Capital Facilities

Various provisions in Utah Code and the Utah System of Higher Education Board series R700 policies establish USHE Board responsibilities over institutional capital facility and real property planning, development, improvement, acquisition, disposal, and funding recommendations, among other aspects of institutional capital governance. Primary budget and policy components to USHE institutional capital programming include institutional master plans and five-year plans, the Higher Education Capital Projects Fund, the Technical College Capital Projects Fund, dedicated projects, non-dedicated projects, non-state funded projects, land-banking, capital improvement, and space utilization.

Institution Master Plans and Five-Year Plans

Board Policy R706, *Capital Facilities Master Planning*, requires institutions to complete and maintain a comprehensive capital facilities master plan based on programmatic planning for new and existing facilities. Institution master plans shall prioritize effective and efficient use of existing space over expansion and focus on increased space utilization on campuses. Master plans shall be reviewed and approved by the institution's board of trustees and submitted to the Commissioner's office on an annual basis.

This policy also requires institutions to annually submit five-year capital plans for Board review. Five-year capital plans shall include an explanation of current and future institutional capital needs, including projected growth, facility condition, space utilization, deferred maintenance, and a discussion of how the five-year capital plan will affect institutional attainment goals, among other information.

Utah Code, Utah Administrative Rule, and Board policies require that new capital development projects are aligned with institutions' missions and master plans.

Higher Education Capital Projects Fund and Dedicated Projects

Utah Code 53B-22-202 creates the Higher Education Capital Projects Fund, which currently holds $100,689,700 in ongoing appropriations to support capital development projects at degree-granting institutions. Appropriations in the fund are distributed to institutions based on the following variables defined in statute and Board Policy R743, *Degree-granting Institution Dedicated Capital Project Allocation*:

- Enrollment (weighted at 20 points)

- Performance Metrics (weighted at 15 points)
- Projected Growth in Student Population (weighted at 15 points)
- Square Feet per FTE (weighted at 15 points)
- Facility Age and Condition (weighted at 20 points)
- Current Space Utilization (weighted at 15 points)

The Higher Education Capital Projects Fund explicitly supports degree-granting institution-dedicated projects. Dedicated projects are typically requested in the form of new capital facilities or a remodel or renovation of existing capital facilities with a total cost of $3,500,000 or more. State code and Board Policy R745, *Approval Process for Use of Dedicated Capital Project Funds*, require the Board to annually review and approve or deny an institution's request for the use of dedicated project funds. Board-approved dedicated projects must be submitted to the governor, the Higher Education Appropriations Subcommittee, the Infrastructure and General Government Appropriations Subcommittee, and the Division of Facilities Construction Management (DFCM). Board-approved dedicated projects must be recommended by DFCM to move forward but need not be prioritized by DFCM. Institutions may defer the use of dedicated capital project fund allocations in a given year in order to accumulate resources to fully (or more substantially) cover expenditures for higher-cost projects. Moreover, it has been Board practice to recommend to the legislature that an institution's dedicated capital project allocation be used to partially offset the costs of a non-dedicated project request in a year in which the Board is recommending funding for a non-dedicated project at that respective institution.

Degree-Granting Institution Non-Dedicated Projects

By Utah Code 53B-22-204 and Board Policy R742, *Degree-granting Institution Non-dedicated Capital Project Prioritization Process*, the amount of ongoing appropriations to the Higher Education Capital Projects Fund determines the number of degree-granting institution non-dedicated project requests that the Board may submit to the legislature each year. After adjusting for inflation, if ongoing appropriations to the fund are less than $50 million, the Board may submit up to three degree-granting institution non-dedicated project requests. If ongoing appropriations to the fund are at least $50 million but less than $100 million, the Board may submit up to two degree-granting institution non-dedicated project requests. If ongoing appropriations to the fund are at least $100 million, the Board may submit one non-dedicated project request.

Non-dedicated project requests typically involve higher-cost new capital development projects, such as flagship buildings, campus expansions, etc. Board Policy R742, *Degree-granting Institution Non-dedicated Capital Project Prioritization Process*, requires the Board to newly review and score non-dedicated project requests at least once every three years. In a year in which the Board elects not to newly review non-dedicated project requests, the Board shall adopt the prioritized ranking of unfunded projects from the most recent year in which non-dedicated projects were reviewed and scored. In a year in which the Board newly reviews and prioritizes non-dedicated project requests, each institution may submit up to one non-dedicated project request. Requests are scored against the following Board criteria:

- How well the project fulfills Utah industry/economic demand (weighted at 25 points)
- How well the institution's existing space is utilized (weighted at 15 points)
- How well the project addresses an institution's existing space need (weighted at 15 points)
- Whether the project addresses hazardous conditions or an existing building's imminent non-functionality (weighted at 10 points)
- How well the project meets DFCM cost-effectiveness standards (weighted at 5 points)
- How well the project leverages alternative funds (weighted at 5 points)
- How well the project meets the Board's strategic plan priorities (weighted at 25 points)

In its May 2023 meeting, the Board elected not to newly review and prioritize non-dedicated degree-granting institution project requests for the upcoming FY 2025 budget cycle.

Technical Colleges Capital Projects Fund and Dedicated Projects

Utah Code 53B-2a-118 creates the Technical Colleges Capital Projects Fund, which currently holds $19,310,300 in ongoing appropriations to support capital development projects at technical colleges. Unlike distributions to degree-granting institutions from the Higher Education Capital Project Fund, balances in the Technical Colleges Capital Project Fund do not follow an institution-specific allocation formula. Instead, technical college dedicated project funding requests are graded against the same criteria as degree-granting institution non-dedicated requests shown above. It has been Board practice to recommend to the legislature that any available balance in the Technical Colleges Capital Projects Fund be used to partially offset costs of a non-dedicated project request in a year in which the Board is requesting funding for a non-dedicated project at a technical college.

