

HB0475S01 compared with HB0475

~~{deleted text}~~ shows text that was in HB0475 but was deleted in HB0475S01.

inserted text shows text that was not in HB0475 but was inserted into HB0475S01.

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Representative Bradley G. Last proposes the following substitute bill:

USE OF PUBLIC EDUCATION STABILIZATION ACCOUNT

~~{ONE-TIME}~~ONE-TIME FUNDING

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides for the use of certain recurring one-time funding from the Public Education Economic Stabilization Restricted Account within the public education system.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a capital projects fund known as the Small School District Capital Projects Fund (fund) to provide state funding for certain local capital development projects;
- ▶ requires the Executive Appropriations Committee, in preparing budget bills, to use

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one-time appropriations in the Public Education Economic Stabilization Restricted Account for:

- a general distribution to school districts and charter schools for local one-time funding priorities; and
- the Small School District Capital Projects Fund to a certain limit;
- ▶ establishes the Capital Projects Evaluation Panel (panel) under the State Board of Education (state board);
- ▶ provides the membership and duties of the panel;
- ▶ provides state funding for local capital development projects through grants and low-interest or no-interest loans;
- ▶ grants rulemaking authority to the state board regarding the capital development project proposal and approval process; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to State Board of Education - ~~{School Building Programs}~~ Public Education Capital {Outlay Programs} Projects Fund, as a one-time appropriation:
 - from the Uniform ~~{School Fund Restricted}~~ Public Education Economic Stabilization Restricted Account, One-time, \$50,000,000;
- ▶ to ~~{Department of Administrative Services - Finance Mandated - Utah Schools for the Deaf and the Blind Capital Facilities}~~ Capital Budgets - Public Education Capital Development, as a one-time appropriation:
 - from ~~{Uniform School Fund Restricted}~~ Public Education ~~{Economic Stabilization Restricted Account}~~ Capital Development Fund, One-time, \$30,000,000; ~~{and}~~
- ▶ to State Board of Education - Minimum School Program - Related to Basic School ~~{Program}~~ Programs, as a one-time appropriation:
 - from ~~{Uniform School Fund Restricted}~~ Public Education Economic Stabilization Restricted Account, One-time, \$91,500,000; and
- ▶ to Capital Budget - Public Education Capital Development Fund, as a one-time appropriation:

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- from the Public Education Economic Stabilization Restricted Account, One-time, ~~{\$128}~~\$30, ~~{100}~~000,000.

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

ENACTS:

53F-7-202, Utah Code Annotated 1953

53F-9-601, Utah Code Annotated 1953

53F-10-101, Utah Code Annotated 1953

53F-10-102, Utah Code Annotated 1953

53F-10-201, Utah Code Annotated 1953

53F-10-202, Utah Code Annotated 1953

53F-10-301, Utah Code Annotated 1953

53F-10-302, Utah Code Annotated 1953

Utah Code Sections Affected by Revisor Instructions:

53F-10-301, Utah Code Annotated 1953

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

Section 1. Section **53F-7-202** is enacted to read:

53F-7-202. Distribution of one-time funding for student and school support.

(1) Subject to legislative appropriations, the state board shall allocate one-time funding appropriated for student and school support in accordance with this section by:

(a) for charter schools:

(i) distributing an amount that is equal to the product of:

(A) charter school enrollment on October 1 in the prior year, or projected enrollment for a charter school in the charter school's first year of operations, divided by enrollment on October 1 in public schools statewide in the prior year; and

(B) the total amount available for distribution; and

(ii) allocating to each charter school:

(A) an equally divided portion of 20% of the amount described in Subsection (1)(a)(i):

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and

(B) 80% of the amount described in Subsection (1)(a)(i) on a per-student basis; and
(b) for school districts, distributing the remainder of funds available for distribution
after the distribution to charter schools under Subsection (1)(a) by allocating to each school
district:

(i) a base allocation relative to student enrollment as follows:

(A) for a school district with enrollment less than 1% of total state enrollment,
\$500,000;

(B) for a school district with enrollment of between 1% and 5% of total state
enrollment, \$350,000; and

(C) for a school district with enrollment greater than 5% of total state enrollment,
\$200,000; and

(ii) after the base allocation described in Subsection (1)(b)(i), the remainder on a
per-student basis.

