

SB0174S01 compared with SB0174

~~{deleted text}~~ shows text that was in SB0174 but was deleted in SB0174S01.

Inserted text shows text that was not in SB0174 but was inserted into SB0174S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Ann Millner proposes the following substitute bill:

HIGHER EDUCATION CAPITAL FACILITIES

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: Gage Froerer

LONG TITLE

General Description:

This bill enacts and amends provisions related to capital developments at institutions of higher education and technical colleges.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Technical Colleges Capital ~~{Developments Restricted Account}~~ Projects Fund;
- ▶ enacts provisions related to the Technical Colleges Capital ~~{Developments Restricted Account}~~ Projects Fund, including provisions related to:
 - deposits into the ~~{account}~~ fund;
 - the use of money in the ~~{account}~~ fund; and

SB0174S01 compared with SB0174

- the administration of the ~~{account}~~fund;
- ▶ enacts procedures for how a technical college receives legislative approval for a capital development project;
- ▶ creates the Higher Education Capital ~~{Developments Restricted Account}~~Projects Fund;
- ▶ enacts provisions related to the Higher Education Capital ~~{Developments Restricted Account}~~Projects Fund, including provisions related to:
 - deposits into the ~~{account}~~fund;
 - the use of the money in the ~~{account}~~fund; and
 - the administration of the ~~{account}~~fund;
- ▶ enacts procedures for how an institution of higher education that is part of the Utah System of Higher Education receives legislative approval for a capital development project;
- ▶ provides rulemaking authority;
- ▶ exempts certain capital development projects from State Building Board prioritization;
- ▶ amends provisions related to capital development projects; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Capital Budget - Capital Development Fund:
 - from the Education Fund, (\$20,000,000);
- ▶ to the ~~{Education Fund Restricted - }~~Higher Education Capital ~~{Developments Restricted Account}~~Projects Fund, as an ongoing appropriation:
 - from the Education Fund, \$20,000,000; and
- ▶ to the ~~{Education Fund Restricted - }~~Technical Colleges Capital ~~{Developments Restricted Account}~~Projects Fund, as an ongoing appropriation:
 - from the Education Fund, \$9,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

SB0174S01 compared with SB0174

AMENDS:

53B-2a-101, as last amended by Laws of Utah 2017, Chapter 382

53B-7-101, as last amended by Laws of Utah 2017, Chapters 365 and 382

63A-5-104, as last amended by Laws of Utah 2017, Chapter 355

63J-1-602.3, as last amended by Laws of Utah 2017, Chapters 396 and 423

ENACTS:

53B-2a-116, Utah Code Annotated 1953

53B-2a-117, Utah Code Annotated 1953

53B-22-201, Utah Code Annotated 1953

53B-22-202, Utah Code Annotated 1953

53B-22-203, Utah Code Annotated 1953

53B-22-204, Utah Code Annotated 1953

53B-22-205, Utah Code Annotated 1953

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

Section 1. Section **53B-2a-101** is amended to read:

53B-2a-101. Definitions.

As used in this chapter:

~~{ (1) "Account" means the Technical Colleges Capital Developments Restricted Account created in Section 53B-2a-117.~~

{ ~~{(1)}~~ ~~{(2)}~~ "Board of trustees" means the Utah System of Technical Colleges Board of Trustees.

~~{(3)}~~ {2} "Capital developments" means the same as that term is defined in Section 63A-5-104.

~~{(2)}~~ ~~{(4)}~~ {3} "Commissioner of technical education" means the Utah System of Technical Colleges commissioner of technical education.

~~{(3)}~~ ~~{(5)}~~ {4} "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.

~~{(4) "Member" means a member of the board of trustees.}~~

SB0174S01 compared with SB0174

~~(6)~~(5) "Dedicated project" means a capital development project for which state funds from the ~~{account}~~ fund as defined in Section 53B-2a-117 are requested or used.

