

1 **DISPOSITION OF STATE PROPERTY AMENDMENTS**
2 2024 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: David G. Buxton**
5 House Sponsor: Calvin R. Musselman

6
7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill provides a special effective date.

23 **Utah Code Sections Affected:**

24 **AMENDS:**

- 25 **63A-5b-303 (Effective 05/01/24) (Superseded 07/01/24)**, as last amended by Laws of Utah
26 2023, Chapter 329
- 27 **63A-5b-303 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 329, 394
- 63A-5b-806 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapter 421
- 63A-5b-902 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 263
- 63A-5b-904 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapter 421
- 63A-5b-905 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapter 421

28 **63A-5b-908 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2020,
 29 Chapter 152

30 **63A-5b-909 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapter 101

31

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

33 Section 1. Section **63A-5b-303** is amended to read:

34 **63A-5b-303 (Effective 05/01/24) (Superseded 07/01/24). Duties and authority of**
 35 **division.**

36 (1) (a) The division shall:

- 37 (i) subject to Subsection (1)(b), supervise and control the allocation of space, in
 38 accordance with legislative directive through annual appropriations acts, other
 39 legislation, or statute, to agencies in all buildings or space owned, leased, or
 40 rented by or to the state, except as provided in Subsection (3) or as otherwise
 41 provided by statute;
- 42 (ii) assure the efficient use of all building space under the division's supervision and
 43 control;
- 44 (iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by
 45 the state or an agency, as authorized by the Legislature through an appropriation
 46 act, other legislation, or statute, subject to Subsection (1)(c);
- 47 (iv) except as otherwise provided by statute, hold title to all real property, buildings,
 48 fixtures, and appurtenances owned by the state or an agency;
- 49 (v) collect and maintain all deeds, abstracts of title, and all other documents
 50 evidencing title to or an interest in property belonging to the state or to the state's
 51 departments, except institutions of higher education and the trust lands
 52 administration;
- 53 (vi) (A) periodically conduct a market analysis of proposed rates and fees; and
 54 (B) include in a market analysis a comparison of the division's rates and fees with
 55 the rates and fees of other public or private sector providers of comparable
 56 services, if rates and fees for comparable services are reasonably available;
- 57 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and
 58 Efficiency, including responsibilities[;]
 59 [(A)] to implement the state building energy efficiency program under Section
 60 63A-5b-1002[; and] ;
 61 [(B)] related to the approval of loans from the State Facility Energy Efficiency

- 62 Fund 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~~
- 65 ~~Utah State Developmental Center board, as provided in Subsection 26B-6-507(2);~~
- 66 ~~and]~~
- 67 (viii) except as provided in Subsection (2)(c), convey, lease, or dispose of
- 68 division-owned real property for fair market value, as determined by the division;
- 69 and
- 70 (ix) take all other action that the division is required to do under this chapter or other
- 71 applicable statute.
- 72 (b) In making an allocation of space under Subsection (1)(a)(i), the division shall
- 73 conduct one or more studies to determine the actual needs of each agency.
- 74 (c) The division may, without legislative approval, acquire title to real property for use
- 75 by the state or an agency if ~~the acquisition cost~~ :
- 76 (i) the acquisition cost does not exceed \$500,000[.], as estimated by the division; or
- 77 (ii) the real property is part or all of the consideration received in exchange for
- 78 division-owned real property conveyed, leased, or disposed of under Subsection
- 79 (1)(a)(viii).
- 80 (2) The division may:
- 81 (a) sue and be sued;
- 82 (b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or
- 83 otherwise, and hold real or personal property necessary for the discharge of the
- 84 division's duties; ~~and]~~
- 85 (c) convey, lease, or dispose of vacant division-owned real property for less than fair
- 86 market value, subject to the requirements of Part 9, Disposal of Division-owned Real
- 87 Property; and
- 88 ~~[(e)] (d)~~ take all other action necessary for carrying out the purposes of this chapter.
- 89 (3) (a) The division may not supervise or control the allocation of space for an entity in
- 90 the public education system.
- 91 (b) The supervision and control of the legislative area is reserved to the Legislature.
- 92 (c) The supervision and control of capitol hill facilities and capitol hill grounds is
- 93 reserved to the State Capitol Preservation Board.
- 94 (d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of
- 95 space for an institution of higher education is reserved to the Utah Board of

96 Higher Education.

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

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

103 (ii) The Administrative Office of the Courts shall consult and cooperate with the
104 division in the establishment and enforcement of standards for the supervision and
105 control of the allocation of space for the courts of record listed in Subsection
106 78A-1-101(1).