(2) (a) An LEA shall:

(i) use funds that the state board distributes under this section to support students and
schools through one-time priorities that the relevant local governing board approves, including
student safety, technology, instructional materials, and capital facility improvements; and

(ii) submit to the state board an accounting of the use of the LEA's use of the funds that
the state board distributes under this section.

(b) Subsection (2)(a) does not require state board authorization or approval of an LEA
expenditure.

Section 2. Section **53F-9-601** is enacted to read:

53F-9-601. Small School District Capital Projects Fund.

(1) As used in this section:

(a) "Capital development project" means the same as that term is defined in Section
63A-5b-401.

(b) "Fund" means the Small School District Capital Projects Fund created in this
section.

(2) (a) There is created a capital projects fund known as the Small School District
Capital Projects Fund.

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(b) Subject to legislative appropriations, and except as provided in Subsection (4), money in the fund shall be used for a capital development project in accordance with this section and Title 53F, Chapter 10, State Funding -- Capital Projects.

(c) The fund shall:

(i) be funded by:

(A) one-time appropriations; and

(B) repayment and interest on loans described in Section 53F-10-303; and

(ii) accrue interest, which shall be deposited into the fund.

(3) The state board shall authorize disbursements from the fund.

(4) The state board shall administer the fund in accordance with this section.

Section 3. Section **53F-10-101** is enacted to read:

CHAPTER 10. STATE FUNDING -- CAPITAL PROJECTS

Part 1. General Provisions

53F-10-101. Definitions.

As used in this section:

(1) "Capital development project" means the same as that term is defined in Section 63A-5b-401, including new construction, capital expansion, and renovation.

(2) "Capital local levy" means the levy that a local school board imposes under Section 53F-8-303.

(3) "Capital Projects Evaluation Panel" or "panel" means the panel established in Section 53F-10-201.

(4) "Capital projects funding" means funds distributed from the Small School District Capital Projects Fund.

(5) "Division" means the Division of Facilities Construction and Management.

(6) "Eligible school district" means a school district:

(a) in a county of the fourth, fifth, or sixth class; and

(b) that qualifies for state guarantee funding related to local levies under Section 53F-2-601.

(7) "Small School District Capital Projects Fund" or "fund" means the capital projects fund created in Section 53F-9-601.

Section 4. Section **53F-10-102** is enacted to read:

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53F-10-102. Capital development project proposal process -- State board role.

(1) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process for school districts to submit to the panel proposals for funding for capital development projects under this chapter, including:

(a) the panel's review, prioritization, and recommendation to the state board;

(b) the state board's consideration and approval, if applicable, of proposed capital development projects; and

(c) management of panel processes and administration.

(2) The state board may fund direct costs and administration of the panel, not to exceed \$200,000.

(3) The state board shall:

(a) evaluate recommendations of the panel regarding proposed capital development projects;

(b) approve proposed capital development projects, subject to the availability of capital development funding; and

(c) oversee the disbursement of capital development funding.

Section 5. Section **53F-10-201** is enacted to read:

Part 2. Capital Projects Evaluation Panel

53F-10-201. Capital Projects Evaluation Panel.

(1) There is created the Capital Projects Evaluation Panel to review, prioritize, and approve proposals for state funding of capital projects under this chapter.

(2) The panel consists of the following members:

(a) the state superintendent of public instruction or the state superintendent's designee, who serves as chair of the panel;

(b) the deputy superintendent for financial operations or the deputy superintendent's designee;

(c) two individuals with expertise in school construction whom the state superintendent appoints;

(d) two individuals with construction and construction financing experience, at least one of whom being an employee of the division, whom the governor appoints; and

(e) the state treasurer or the state treasurer's designee, only in the case of panel action

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regarding a loan under Section 53F-10-302.

(3) (a) (i) Except as provided under Subsection (3)(a)(ii), an appointed member of the panel shall serve a term of two years.

(ii) Notwithstanding Subsection (3)(a)(i), a panel member's term ends on the day on which the member's position allowing the member to serve on the panel under Subsection (2) ends.

(b) The state superintendent and governor shall make the respective appointments:

(i) for the initial appointments, before July 1, 2022;

(ii) for subsequent terms, before July 1 of each even-numbered year, by:

(A) reappointing the panel member whose term expires under Subsection (3)(a)(i); or

(B) appointing a new panel member; and

(iii) in the case of a vacancy created under Subsection (3)(a)(ii), for the remainder of the vacated term.