~~(7)~~(6) "Nondedicated project" means a capital development project for which state funds from a source other than the ~~{account}~~ fund as defined in Section 53B-2a-117 are requested or used.

~~(5)~~ ~~(8)~~(7) "Open-entry, open-exit" means:

(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered;

(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered; and

(c) if competency is demonstrated in a program of study, a credential, certificate, or diploma may be awarded.

(8) "State funds" means the same as that term is defined in Section 63A-5-104.

Section 2. Section **53B-2a-116** is enacted to read:

53B-2a-116. Capital development projects -- Prioritization -- Legislative approval -- Rulemaking.

(1) In accordance with this section, a technical college is required to receive legislative approval in an appropriations act for a capital development project.

(2) In accordance with Section 53B-2a-112, a technical college shall submit to the board of trustees a proposal for a funding request for each dedicated project or nondedicated project for which the technical college seeks legislative approval.

(3) The board of trustees shall:

(a) review each proposal submitted under Subsection (2) to ensure that the proposal complies with Section 53B-2a-112;

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

(i) a list of approved dedicated projects, prioritized in accordance with Subsection (4);

and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (4); and

SB0174S01 compared with SB0174

(c) submit the lists described in Subsection (3)(b) to the State Building Board for the State Building Board's:

- (i) recommendation, for the list described in Subsection (3)(b)(i); or
- (ii) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).

(4) (a) The board of trustees shall prioritize funding requests for capital development projects based on:

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

(b) On or before August 1, 2018, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board of trustees shall make rules that establish:

- (i) how the board of trustees will measure each factor described in Subsection (4)(a);

and

- (ii) procedures for prioritizing funding requests for capital development projects.

(5) A dedicated project:

(a) is subject to the State Building Board's recommendation as described in Section 63A-5-104; and

(b) is not subject to the State Building Board's prioritization as described in Section 63A-5-104.

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

Section 3. Section **53B-2a-117** is enacted to read:

53B-2a-117. Technical Colleges Capital ~~{Developments Restricted~~

Account~~}; **Projects Fund** -- Use of money in ~~{account}~~**fund** -- Appropriations to ~~{account.~~~~

~~—~~ ~~(1)~~ **fund.**

(1) As used in this section, "fund" means the Technical Colleges Capital Projects Fund created in this section.

(2) There is created ~~{within the Education Fund a restricted account}~~**a capital projects fund** known as the Technical Colleges Capital ~~{Developments Restricted Account}~~**Projects**

SB0174S01 compared with SB0174

Fund.

~~(2)3~~ Subject to appropriations, money in the ~~{account}~~ fund shall be used:

(a) for dedicated projects approved in accordance with Section 53B-2a-116; or

(b) to pay debt service in accordance with Subsection ~~(3)4~~.

~~(3)4~~ Money in the ~~{account}~~ fund may be used to pay debt service:

(a) on a general obligation bond issued for a capital development project in accordance with Title 63B, Chapter 1a, Master General Obligation Bond Act; and

(b) if the Legislature approves the use by a vote of two-thirds of all members elected to each house.

~~(4)5~~ (a) The ~~{account}~~ fund shall be funded by legislative appropriations.

(b) Subject to future budget constraints, the Legislature shall appropriate \$9,000,000 of new ongoing money from the Education Fund, the General Fund, or a combination of the Education Fund and the General Fund to the ~~{account}~~ fund annually until the ongoing annual appropriation reaches \$36,000,000.

~~(5)6~~ The ~~{account}~~ fund shall accrue interest, which shall be deposited into the ~~{account}~~ fund.

(7) The Division of Finance shall administer the fund in accordance with this section.

Section 4. Section **53B-7-101** is amended to read:

53B-7-101. Combined requests for appropriations -- Board review of operating budgets -- Submission of budgets -- Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.

(1) As used in this section:

(a) (i) "Higher education institution" or "institution" means an institution of higher education listed in Section 53B-1-102.

(ii) "Higher education institution" or "institution" does not include:

(A) the Utah System of Technical Colleges Board of Trustees; or

(B) a technical college.