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

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

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

113 Section 2. Section **63A-5b-303** is amended to read:

114 **63A-5b-303 (Effective 07/01/24). Duties and authority of division.**

115 (1) (a) The division shall:

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

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

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

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

128 (v) collect and maintain all deeds, abstracts of title, and all other documents
129 evidencing title to or an interest in property belonging to the state or to the state's

- 130 departments, except institutions of higher education and the trust lands
131 administration;
- 132 (vi) (A) periodically conduct a market analysis of proposed rates and fees; and
133 (B) include in a market analysis a comparison of the division's rates and fees with
134 the rates and fees of other public or private sector providers of comparable
135 services, if rates and fees for comparable services are reasonably available;
- 136 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and
137 Efficiency, including responsibilities[;]
138 [~~(A)~~] to implement the state building energy efficiency program under Section
139 63A-5b-1002; [~~and~~]
140 [~~(B)~~] related to the approval of loans from the State Facility Energy Efficiency
141 Fund under Section 63A-5b-1003;]
- 142 [~~(viii) convey, lease, or dispose of the real property, water rights, or water shares~~
143 ~~associated with the Utah State Developmental Center if directed to do so by the~~
144 ~~Utah State Developmental Center board, as provided in Subsection 26B-6-507(2);~~
145 ~~and~~]
- 146 (viii) except as provided in Subsection (2)(c), convey, lease, or dispose of
147 division-owned real property for fair market value, as determined by the division;
148 and
- 149 (ix) take all other action that the division is required to do under this chapter or other
150 applicable statute.
- 151 (b) In making an allocation of space under Subsection (1)(a)(i), the division shall
152 conduct one or more studies to determine the actual needs of each agency.
- 153 (c) The division may, without legislative approval, acquire title to real property for use
154 by the state or an agency if[~~the acquisition cost~~] :
- 155 (i) the acquisition cost does not exceed \$500,000[-] , as estimated by the division; or
156 (ii) the real property is part or all of the consideration received in exchange for
157 division-owned real property conveyed, leased, or disposed of under Subsection
158 (1)(a)(viii).
- 159 (2) The division may:
- 160 (a) sue and be sued;
- 161 (b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or
162 otherwise, and hold real or personal property necessary for the discharge of the
163 division's duties; [~~and~~]

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

167 [(e)] (d) take all other action necessary for carrying out the purposes of this chapter.

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

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

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

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

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

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

182 (ii) The Administrative Office of the Courts shall consult and cooperate with the
 183 division in the establishment and enforcement of standards for the supervision and
 184 control of the allocation of space for the courts of record listed in Subsection
 185 78A-1-101(1).

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

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

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

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

193 **63A-5b-806 (Effective 05/01/24). Division rules on the value of property bought**
 194 **or exchanged -- Exception.**

195 (1) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative
 196 Rulemaking Act, make rules to ensure that, if the division buys or exchanges real
 197 property, the value of the real property is congruent with the proposed price and other

- 198 terms of the purchase or exchange.
- 199 (2) The rules:
- 200 (a) shall establish procedures for determining the value of the real property;
- 201 (b) may provide that an appraisal, as defined in Section 61-2g-102, demonstrates the real
- 202 property's value; and
- 203 (c) may require that the appraisal be completed by a state-certified general appraiser, as
- 204 defined in Section 61-2g-102.
- 205 (3) The rules adopted under Subsection (1) do not apply to the purchase or exchange of real
- 206 property, or an interest in real property[-,] :
- 207 (a) with a value of less than \$500,000, as estimated by the division[-] ; or
- 208 (b) if the real property is part or all of the consideration received in exchange for
- 209 division-owned real property conveyed, leased, or disposed of under Subsection
- 210 63A-5b-303(1)(a)(viii).
- 211 Section 4. Section **63A-5b-902** is amended to read:
- 212 **63A-5b-902 (Effective 05/01/24). Application of part.**
- 213 (1) ~~[The]~~ Except as stated in Subsection (1)(e), the provisions of this part, other than this
- 214 section, do not apply to:
- 215 ~~[(a) a conveyance, lease, or disposal under Subsection 63A-5b-303(1)(a)(viii);]~~
- 216 ~~[(b)]~~ (a) the division's disposal or lease of division-owned property [with] that would
- 217 otherwise be subject to this part, if the division-owned property has a value under
- 218 \$500,000, as estimated by the division;
- 219 ~~[(e)]~~ (b) a conveyance, lease, or disposal of division-owned property in connection with:
- 220 (i) the establishment of a state store, as defined in Section 32B-1-102; or
- 221 (ii) the construction of student housing; ~~[or]~~
- 222 ~~[(d)]~~ (c) a conveyance, lease, or disposal of any part of the point of the mountain state
- 223 land, as defined in Section 11-59-102, by the Point of the Mountain State Land
- 224 Authority created in Section 11-59-201[-] ; or
- 225 (d) a conveyance, lease, or disposal of division-owned property for fair market value, as
- 226 determined by the division, under Subsection 63A-5b-303(1)(a)(viii), except that the
- 227 following sections apply:
- 228 (i) Section 63A-5b-907.5;
- 229 (ii) Section 63A-5b-908;
- 230 (iii) Section 63A-5b-910;
- 231 (iv) Section 63A-5b-911; and

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

233 (2) Nothing in Subsection ~~[(1)(b) or (e)]~~ (1)(a), (b), or (d) may be construed to diminish or
 234 eliminate the division's responsibility to manage division-owned property in the best
 235 interests of the state.

