

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

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:

- defines terms;
- modifies the duties and the authority of the Division of Facilities Construction and Management (division);
- modifies provisions related to the purchase, disposal, or exchange of real property owned by the division; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63A-5b-303 (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapter



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

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

37 Section 1. Section **63A-5b-303 (Superseded 07/01/24)** is amended to read:

38 **63A-5b-303 (Superseded 07/01/24). Duties and authority of division.**

39 (1) (a) The division shall:

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

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

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

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

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

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

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

57 fees for comparable services are reasonably available;

58 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and
59 Efficiency, including responsibilities~~[(A)]~~ to implement the state building energy efficiency
60 program under Section ~~63A-5b-1002~~~~[, and]~~.

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

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

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

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

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

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

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

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

77 (2) The division may:

78 (a) sue and be sued;

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

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

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

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

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

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

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

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

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

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

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

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

107 (b) obtain the approval of the Legislature as required by Section 63J-1-410 or
108 63J-1-504.

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

110 **63A-5b-303 (Effective 07/01/24). Duties and authority of division.**

111 (1) (a) The division shall:

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

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

118 (iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by

119 the state or an agency, as authorized by the Legislature through an appropriation act, other
 120 legislation, or statute, subject to Subsection (1)(c);

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

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

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

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

130 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and
 131 Efficiency, including responsibilities~~[(A)]~~ to implement the state building energy efficiency
 132 program under Section [63A-5b-1002](#); ~~[and]~~

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

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

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

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

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

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

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

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

149 (2) The division may:

150 (a) sue and be sued;

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

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

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

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

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

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

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

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

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

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

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

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

179 (b) obtain the approval of the Legislature as required by Section 63J-1-410 or
180 63J-1-504.

181 Section 3. Section **63A-5b-806** is amended to read:

182 **63A-5b-806. Division rules on the value of property bought or exchanged --**

183 **Exception.**

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

188 (2) The rules:

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

190 (b) may provide that an appraisal, as defined in Section [61-2g-102](#), demonstrates the
191 real property's value; and

192 (c) may require that the appraisal be completed by a state-certified general appraiser, as
193 defined in Section [61-2g-102](#).

194 (3) The rules adopted under Subsection (1) do not apply to the purchase or exchange of
195 real property, or an interest in real property~~[-]~~:

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

197 (b) if the real property is part or all of the consideration received in exchange for
198 division-owned real property conveyed, leased, or disposed of under Subsection
199 [63A-5b-303](#)(1)(a)(ix).

200 Section 4. Section **63A-5b-902** is amended to read:

201 **63A-5b-902. Application of part.**

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

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

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

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

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

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

211 (d) a conveyance, lease, or disposal of any part of the point of the mountain state land,

212 as defined in Section 11-59-102, by the Point of the Mountain State Land Authority created in
213 Section 11-59-201[-]; or

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

- 217 (i) Section 63A-5b-907.5;
- 218 (ii) Section 63A-5b-908;
- 219 (iii) Section 63A-5b-910;
- 220 (iv) Section 63A-5b-911; and
- 221 (v) Section 63A-5b-912.

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

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

226 **63A-5b-904. Division authority with respect to vacant division-owned property --**
227 **Limitations.**

- 228 (1) Subject to Section 63A-5b-909, the division may:
 - 229 (a) provide for a primary state agency's occupancy or use of vacant division-owned
230 property, if the director determines that the primary state agency's occupancy or use is in the
231 best interests of the state;
 - 232 (b) effect a transfer of ownership or lease of vacant division-owned property, as
233 provided in this section; or
 - 234 (c) refer vacant division-owned property to the Department of Transportation for sale
235 by auction, as provided in Section 63A-5b-908.

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

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

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

242 ~~[(ii) the relative benefits to the state of the proposed uses of the vacant division-owned~~

243 ~~property as stated in the qualified proposals.]~~

244 ~~[(3)]~~ (2) The division may effect a transfer of ownership or lease of vacant
245 division-owned property without receiving fair market value in return if:

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

248 (b) for a proposed transfer of ownership or lease to a local government entity, public
249 purpose nonprofit entity, or private party, the director determines that the local government
250 entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a
251 public purpose;

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

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

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

257 ~~[(4)]~~ (3) (a) If the division effects a transfer of ownership of vacant division-owned
258 property without receiving fair market value in return, the division shall require the documents
259 memorializing the transfer of ownership to preserve to the division:

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

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

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

270 Section 6. Section 63A-5b-905 is amended to read:

271 **63A-5b-905. Notice required before division may effect a transfer of ownership**
272 **or lease of division-owned property for less than fair market value.**

273 (1) Before the division may effect a transfer of ownership or lease of vacant

274 division-owned property for less than fair market value, the division shall give notice as
275 provided in Subsection (2).

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

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

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

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

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

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

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

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

289 Section 7. Section [63A-5b-908](#) is amended to read:

290 **[63A-5b-908. Referring vacant division-owned property to the Department of](#)**
291 **[Transportation for auction.](#)**

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

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

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

298 (ii) the division receives no qualified proposals in response to the notice under Section
299 [63A-5b-905](#);

300 (b) the director determines that:

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

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

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

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

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

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

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

312 (2) If the division refers a vacant division-owned property to the Department of
313 Transportation for public auction, the Department of Transportation shall publicly auction the
314 vacant division-owned property under the same law and in the same manner that apply to a
315 public auction of Department of Transportation property.

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

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

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

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

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

327 Section 8. Section **63A-5b-909** is amended to read:

328 **63A-5b-909. State real property subject to right of first refusal.**

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

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

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

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

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

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

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

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

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

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

357 Section 9. **Effective date.**

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

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