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

(2) (a) The board shall recommend a combined appropriation for the operating budgets of higher education institutions for inclusion in a state appropriations act.

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

SB0174S01 compared with SB0174

- (i) employee compensation;
- (ii) mandatory costs, including building operations and maintenance, fuel, and power;
- (iii) performance funding described in Part 7, Performance Funding;
- (iv) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and
- (v) enrollment growth.

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

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

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

(b) ~~[Funding]~~ Except as provided in Section 53B-22-204, funding requests pertaining to capital facilities and land purchases shall be submitted in accordance with procedures prescribed by the State Building Board.

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

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

(i) justifying for higher ~~[educational]~~ education institutions appropriations consistent with their needs, and consistent with the financial ability of the state; and

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

(5) (a) The board shall request a hearing with the governor on the recommended appropriations.

(b) After the governor delivers his budget message to the Legislature, the board shall request hearings on the recommended appropriations with the appropriate committees of the Legislature.

SB0174S01 compared with SB0174

(c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or the Legislature's committees is substantially different from the recommendations of the board, the board may request further hearings with the Legislature or the Legislature's appropriate committees to reconsider both the total amount and the allocation.

(6) The board may devise, establish, periodically review, and revise formulas for the board's use and for the use of the governor and the committees of the Legislature in making appropriation recommendations.

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

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

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

(9) The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions [~~of higher education~~] are appropriated to the respective institutions [~~of higher education and~~] to be used in accordance with institutional work programs.

(10) An institution [~~of higher education~~] may do the institution's own purchasing, issue the institution's own payrolls, and handle the institution's own financial affairs under the general supervision of the board.

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

Section 5. Section **53B-22-201** is enacted to read:

Part 2. Capital Developments

53B-22-201. Definitions.

As used in this part:

SB0174S01 compared with SB0174

~~{ (1) "Account" means the Higher Education Capital Developments Restricted Account created in Section 53B-22-202.~~

~~{ (2) "Capital developments" means the same as that term is defined in Section 63A-5-104.~~

~~{ (3) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.~~

~~{ (4) "Dedicated project" means a capital development project for which state funds from an institution's allocation are requested or used.~~

(4) "Fund" means the Higher Education Capital Projects Fund created in Section 53B-22-202.

(5) "Institution" means an institution of higher education that is part of the Utah System of Higher Education described in Section 53B-1-102.

(6) "Institution's allocation" means the total amount of money in the ~~{account}~~ fund that an institution has been allocated in accordance with Section 53B-22-203.

(7) "Nondedicated project" means a capital development project for which state funds from a source other than an institution's allocation are requested or used.

(8) "State funds" means the same as that term is defined in Section 63A-5-104.

Section 6. Section **53B-22-202** is enacted to read:

53B-22-202. Higher Education Capital ~~{Developments Restricted Account}~~ Projects Fund -- Use of money in ~~{account}~~ fund -- Appropriations to ~~{account}~~ fund.

(1) There is created ~~{within the Education Fund a restricted account}~~ a capital projects fund known as the Higher Education Capital ~~{Developments Restricted Account}~~ Projects Fund.

(2) Subject to appropriation, money in the ~~{account}~~ fund shall be used:

(a) for dedicated projects approved in accordance with Section 53B-22-204; or

(b) to pay debt service in accordance with Subsection (3).

(3) Money in the ~~{account}~~ fund may be used to pay debt service:

(a) on a general obligation bond issued for a capital development project in accordance with Title 63B, Chapter 1a, Master General Obligation Bond Act; and

SB0174S01 compared with SB0174

(b) if the Legislature approves the use by a vote of two-thirds of all members elected to each house.

(4) (a) The ~~{account}~~ fund shall be funded by legislative appropriations.

(b) Subject to future budget constraints, the Legislature shall appropriate \$20,000,000 of new ongoing money from the Education Fund, the General Fund, or a combination of the Education Fund and the General Fund to the ~~{account}~~ fund annually until the ongoing annual appropriation reaches \$100,000,000.