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

237 **63A-5b-904 (Effective 05/01/24). Division authority with respect to vacant**
 238 **division-owned property -- Limitations.**

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

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

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

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

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

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

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

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

255 ~~[(3)]~~ (2) The division may effect a transfer of ownership or lease of vacant division-owned
 256 property without receiving fair market value in return if:

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

259 (b) for a proposed transfer of ownership or lease to a local government entity, public
 260 purpose nonprofit entity, or private party, the director determines that the local
 261 government entity, public purpose nonprofit entity, or private party intends to use the
 262 property to fulfill a public purpose;

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

265 (d) the director communicates the Executive Appropriations Committee's

- 266 recommendation to the executive director; and
- 267 (e) the executive director approves the transfer of ownership or lease.
- 268 [(4)] (3) (a) If the division effects a transfer of ownership of vacant division-owned
269 property without receiving fair market value in return, the division shall require the
270 documents memorializing the transfer of ownership to preserve to the division:
- 271 (i) in the case of a transfer of ownership of vacant division-owned property to a
272 secondary state agency, local government entity, or public purpose nonprofit
273 entity for no or nominal consideration, a right of reversion, providing for the
274 ownership of the property to revert to the division if the property ceases to be used
275 for the public benefit; or
- 276 (ii) in the case of any other transfer of ownership of vacant division-owned property,
277 a right of first refusal allowing the division to purchase the property from the
278 transferee for the same price that the transferee paid to the division if the
279 transferee wishes to transfer ownership of the former vacant division-owned
280 property.
- 281 (b) Subsection [(4)(a)] (3)(a) does not apply to the sale of vacant division-owned
282 property at an auction under Section 63A-5b-908.
- 283 Section 6. Section **63A-5b-905** is amended to read:
- 284 **63A-5b-905 (Effective 05/01/24). Notice required before division may effect a**
285 **transfer of ownership or lease of division-owned property for less than fair**
286 **market value.**
- 287 (1) Before the division may effect a transfer of ownership or lease of vacant division-owned
288 property for less than fair market value, the division shall give notice as provided in
289 Subsection (2).
- 290 (2) A notice required under Subsection (1) shall:
- 291 (a) identify and describe the vacant division-owned property;
- 292 (b) indicate the availability of the vacant division-owned property;
- 293 (c) invite persons interested in the vacant division-owned property to submit a written
294 proposal to the division;
- 295 (d) indicate the deadline for submitting a written proposal;
- 296 (e) be posted on the division's website for at least 60 consecutive days before the
297 deadline for submitting a written proposal, in a location specifically designated for
298 notices dealing with vacant division-owned property;
- 299 (f) be posted on the Utah Public Notice Website created in Section 63A-16-601 for at

300 least 60 consecutive days before the deadline for submitting a written proposal; and
 301 (g) be sent by email to each person who has previously submitted to the division a
 302 written request to receive notices under this section.

303 Section 7. Section **63A-5b-908** is amended to read:

304 **63A-5b-908 (Effective 05/01/24). Referring vacant division-owned property to**
 305 **the Department of Transportation for auction.**

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

308 (a) [(+) for a conveyance, lease, or disposal of vacant division-owned property for
 309 less than fair market value:

310 (i) the division has provided notice under Section 63A-5b-905 with respect to the
 311 vacant division-owned property; and

312 (ii) the division receives no qualified proposals in response to the notice under
 313 Section 63A-5b-905;

314 (b) the director determines that:

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

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

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

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

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

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

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

328 (2) If the division refers a vacant division-owned property to the Department of
 329 Transportation for public auction, the Department of Transportation shall publicly
 330 auction the vacant division-owned property under the same law and in the same manner
 331 that apply to a public auction of Department of Transportation property.

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

334 property.

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

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

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

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

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

344 **63A-5b-909 (Effective 05/01/24). State real property subject to right of first**
345 **refusal.**

346 (1) (a) If Section 78B-6-520.3 applies to vacant division-owned property, the division
347 shall comply with Subsection 78B-6-520.3(3).

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

350 (i) comply with the requirements of Section 78B-6-520.3; and

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

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

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

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

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

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

368 (c) An original grantor or subsequent bona fide purchaser, or the original grantor's or
369 subsequent bona fide purchaser's assignee, may waive rights afforded under Section
370 78B-6-521 and instead seek a transfer of ownership or lease of vacant
371 division-owned property[~~under the provisions of this chapter~~] in the same manner
372 as any other person seeking a transfer of ownership or lease of vacant division-owned
373 property to which Section 78B-6-521 does not apply.

374 Section 9. **Effective date.**

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

376 (2) The actions affecting Section 63A-5b-303 (Effective 07/01/2024) take effect on July 1,
377 2024.