

## SB0102S01 compared with SB0102

~~text~~ shows text that was in SB0102 but was deleted in SB0102S01.

Inserted text shows text that was not in SB0102 but was inserted into SB0102S01.

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Senator Ann Millner proposes the following substitute bill:

### HIGHER EDUCATION CAPITAL FACILITIES

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ann Millner**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

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

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Technical Colleges Capital Projects Fund;
- ▶ creates the Higher Education Capital Projects Fund;
- ▶ enacts provisions related to the Technical Colleges Capital Projects Fund and the Higher Education Capital Projects Fund, including provisions related to:
  - deposits into the funds;
  - the use of money in the funds; and

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- the administration of the funds;
- ▶ enacts procedures for how an institution of higher education, including a technical college, receives legislative approval for a capital development project;
- ▶ requires the State Board of Regents and the Utah System of Technical Colleges Board of Trustees to establish certain measurements and procedures;
- ▶ 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 2020:

- ▶ to the Capital Budget - Capital Development Fund:
  - from the General Fund, as an ongoing appropriation ~~{:}~~, (\$67,000,000);
  - from the General Fund, One-time, \$40,000,000;
  - from the Education Fund, as an ongoing appropriation, (\$47,000,000); and
  - from the Education Fund, ~~{(\$25)}~~ One-time, \$36,000,000 ~~{}~~;
- ▶ to the Capital Budget - Higher Education Capital Projects Fund:
  - from the General Fund, as an ongoing appropriation ~~{:}~~, \$53,000,000;
  - from the General Fund, One-time, (\$31,000,000);
  - from the Education Fund, as an ongoing appropriation, \$47,000,000; and
  - from the Education Fund, ~~{\$25}~~ One-time, (\$36,000,000); and
- ▶ to the Capital Budget - Technical Colleges Capital Projects Fund:
  - from the General Fund, as an ongoing appropriation ~~{:}~~, \$14,000,000; and
  - from the ~~{Education}~~ General Fund, ~~{\$3}~~ One-time, (\$9, {500} 000,000).

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

**53B-2a-101**, as last amended by Laws of Utah 2018, 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

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**63I-1-263**, as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 261, 321, 338, 340, 347, 369, 428, 430, and 469

**63J-1-602.1**, as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and repealed and reenacted by Laws of Utah 2018, Chapter 469

ENACTS:

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

**53B-2a-118**, 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

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*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) "Board of trustees" means the UTech Board of Trustees.

(2) "Capital developments" means the same as that term is defined in Section

63A-5-104.

~~(2)~~ (3) "Commissioner of technical education" means the UTech commissioner of technical education.

~~(3)~~ (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.

(5) "Dedicated project" means a capital development project for which state funds from the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

(6) "Nondedicated project" means a capital development project for which state funds from a source other than the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

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~~[(4)]~~ (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.

~~[(5)]~~ (9) "UTech" means the Utah System of Technical Colleges described in Section 53B-1-102.

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

### **53B-2a-117. Capital development projects -- Prioritization -- Legislative approval.**

(1) As used in this section:

(a) "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.

(b) "Fund" means the Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

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

(3) 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.

(4) The board of trustees shall:

(a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with Section 53B-2a-112;

(b) based on the results of the board of trustees' review under Subsection (4)(a), create:

(i) a list of approved dedicated projects, prioritized in accordance with Subsection (6);  
and

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

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(6); and

(c) submit the lists described in Subsection (4)(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 (4)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

(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) Subject to Subsection (7), 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, 2019, the board of trustees shall establish:

(i) how the board of trustees will measure each factor described in Subsection (6)(a);

and

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

(7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board of trustees may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than \$7,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least \$7,000,000 but less than \$14,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least

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\$14,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

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

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

(b) The Legislature shall consider a technical college's request described in Subsection (8)(a).

Section 3. Section **53B-2a-118** is enacted to read:

**53B-2a-118. Technical Colleges Capital Projects Fund -- Use of money in fund -- Appropriations to fund.**

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

(2) There is created a capital projects fund known as the Technical Colleges Capital Projects Fund.