(5) The ~~{account}~~ fund shall accrue interest, which shall be deposited into the ~~{account}~~ fund.

(6) The Division of Finance shall administer the fund in accordance with this part.

Section 7. Section **53B-22-203** is enacted to read:

53B-22-203. ~~{Account}~~ **Fund** money -- Institution allocations.

(1) (a) Based on legislative appropriations to the ~~{account}~~ fund, the board shall annually determine how to allocate among all institutions money that has not been previously allocated to an institution.

(b) The board shall, in accordance with the rules described in Section 53B-22-205, make the determination described in Subsection (1)(a) based on each institution's:

(i) enrollment;

(ii) total performance across the metrics described in Section 53B-7-706;

(iii) regional growth in student population;

(iv) facility age and condition; and

(v) adequacy of academic space, including off-campus facilities.

(2) On or before May 31 each year, the board shall notify the Division of Finance of the board's determination described in Subsection (1).

(3) The Division of Finance shall:

(a) maintain within the ~~{account}~~ fund separate accounting for each institution's allocation; and

(b) based on the notification described in Subsection (2), add to each institution's allocation the amount of money determined by the board.

Section 8. Section **53B-22-204** is enacted to read:

SB0174S01 compared with SB0174

53B-22-204. Funding request for capital development project -- Legislative approval -- Board approval.

(1) In accordance with this section, an institution is required to receive legislative approval in an appropriations act for a capital development project.

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

(3) The board shall:

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

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

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

(iii) fulfills a critical institutional facility need;

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

(i) a list of approved dedicated projects; and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection

(5); and

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

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the State Building Board for the State Building Board's:

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

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

(4) A dedicated project:

(a) is subject to the State Building Board's recommendation as described in Section 63A-5-104; and

(b) is not subject to the State Building Board's prioritization as described in Section 63A-5-104.

(5) Subject to Subsection (6), and in accordance with the rules described in Section 53B-22-205, the board shall prioritize institution requests for funding for nondedicated projects based on:

(a) capital facility need;

SB0174S01 compared with SB0174

(b) utilization of facilities;

(c) maintenance and condition of facilities;

(d) donations and nonappropriated funding; and

(e) any other factor determined by the board under the rules described in Section 53B-22-205.

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

(i) up to three nondedicated projects if the ongoing appropriation to the ~~{account}~~ fund is less than \$50,000,000;

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

(iii) one nondedicated project if the ongoing appropriation to the ~~{account}~~ fund is at least \$100,000,000.

(b) ~~{The}~~ For each calendar year beginning on or after January 1, 2019, the dollar amounts described in Subsection (6)(a) shall be ~~{annually}~~ adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2018 calendar year; and

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

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

(b) In considering a funding request for a capital development project, the Legislature shall consider an institution's request described in Subsection (7)(a).

(8) After an institution completes a capital development project, the board shall review the capital development project, including the costs and design of the capital development project.

Section 9. Section **53B-22-205** is enacted to read:

53B-22-205. Rulemaking.

On or before August 1, 2018, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(1) how the board will determine the amount of money to allocate to an institution as described in Section 53B-22-203, including, for each factor described in Subsection

SB0174S01 compared with SB0174

53B-22-203(1)(b):

(a) how the board will measure an institution's fulfillment of the factor; and

(b) the relative weight assigned to the factor; and

(2) how the board will prioritize institution requests for funding for nondedicated projects as described in Subsection 53B-22-204(5), including:

(a) how the board will measure each factor described in Subsection 53B-22-204(5);

and

(b) procedures for prioritizing the requests.

Section 10. Section **63A-5-104** is amended to read:

63A-5-104. Definitions -- Capital development and capital improvement process

-- Approval requirements -- Limitations on new projects -- Emergencies.

(1) As used in this section:

(a) (i) "Capital developments" means a:

(A) remodeling, site, or utility project with a total cost of \$3,500,000 or more;

(B) new facility with a construction cost of \$500,000 or more; or

(C) purchase of real property where an appropriation is requested to fund the purchase.