Technical College Non-Dedicated Projects

By Utah Code 53B-2a-117 and Board Policy R744, *Technical College Capital Project Prioritization Process*, the amount of ongoing appropriations to the Technical Colleges Capital Projects Fund determines the number of technical college non-dedicated project requests the Board may submit to the legislature each year. After adjusting for inflation, if ongoing appropriations to the fund are less than $7 million, the Board may submit up to three technical college non-dedicated project requests. If ongoing appropriations to the fund are at least $7 million but less than $14 million, the Board may submit up to two technical college non-dedicated project requests. If ongoing appropriations to the fund are at least $14 million, the Board may submit one non-dedicated project request.

In its May 2023 meeting, the Board elected not to newly review and prioritize non-dedicated technical college project requests for the upcoming FY 2025 budget cycle.

Acquisition and Disposal of Real Property

Under Utah Code and Board Policy R703, *Acquisition of Real Property*, and R704, *Disposal of Real Property*, institutions may engage in the transaction of real property. The Board must review and consider for approval all institutional requests for real property that commit institutional funds in excess of $1.5 million. Further, for acquisitions of property by purchase or exchange, institutions must establish the fair market value via appraisal with the purchase price not to exceed the appraised value unless otherwise justified. For property disposals, the Board must review and consider for approval all transactions where the price of the property exceeds $1 million. Property shall be sold at or above fair market value as determined by an appraisal unless circumstances justify otherwise. Under Board Policy, *R220 Delegation of Responsibilities to the President and Board of Trustees*, the Board delegates to the University of Utah Board of Trustees the authority to review, approve, and provide oversight with regard to the University of Utah Health Care budget, operations, and property transactions. Note that this delegation of authority does not include revenue bond issuance authority.

Institutional requests for state appropriations for a landbank property must demonstrate the importance of the land to the institution's role, mission, master plan, and strategic plan, along with any time sensitivity with respect to the window of opportunity of purchase, among other information.

Non-State Funded Projects and Revenue Bond Issuance

Under Board Policy R702, *Non-State Funded Projects*, the Board delegates authority to approve non-state funded projects to institutional boards of trustees under the following circumstances:

- The total cost of the project does not exceed $5 million.
- Any new operation and maintenance costs of the facility will be absorbed by the institution.
- No student fees will be used to support the design or construction of the facility.
- No revenue bonds are required to be issued to support the design or construction of the facility.
- The project will not require incurring contractual debt or the disposal or exchange of land or other capital assets.

Among the more common sizable non-state funded project types are those supported by revenue bonds, which require both legislative and Board approval pursuant to Utah Code and Board Policy R590, *Issuance of Bonds for Colleges and Universities*. To initiate the institution's revenue bonding process, the institution must first demonstrate the financial feasibility of the project to the Commissioner's office and the Board. Next, the Board must authorize the institution to pursue legislation to codify legislative endorsement of the project and corresponding debt undertaking. Following the passage and enactment of legislation, the Board must adopt an approving resolution that specifies the maximum allowable bond parameters for the project, such as principal amount, years-to-maturity, discount-from-par, and coupon rate. Finally, the Board chair or designee must affirmatively authorize the final terms and conditions of the bond sale on the day of the market transaction. As of the end of Fiscal Year 2022, USHE institutions held a collective $1,820,810,000 in revenue bond indebtedness.

Capital Improvement

Capital improvement projects are also known as alterations, repairs, and improvements or AR&I. These projects help maintain existing facilities by repairing and replacing old and failing components, systems, and equipment. Typical projects include utility upgrades, correction of code violations, roofing repairs, structural improvement, hazardous materials abatement, and remodeling nonfunctional space.

Utah Code 63a-5b-401(2) defines a capital improvement as:

- remodeling, alteration, replacement, or repair projects with a total cost of less than $3.5M
- site and utility improvements with a total cost of less than $3.5M
- a utility infrastructure improvement project that:
    - Has a total cost of less than $7M;
    - Consists of two or more projects that, if done separately, would each cost less than $3.5M; and
    - The division determines it is more cost-effective or feasible to be completed as a single project; or a new facility (space) with a total construction cost of less than $500K.

Utah statute requires the legislature to fund capital improvement projects at 1.1 percent of the replacement value of state facilities and delegates authority to the Division of Facilities and Construction Management (DFCM) to allocate capital improvement funds to specific agency and institutional projects.

Space Utilization

In March 2018, the Utah Board of Higher Education adopted Board Policy R751, *Institutional Facilities Space Utilization*, to provide systemwide standards for the utilization of classrooms and teaching laboratories, as well as an annual reporting requirement. The policy encourages the optimization of institutional space and more efficient allocation of institutional resources in the assignment and utilization of available space.

As required by the policy, USHE institutions submit utilization information for the previous academic year according to prescribed procedures developed by the Office of the Commissioner. Utilization information is collected for degree-granting institutions along the following dimensions:

- Scope: Credit-bearing classroom and lab space
- Reference period: Measured during the 3rd week of fall and spring semesters
- Unit of Observation: Captures room use (weekly hours scheduled) and occupancy against capacity (headcount of students vs. seats)

Beginning in 2019, legislative intent language established institution space utilization targets and objectives as follows:

- At least 33.75 average hours of instruction per week for Spring and Fall semesters
- At least 66.7 percent seat occupancy in classrooms
- Continue to increase summer utilization of classrooms

Institutions must submit annual reports describing utilization goals and accomplishments for that same academic year. The process also allows for institutional report-out of challenges relating to utilization, institutional progress in centralizing scheduling and creating policy, and actions taken to improve summer utilization. The report is due as part of the utilization data submission to the Commissioner's office by December 1 of each year.