(3) Subject to appropriation, money in the fund shall be used:

(a) for a dedicated project approved in accordance with Section 53B-2a-117; or

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

(4) Money in the 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.

(5) ~~(a)~~ The fund shall be funded by appropriations.

~~(b) Subject to future budget constraints, the Legislature shall appropriate \$3,500,000 of new ongoing money from the Education Fund, the General Fund, or a combination of the Education Fund and the General Fund to the fund annually until the ongoing annual appropriation reaches \$14,000,000.~~

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

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(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:

(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

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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.

(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

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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:

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

(2) "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.

(3) "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 a college or university 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 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.

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

### **53B-22-202. Higher Education Capital Projects Fund -- Use of money in fund --**

#### **Appropriations to fund.**

(1) There is created a capital projects fund known as the Higher Education Capital Projects Fund.

(2) Subject to appropriation, money in the fund shall be used:

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

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

(3) Money in the 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) ~~{(a)}~~ The fund shall be funded by appropriations.

~~{~~ (b) Subject to future budget constraints, the Legislature shall appropriate \$25,000,000 of new ongoing money from the Education Fund, the General Fund, or a combination of the Education Fund and the General Fund to the fund annually until the ongoing annual appropriation reaches \$100,000,000.

~~‡~~ (5) The fund shall accrue interest, which shall be deposited into the 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. Fund money -- Institution allocations.**

(1) (a) Based on appropriations to the 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 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) utilization of academic space, including off-campus facilities.

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(c) On or before August 1, 2019, the board shall establish how the board will determine the amount of money to allocate to an institution, including, for each factor described in Subsection (1)(b):

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

(ii) the relative weight assigned to the factor.

(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 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:

**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

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(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) (a) Subject to Subsection (6), the board shall prioritize institution requests for funding for nondedicated projects based on:

(i) capital facility need;

(ii) utilization of facilities;

(iii) maintenance and condition of facilities;

(iv) donations and nonappropriated funding; and

(v) any other factor determined by the board.

(b) On or before August 1, 2019, the board shall establish how the board will prioritize institution requests for funding for nondedicated projects, including:

(i) how the board will measure each factor described in Subsection (5)(a); and

(ii) procedures for prioritizing requests.

(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 fund is less than \$50,000,000;

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

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

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (6)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

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(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) 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 **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.

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(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:

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(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 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

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(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.

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(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:

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(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

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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) Subsection (7)(a) 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) Subsection (8)(a)(i) 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

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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 10. Section **63I-1-263** is amended to read:

### **63I-1-263. Repeal dates, Titles 63A to 63N.**

- (1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.
- (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.
- (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.
- (4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

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(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;

and

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(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(13) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(14) (a) Subsection 63J-1-602.1~~[(51)]~~(53), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1~~[(51)]~~(53), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(17) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(18) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (18)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (18)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

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(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(19) Section 63N-2-512 is repealed on July 1, 2021.

(20) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (20)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(21) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1, 2023.

(22) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(23) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~[(24) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.]~~

Section 11. Section **63J-1-602.1** is amended to read:

### **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in

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Section 11-42a-302.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section [~~26-62-601~~] 26-63-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-3-210.

(22) The Youth Development Organization Restricted Account created in Section

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35A-8-1903.

(23) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

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

(25) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(26) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

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

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

(30) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(32) The DNA Specimen Restricted Account created in Section 53-10-407.

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

(34) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

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

~~(34)~~ (36) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

~~(35)~~ (37) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

~~(36)~~ (38) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

~~(37)~~ (39) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as

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provided in Section 58-63-103.

~~[(38)]~~ (40) The Relative Value Study Restricted Account created in Section 59-9-105.

~~[(39)]~~ (41) The Cigarette Tax Restricted Account created in Section 59-14-204.