(ii) "Capital developments" does not include a project described in Subsection

(1)(b)(iii).

(b) "Capital improvements" means:

(i) a remodeling, alteration, replacement, or repair project with a total cost of less than \$3,500,000;

(ii) a site or utility improvement with a total cost of less than \$3,500,000;

(iii) a utility infrastructure improvement project that:

(A) has a total cost of less than \$7,000,000;

(B) consists of two or more projects that, if done separately, would each cost less than \$3,500,000; and

(C) the State Building Board determines is more cost effective or feasible to be completed as a single project; or

(iv) a new facility with a total construction cost of less than \$500,000.

(c) (i) "New facility" means the construction of a new building on state property regardless of funding source.

SB0174S01 compared with SB0174

(ii) "New facility" includes:

(A) an addition to an existing building; and

(B) the enclosure of space that was not previously fully enclosed.

(iii) "New facility" does not include:

(A) the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than \$3,500,000; or

(B) the construction of facilities that do not fully enclose a space.

(d) "Replacement cost of existing state facilities and infrastructure" means the replacement cost, as determined by the Division of Risk Management, of state facilities, excluding auxiliary facilities as defined by the State Building Board and the replacement cost of infrastructure as defined by the State Building Board.

(e) "State funds" means public money appropriated by the Legislature.

(2) (a) [~~The~~] Except as provided in Subsection (2)(f), the board shall, on behalf of all state agencies and in accordance with Subsection (4), submit capital development recommendations and priorities to the Legislature for approval and prioritization.

(b) In developing the board's capital development recommendations and priorities, the board shall require each state agency that requests an appropriation for a capital development project to:

(i) submit to the board a capital development project request; and

(ii) complete and submit to the board a study that demonstrates the feasibility of the capital development project, including:

(A) the need for the capital development project;

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

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

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

(c) The board shall verify the completion and accuracy of a feasibility study that a state agency submits to the board under Subsection (2)(b).

(d) The board shall require that an institution of higher education described in Section 53B-1-102 that submits a request for a capital development project address whether and how, as a result of the project, the institution will:

SB0174S01 compared with SB0174

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

(ii) respond to individual skilled and technical job demand over the next 3, 5, and 10 years;

(iii) respond to industry demands for trained workers;

(iv) help meet commitments made by the Governor's Office of Economic Development, including relating to training and incentives;

(v) respond to changing needs in the economy; and

(vi) based on demographics, respond to demands for on-line or in-class instruction.

(e) The board shall give more weight in the board's scoring process to a request that is designated as a higher priority by the State Board of Regents than a request that is designated as a lower priority by the State Board of Regents only when determining the order of prioritization among requests submitted by the State Board of Regents.

(f) (i) For a dedicated project as defined in Section 53B-2a-101 or 53B-22-201, the board shall submit recommendations to the Legislature in accordance with this section.

(ii) A dedicated project as defined in Section 53B-2a-101 or 53B-22-201 is not subject to prioritization by the State Building Board.

(3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development project may not be constructed on state property without legislative approval.

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

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

(ii) the state agency provides to the board a written document, signed by the head of the state agency:

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

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

SB0174S01 compared with SB0174

(iii) the board determines that the use of the state property is:

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

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

(c) (i) The Division of Facilities Construction and Management shall maintain a record of facilities constructed under the exemption provided in Subsection (3)(b).

(ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state agency may not request:

(A) increased state funds for operations and maintenance; or

(B) state capital improvement funding.

(d) Legislative approval is not required for:

(i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds that has been approved by the board;

(ii) a facility to be built with nonstate funds and owned by nonstate entities within research park areas at the University of Utah and Utah State University;

(iii) a facility to be built at This is the Place State Park by This is the Place Foundation with funds of the foundation, including grant money from the state, or with donated services or materials;

(iv) a capital project that:

(A) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization Fund; and

(B) does not provide a new facility for a state agency or higher education institution; or

(v) a capital project on school and institutional trust lands that is funded by the School and Institutional Trust Lands Administration from the Land Grant Management Fund and that does not fund construction of a new facility for a state agency or higher education institution.