(c) The state superintendent and governor may change the relevant appointment described in Subsection (2) at any time for the remainder of the existing term.

(4) A panel member:

(a) may not receive compensation or benefits for the member's service on the panel other than a member who is an existing state employee receiving the employee's existing compensation and benefits related to the employee's state employment; and

(b) may receive per diem and reimbursement for travel expenses that the member incurs as a panel member at the rates that the Division of Finance establishes under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(5) (a) A majority of the panel members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the panel.

(6) (a) The state board shall provide staff support to the panel.

(b) The division shall provide technical expertise to the panel as requested by the panel.

Section 6. Section **53F-10-202** is enacted to read:

53F-10-202. Panel duties.

(1) The panel shall:

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(a) determine criteria for:

(i) the allowed uses of capital project fund resources described in Sections 53F-10-301 and 53F-10-302 and the prioritization of proposed capital development projects, including the extent to which a proposed project:

(A) eliminates risks to student life and safety through renewal or replacement;

(B) enhances efficiency of use, including combining necessarily existent small schools, described in Section 53F-2-304;

(C) addresses essential program growth and capacity;

(D) provides a cost effective solution that is appropriate for the facility's need; and

(E) comports with the school district's provision of matching funds and sufficient revenues for ongoing operation and maintenance;

(b) evaluate capital development project proposals to ensure viability, efficiency, and adherence to education and construction standards;

(c) prioritize capital development projects;

(d) recommend that the state board distribute capital project funding to school districts;

(e) if necessary based on the circumstances of the capital development project, in partnership with the division, oversee the capital development project; and

(f) report to the state board regarding the panel's actions.

(2) The panel may:

(a) determine that a technical assistance liaison is necessary for an eligible school district applying for capital project funding under this chapter to efficiently complete the project; and

(b) facilitate engagement with the division or a willing school district partner having the required technical expertise in similar capital development projects.

Section 7. Section **53F-10-301** is enacted to read:

Part 3. Local Capital Development Project Funding

53F-10-301. Capital development project grants.

(1) (a) Except as provided in Subsection (1)(b), after reviewing an eligible school district's ability to independently generate project funding, the panel may recommend to the state board, and the state board may authorize a distribution of capital project funding in the following amounts to an eligible school district for a capital development project that the panel

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has prioritized:

(i) for an eligible school district with a capital local levy rate of at least 0.00105, up to 50% of the total cost of the capital development project as a 1:1 matching grant;

(ii) for an eligible school district with a capital local levy rate of at least 0.0015, up to 66.67% of the total cost of the capital development project as a 2:1 matching grant;

(iii) for an eligible school district with a capital local levy rate of at least 0.0018, up to 75% of the total cost of the capital development project as a 3:1 matching grant;

(iv) for an eligible school district with a capital local levy rate of at least 0.00225, up to 80% of the total cost of the capital development project as a 4:1 matching grant; and

(v) up to 100% of the total cost of the capital development project as a non-matching grant for an eligible school district that:

(A) has incurred debt equal to 90% of the debt limit imposed by Utah Constitution, Article XIV, Section 4; and

(B) unless the school district's capital local levy rate is at least 0.00225, increases the school district's capital local levy by 10% after the effective date of this bill.

(b) Notwithstanding Subsection (1)(a), if increasing a capital local levy to a threshold described in Subsection (1)(a) would result in a per-household property tax that, based on county property tax data in the State Tax Commission's annual report, is higher than 125% of the statewide average of property tax as a percentage of household income, based on census household income data, the threshold necessary to qualify for the relevant level of grant funding shall be the capital local levy rate that would result in an overall per-household property tax that is equal to 125% of the statewide average of property tax as a percentage of household income.

(2) The panel shall determine the terms of a grant described in Subsection (1), subject to approval by the state board.

(3) A school district that receives grant funding under this section shall demonstrate the ability to provide sufficient ongoing funding to support the operation and maintenance of the new or renovated facility resulting from the capital development project based on standards that the panel establishes.

Section 8. Section **53F-10-302** is enacted to read:

53F-10-302. Capital development project loans.

