000, as  
240 estimated by the division;

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

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



243 (ii) the construction of student housing; [or]

244 (d) a conveyance, lease, or disposal of any part of the point of the mountain state land,  
245 as defined in Section 11-59-102, by the Point of the Mountain State Land Authority created in  
246 Section 11-59-201[:]; or

247 (e) a conveyance, lease, or disposal of division-owned property for fair market value,  
248 as determined by the division, under Subsection 63A-5b-303(1)(a)(ix), except that the  
249 following sections apply:

250 (i) Section 63A-5b-907.5;

251 (ii) Section 63A-5b-908;

252 (iii) Section 63A-5b-910;

253 (iv) Section 63A-5b-911; and

254 (v) Section 63A-5b-912.

255 (2) Nothing in Subsection [~~(1)(b) or (c)~~] (1)(b), (c), or (e) may be construed to diminish  
256 or eliminate the division's responsibility to manage division-owned property in the best  
257 interests of the state.

258 Section 6. Section 63A-5b-904 is amended to read:

259 **63A-5b-904. Division authority with respect to vacant division-owned property --**  
260 **Limitations.**

261 (1) Subject to Section 63A-5b-909, the division may:

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

265 (b) effect a transfer of ownership or lease of vacant division-owned property, as  
266 provided in this section; or

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

269 [~~(2) (a) The division may effect a transfer of ownership or lease of vacant  
270 division-owned property to an applicant for fair market value if the director determines that the  
271 transfer of ownership or lease to that applicant is in the state's best interest.]~~

272 [~~(b) In determining the state's best interest under Subsection (2)(a), the director may  
273 consider:]~~

274 ~~[(i) the price and financial terms of all qualified proposals; and]~~

275 ~~[(ii) the relative benefits to the state of the proposed uses of the vacant division-owned~~  
276 ~~property as stated in the qualified proposals.]~~

277 ~~[(3)]~~ (2) The division may effect a transfer of ownership or lease of vacant  
278 division-owned property without receiving fair market value in return if:

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

281 (b) for a proposed transfer of ownership or lease to a local government entity, public  
282 purpose nonprofit entity, or private party, the director determines that the local government  
283 entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a  
284 public purpose;

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

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

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

290 ~~[(4)]~~ (3) (a) If the division effects a transfer of ownership of vacant division-owned  
291 property without receiving fair market value in return, the division shall require the documents  
292 memorializing the transfer of ownership to preserve to the division:

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

297 (ii) in the case of any other transfer of ownership of vacant division-owned property, a  
298 right of first refusal allowing the division to purchase the property from the transferee for the  
299 same price that the transferee paid to the division if the transferee wishes to transfer ownership  
300 of the former vacant division-owned property.

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

303 Section 7. Section 63A-5b-905 is amended to read:

304 **63A-5b-905. Notice required before division may effect a transfer of ownership**

305 **or lease of division-owned property for less than fair market value.**

306 (1) Before the division may effect a transfer of ownership or lease of vacant  
307 division-owned property for less than fair market value, the division shall give notice as  
308 provided in Subsection (2).

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

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

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

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

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

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

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

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

322 Section 8. Section **63A-5b-908** is amended to read:

323 **63A-5b-908. Referring vacant division-owned property to the Department of**  
324 **Transportation for auction.**

325 (1) The division may refer vacant division-owned property to the Department of  
326 Transportation for a public auction if:

327 (a) ~~(f)~~ for a conveyance, lease, or disposal of vacant division-owned property for less  
328 than fair market value:

329 (i) the division has provided notice under Section [63A-5b-905](#) with respect to the  
330 vacant division-owned property; and

331 (ii) the division receives no qualified proposals in response to the notice under Section  
332 [63A-5b-905](#);

333 (b) the director determines that:

334 (i) there is no reasonable likelihood that within the foreseeable future:

335 (A) a primary state agency will use or occupy the vacant division-owned property; or

336 (B) a secondary state agency, local government entity, or public purpose nonprofit  
337 entity will seek a transfer of ownership or lease of the vacant division-owned property; and

338 (ii) disposing of the vacant division-owned property through a public auction is in the  
339 best interests of the state;

340 (c) the director requests and receives a recommendation on the proposed public auction  
341 from the Legislative Executive Appropriations Committee;

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

344 (e) the executive director approves the public auction.

345 (2) If the division refers a vacant division-owned property to the Department of  
346 Transportation for public auction, the Department of Transportation shall publicly auction the  
347 vacant division-owned property under the same law and in the same manner that apply to a  
348 public auction of Department of Transportation property.

349 (3) At a public auction conducted under Subsection (2), the Department of  
350 Transportation may, on behalf of the division, accept an offer to purchase the vacant  
351 division-owned property.

352 (4) The division and the Department of Transportation shall coordinate together to:

353 (a) manage the details of finalizing any sale of the vacant division-owned property at  
354 public auction; and

355 (b) ensure that the buyer acquires proper title and that the division receives the net  
356 proceeds of the sale.

357 (5) If a public auction under this section does not result in a sale of the vacant  
358 division-owned property, the Department of Transportation shall notify the division and refer  
359 the vacant division-owned property back to the division.

360 Section 9. Section **63A-5b-909** is amended to read:

361 **63A-5b-909. State real property subject to right of first refusal.**

362 (1) (a) If Section [78B-6-520.3](#) applies to vacant division-owned property, the division  
363 shall comply with Subsection [78B-6-520.3\(3\)](#).

364 (b) If a condemnee accepts the division's offer to sell the vacant division-owned  
365 property as provided in Section [78B-6-520.3](#), the division shall:

366 (i) comply with the requirements of Section [78B-6-520.3](#); and

367 (ii) terminate any process [~~under this chapter~~] to convey the vacant division-owned  
368 property.

369 (c) A condemnee may waive rights and benefits afforded under Section 78B-6-520.3  
370 and instead seek a transfer of ownership or lease of vacant division-owned property under the  
371 provisions of this chapter in the same manner as any other person not entitled to the rights and  
372 benefits of Section 78B-6-520.3.

373 (2) (a) If Section 78B-6-521 applies to the anticipated disposal of the vacant  
374 division-owned property, the division shall comply with the limitations and requirements of  
375 Subsections 78B-6-521(2) and (3).

376 (b) If the original grantor or a subsequent bona fide purchaser, or the original grantor's  
377 or subsequent bona fide purchaser's assignee, accepts an offer for sale as provided in  
378 Subsection 78B-6-521(2)(a), the division shall:

379 (i) sell the vacant division-owned property to the original grantor or subsequent bona  
380 fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, in  
381 accordance with Section 78B-6-521; and

382 (ii) terminate any process under this chapter to convey the vacant division-owned  
383 property.

384 (c) An original grantor or subsequent bona fide purchaser, or the original grantor's or  
385 subsequent bona fide purchaser's assignee, may waive rights afforded under Section 78B-6-521  
386 and instead seek a transfer of ownership or lease of vacant division-owned property [~~under the~~  
387 ~~provisions of this chapter~~] in the same manner as any other person seeking a transfer of  
388 ownership or lease of vacant division-owned property to which Section 78B-6-521 does not  
389 apply.

390 Section 10. **Effective date.**

391 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

392 (2) The actions affecting Section 63A-5b-303 (Effective 07/01/2024) take effect on  
393 July 1, 2024.