(e) (i) Legislative approval is not required for capital development projects to be built for the Department of Transportation:

(A) as a result of an exchange of real property under Section 72-5-111; or

(B) as a result of a sale or exchange of real property from a maintenance facility if the real property is exchanged for, or the proceeds from the sale of the real property are used for, another maintenance facility, including improvements for a maintenance facility and real property.

SB0174S01 compared with SB0174

(ii) When the Department of Transportation approves a sale or exchange under Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the cochairs of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriation Committee about any new facilities to be built or improved under this exemption.

(4) (a) (i) On or before January 15 of each year, the board shall, on behalf of all state agencies, submit a list of anticipated capital improvement requirements to the Legislature for review and approval.

(ii) The board shall ensure that the list identifies:

(A) a single project that costs more than \$1,000,000;

(B) multiple projects within a single building or facility that collectively cost more than \$1,000,000;

(C) a single project that will be constructed over multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;

(D) multiple projects within a single building or facility with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;

(E) a single project previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000;

(F) multiple projects within a single building or facility previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000; and

(G) projects approved under Subsection (1)(b)(iii).

(b) Unless otherwise directed by the Legislature, the board shall prioritize capital improvements from the list submitted to the Legislature up to the level of appropriation made by the Legislature.

(c) In prioritizing capital improvements, the board shall consider the results of facility evaluations completed by an architect/engineer as stipulated by the building board's facilities maintenance standards.

(d) In prioritizing capital improvements, the board shall allocate at least 80% of the funds that the Legislature appropriates for capital improvements to:

SB0174S01 compared with SB0174

(i) projects that address:

(A) a structural issue;

(B) fire safety;

(C) a code violation; or

(D) any issue that impacts health and safety;

(ii) projects that upgrade:

(A) an HVAC system;

(B) an electrical system;

(C) essential equipment;

(D) an essential building component; or

(E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or

(iii) projects that demolish and replace an existing building that is in extensive disrepair and cannot be fixed by repair or maintenance.

(e) In prioritizing capital improvements, the board shall allocate no more than 20% of the funds that the Legislature appropriates for capital improvements to:

(i) remodeling and aesthetic upgrades to meet state programmatic needs; or

(ii) construct an addition to an existing building or facility.

(f) The board may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the project.

(g) The board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$3,500,000 or more, if:

(i) the capital improvement project is a project described in Subsection (1)(b)(iii); and

(ii) the Legislature has not refused to fund the project with capital improvement funds.

(h) In prioritizing and allocating capital improvement funding, the State Building Board shall comply with the requirement in Subsection 63B-23-101(2)(f).

(5) The Legislature may authorize:

(a) the total square feet to be occupied by each state agency; and

(b) the total square feet and total cost of lease space for each agency.

(6) If construction of a new building or facility will require an immediate or future

SB0174S01 compared with SB0174

increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:

(a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and

(b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(7) (a) Except as provided in [~~Subsection (7)(b)~~] Subsections (7)(b) and (c), the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) If the Legislature determines that there exists an Education Fund budget deficit or a General Fund budget deficit as those terms are defined in Section 63J-1-312, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

(c) This Subsection (7) does not apply to a dedicated project as defined in Section 53B-2a-101 or 53B-22-201.

(8) (a) [~~The~~] (i) Except as provided in Subsection (8)(a)(ii), the Legislature may not fund the design and construction of a new facility in phases over more than one year unless the Legislature approves the funding for both the design and construction by a vote of two-thirds of all the members elected to each house.

(ii) This Subsection (8)(a) does not apply to a dedicated project as defined in Section 53B-2a-101 or 53B-22-201.

(b) An agency is required to receive approval from the board before the agency begins programming for a new facility that requires legislative approval under Subsection (3).