~~[(40)]~~ (42) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

~~[(41)]~~ (43) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

~~[(42)]~~ (44) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

~~[(43)]~~ (45) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

~~[(44)]~~ (46) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

~~[(45)]~~ (47) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

~~[(46)]~~ (48) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

~~[(47)]~~ (49) The Immigration Act Restricted Account created in Section 63G-12-103.

~~[(48)]~~ (50) Money received by the military installation development authority, as provided in Section 63H-1-504.

~~[(49)]~~ (51) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

~~[(50)]~~ (52) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

~~[(51)]~~ (53) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

~~[(52)]~~ (54) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

~~[(53)]~~ (55) The Motion Picture Incentive Account created in Section 63N-8-103.

~~[(54)]~~ (56) Certain money payable for expenses of the Pete Suazo Utah Athletic

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Commission, as provided under Section 63N-10-301.

~~[(55)]~~ (57) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

~~[(56)]~~ (58) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

~~[(57)]~~ (59) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

~~[(58)]~~ (60) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

~~[(59)]~~ (61) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

~~[(60)]~~ (62) Fees for certificate of admission created under Section 78A-9-102.

~~[(61)]~~ (63) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

~~[(62)]~~ (64) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

~~[(63)]~~ (65) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

~~[(64)]~~ (66) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

### Section 12. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

### ITEM 1

#### To Capital Budget - Capital Development Fund

<u>From General Fund</u>	<u>(\$67,000,000)</u>
<u>From General Fund, One-time</u>	<u>\$40,000,000</u>

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From Education Fund{—————} (~~(\$25)~~\$47,000,000)

From Education Fund, One-time \$36,000,000

Schedule of Programs:

Capital Development Fund{—————}(~~\$25,000,000~~)

(\$38,000,000)

The Legislature intends that in preparing fiscal year 2021 base budget bills, the Legislative Fiscal Analyst, for fiscal year 2021:

(1) increase appropriations from the General Fund to the Capital Development Fund by \$22,500,000 one-time;

(2) increase appropriations from the Education Fund to the Capital Development Fund by \$15,500,000 one-time;

(3) decrease ongoing appropriations from the General Fund to the DFCM Prison Project Fund by \$27,000,000;

(4) increase one-time appropriations from the General Fund to the DFCM Prison Project Fund by \$27,000,000;

(5) increase ongoing appropriations from the General Fund to the Capital Development Fund by \$27,000,000; and

(6) decrease one-time appropriations from the General Fund to the Capital Development Fund by \$27,000,000.

ITEM 2

To Capital Budget - Higher Education Capital Projects Fund

From General Fund \$53,000,000

From General Fund, One-time (\$31,000,000)

From Education Fund{—————} ~~(\$25)~~\$47,000,000

From Education Fund, One-time (\$36,000,000)

Schedule of Programs:

Higher Education Capital Projects Fund{—————}\$25,000,000

ITEM 3

—————To} \$33,000,000

The Legislature intends that in preparing fiscal year 2021 base budget bills, the Legislative Fiscal Analyst, for fiscal year 2021:

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(1) decrease appropriations from the General Fund to the Higher Education Capital Projects Fund by \$18,500,000 one-time; and

(2) decrease appropriations from the Education Fund to the Higher Education Capital Projects Fund by \$15,500,000 one-time.

### ITEM 3

#### To Capital Budget - Technical Colleges Capital Projects Fund

From ~~{Education}~~ General Fund ~~{\$3}~~ \$14,500,000,000

From General Fund, One-time (\$9,000,000)

#### Schedule of Programs:

Technical Colleges Capital Projects Fund ~~{\$3,500,000}~~

‡ \$5,000,000

The Legislature intends that in preparing fiscal year 2021 base budget bills, the Legislative Fiscal Analyst decrease appropriations from the General Fund to the Technical Colleges Capital Projects Fund by \$4,000,000 one-time for fiscal year 2021.

#### Section 13. **Effective date.**

This bill takes effect on July 1, 2019.