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(1) The panel may recommend and the state board may distribute capital project funding for a loan to an eligible school district to provide the required match amount described in Section 53F-10-301 for a capital development project that the panel has prioritized:

(a) at an interest rate that the state treasurer establishes that is equal to the state's most recent general obligation bond rate; or

(b) at no interest for a school district:

(i) with a per-household property tax that is higher than 125% of the statewide average of property tax as a percentage of household income, based on the data sets described in Subsection 53F-10-302(1)(b); and

(ii) that has incurred debt equal to 90% of the debt limit imposed by Utah Constitution, Article XIV, Section 4.

(2) The panel shall determine the repayment terms of a loan described in Subsection (1), subject to state board approval, based on established standards.

(3) Repayment of a loan described in Subsection (1) and associated interest shall be deposited into the Small School District Capital Projects Fund.

(4) An LEA that receives loan funding under this section shall demonstrate the ability to provide sufficient ongoing funding to support the operation and maintenance of the new or renovated facility resulting from the capital development project based on standards that the panel establishes.

Section 9. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. 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.

Section 9(a). **Operating and Capital Budgets.**

ITEM 1

To State Board of Education - ~~{School Building Programs - Capital Outlay Programs~~

————— ~~From Uniform School Fund Restricted -}~~ Public Education Capital Projects
Fund

From Public Education Economic

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Stabilization Restricted Account, One-time \$50,000,000

Schedule of Programs:

Small School District Capital Projects Fund \$50,000,000

The Legislature intends that the State Board of Education distribute appropriated funds from the Small School District Capital Projects Fund, in accordance with Title 53F, Chapter 10, State Funding -- ~~{Local}~~Capital~~{Development}~~ Projects.

ITEM 2

To ~~{Department of Administrative Services - Finance Mandated - Utah Schools for the Deaf and the Blind Capital Facilities~~

~~From Uniform School Fund Restricted --~~ ~~Capital Budgets --~~ Public Education ~~{Economic}~~ Capital Development

~~{ Stabilization Restricted Account,}~~ From Public Education Capital Development Fund One-time \$30,000,000

Schedule of Programs:

~~{Utah}~~ Schools for the Deaf and the Blind~~{~~

~~Capital Facilities~~ ~~\$30}~~ Salt Lake

~~\$15,000,000~~

~~Schools for the Deaf and the Blind St. George~~ \$15,000,000

The Legislature intends that:

(1) the State Board of Education in consultation with the Division of Facilities Construction and Management, evaluate the provision of capital facilities for the Utah Schools for the Deaf and the Blind in southwestern Utah and Salt Lake County to address student academic needs of direct instruction and support services, efficiency of use, and maximizing student capacity, impact of delivering services to students in each region, cost effectiveness, and priority of construction;

(2) the State Board of Education report the findings of the evaluation to the Executive Appropriations Committee by October 1, 2022; and

(3) that the Division of Finance release appropriated funds to the Division of Facilities Construction and Management to construct facilities as recommended in the report.

ITEM 3

To State Board of Education - Minimum School Program - Related to Basic

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School ~~{Program}~~ Programs

From ~~{Uniform School Fund Restricted - }~~ Public Education Economic

Stabilization Restricted Account, One-time ~~{ \$128 } \$91, { +100 } 500,000~~

Schedule of Programs:

~~{ Student }~~ Public Education Capital and ~~{ School Support, }~~ Technology,

One-time ~~{ \$128 }~~

~~\$91, { 000 } 500,000~~

The Legislature intends that ~~{~~

~~—— (1) }~~ the State Board of Education distribute funds under this item in accordance with Section 53F-7-202 ~~{, and}.~~

ITEM 4

~~{(2) }~~ The Legislature intends that the Public Education Appropriations Subcommittee:

(a) receive input from the State Board of Education, governor, and local education agencies regarding the distribution of one-time allocations from the Public Education Economic Stabilization Restricted Account to school districts and charter schools described in ~~{accordance with Section 53F-7-202} Items 1 through 3; and~~

(b) report the subcommittee's recommendations to the Executive Appropriations Committee by December 1, 2022.

Section 9(b). Capital Projects Fund.

The Legislature has reviewed the following capital projects funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ITEM 5

To Capital Budget - Public Education Capital Development Fund

From Public Education Economic Stabilization Restricted Account,

One-time

\$30,000,000

Schedule of Programs:

Public Education Capital Development Fund

\$30,000,000

Section 10. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah

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Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 11. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the reference in Section 53F-10-301 from "the effective date of this bill" to the bill's actual effective date.