(c) The board or an agency may fund the programming of a new facility before the Legislature makes an appropriation for the new facility under Subsection (8)(a).

(9) (a) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, after the Legislature approves capital development and capital improvement priorities under this section, if an emergency arises that creates an unforeseen and critical need for a

SB0174S01 compared with SB0174

capital improvement project, the board may reallocate capital improvement funds to address the project.

(b) The board shall report any changes the board makes in capital improvement allocations approved by the Legislature to:

- (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and
- (ii) the Legislature at its next annual general session.

(10) (a) The board may adopt a rule allocating to institutions and agencies their proportionate share of capital improvement funding.

(b) The board shall ensure that the rule:

(i) reserves funds for the Division of Facilities Construction and Management for emergency projects; and

(ii) allows the delegation of projects to some institutions and agencies with the requirement that a report of expenditures will be filed annually with the Division of Facilities Construction and Management and appropriate governing bodies.

(11) It is the intent of the Legislature that in funding capital improvement requirements under this section the General Fund be considered as a funding source for at least half of those costs.

(12) (a) Subject to Subsection (12)(b), at least 80% of the state funds appropriated for capital improvements shall be used for maintenance or repair of the existing building or facility.

(b) The board may modify the requirement described in Subsection (12)(a) if the board determines that a different allocation of capital improvements funds is in the best interest of the state.

Section 11. Section **63J-1-602.3** is amended to read:

63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.

(1) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(2) Funding for the Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(3) Appropriations made to the Division of Emergency Management from the State Disaster Recovery Restricted Account, as provided in Section 53-2a-603.

SB0174S01 compared with SB0174

(4) Appropriations made to the Department of Public Safety from the Department of Public Safety Restricted Account, as provided in Section 53-3-106.

(5) Appropriations to the Motorcycle Rider Education Program, as provided in Section 53-3-905.

(6) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(7) Appropriations from the DNA Specimen Restricted Account created in Section 53-10-407.

(8) The Canine Body Armor Restricted Account created in Section 53-16-201.

~~{ (9) The Technical Colleges Capital Developments Restricted Account created in Section 53B-2a-117.~~

~~— (10) The Higher Education Capital Developments Restricted Account created in Section 53B-22-202.~~

~~‡ (9) The School Readiness Restricted Account created in Section 53A-1b-104. ‡~~

~~{ (10) (11) Appropriations to the State Board of Education, as provided in Section 53A-17a-105. 53F-2-205.~~

~~— (12) The School Readiness Restricted Account created in Section 53F-9-402.~~

~~— [(11)] (13) 53A-17a-105.~~

(11) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(12) The Technical Colleges Capital Projects Fund created in Section 53B-2a-117.

[(12)] (14) (13) Certain funds appropriated from the General Fund to the State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(14) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[(13)] (15) Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

[(14)] (16) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[(15)] (17) Subject to Subsection 54-5-1.5(4)(d), appropriations from the Public Utility Regulatory Restricted Account created in Section 54-5-1.5.

[(16)] (18) Certain fines collected by the Division of Occupational and Professional

SB0174S01 compared with SB0174

Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

~~[(17)]~~ (19) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

~~[(18)]~~ (20) Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

~~[(19)]~~ (21) The Cigarette Tax Restricted Account created in Section 59-14-204.

Section 12. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Capital Budget - Capital Development Fund

From Education Fund (\$20,000,000)

ITEM 2

To ~~{Education Fund Restricted - }~~Higher Education Capital ~~{Developments Restricted Account}~~Projects Fund

From Education Fund \$20,000,000

ITEM 3

To ~~{Education Fund Restricted - }~~Technical Colleges Capital ~~{Developments Restricted Account}~~Projects Fund

From Education Fund \$9,000,000

Section 13. **Effective date.**

This bill takes effect on July 1, 2018.

†

SB0174S01 compared with SB0174

Legislative Review Note

Office of Legislative Research and General Counsel