

1 **USE OF PUBLIC EDUCATION STABILIZATION ACCOUNT**

2 **ONE-TIME FUNDING**

3 2022 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Bradley G. Last**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

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

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ defines terms;
- 16 ▶ creates a capital projects fund known as the Small School District Capital Projects
17 Fund (fund) to provide state funding for certain local capital development projects;
- 18 ▶ requires the Executive Appropriations Committee, in preparing budget bills, to use
19 one-time appropriations in the Public Education Economic Stabilization Restricted
20 Account for:
 - 21 • a general distribution to school districts and charter schools for local one-time
22 funding priorities; and
 - 23 • the Small School District Capital Projects Fund to a certain limit;
- 24 ▶ establishes the Capital Projects Evaluation Panel (panel) under the State Board of
25 Education (state board);
- 26 ▶ provides the membership and duties of the panel;
- 27 ▶ provides state funding for local capital development projects through grants and



- 28 low-interest or no-interest loans;
- 29 ▶ grants rulemaking authority to the state board regarding the capital development
- 30 project proposal and approval process; and
- 31 ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33 This bill appropriates in fiscal year 2023:

- 34 ▶ to State Board of Education - School Building Programs - Capital Outlay Programs,
- 35 as a one-time appropriation:

- 36 • from the Uniform School Fund Restricted - Public Education Economic
- 37 Stabilization Restricted Account, One-time, \$50,000,000;

- 38 ▶ to Department of Administrative Services - Finance Mandated - Utah Schools for
- 39 the Deaf and the Blind Capital Facilities, as a one-time appropriation:

- 40 • from Uniform School Fund Restricted - Public Education Economic
- 41 Stabilization Restricted Account, One-time, \$30,000,000; and

- 42 ▶ to State Board of Education - Minimum School Program - Related to Basic School
- 43 Program, as a one-time appropriation:

- 44 • from Uniform School Fund Restricted - Public Education Economic
- 45 Stabilization Restricted Account, One-time, \$128,100,000.

46 **Other Special Clauses:**

47 This bill provides a special effective date.

48 This bill provides revisor instructions.

49 **Utah Code Sections Affected:**

50 ENACTS:

51 **53F-7-202**, Utah Code Annotated 1953

52 **53F-9-601**, Utah Code Annotated 1953

53 **53F-10-101**, Utah Code Annotated 1953

54 **53F-10-102**, Utah Code Annotated 1953

55 **53F-10-201**, Utah Code Annotated 1953

56 **53F-10-202**, Utah Code Annotated 1953

57 **53F-10-301**, Utah Code Annotated 1953

58 **53F-10-302**, Utah Code Annotated 1953

59 Utah Code Sections Affected by Revisor Instructions:

60 53F-10-301, Utah Code Annotated 195361

62 *Be it enacted by the Legislature of the state of Utah:*63 Section 1. Section **53F-7-202** is enacted to read:64 **53F-7-202. Distribution of one-time funding for student and school support.**65 (1) Subject to legislative appropriations, the state board shall allocate one-time funding
66 appropriated for student and school support in accordance with this section by:67 (a) for charter schools:68 (i) distributing an amount that is equal to the product of:69 (A) charter school enrollment on October 1 in the prior year, or projected enrollment
70 for a charter school in the charter school's first year of operations, divided by enrollment on
71 October 1 in public schools statewide in the prior year; and72 (B) the total amount available for distribution; and73 (ii) allocating to each charter school:74 (A) an equally divided portion of 20% of the amount described in Subsection (1)(a)(i);75 and76 (B) 80% of the amount described in Subsection (1)(a)(i) on a per-student basis; and77 (b) for school districts, distributing the remainder of funds available for distribution
78 after the distribution to charter schools under Subsection (1)(a) by allocating to each school79 district:80 (i) a base allocation relative to student enrollment as follows:81 (A) for a school district with enrollment less than 1% of total state enrollment,
82 \$500,000;83 (B) for a school district with enrollment of between 1% and 5% of total state
84 enrollment, \$350,000; and85 (C) for a school district with enrollment greater than 5% of total state enrollment,
86 \$200,000; and87 (ii) after the base allocation described in Subsection (1)(b)(i), the remainder on a
88 per-student basis.89 (2) (a) An LEA shall:

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

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

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

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

98 **53F-9-601. Small School District Capital Projects Fund.**

99 (1) As used in this section:

100 (a) "Capital development project" means the same as that term is defined in Section
101 63A-5b-401.

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

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

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

109 (c) The fund shall:

110 (i) be funded by:

111 (A) one-time appropriations; and

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

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

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

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

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

117 **CHAPTER 10. STATE FUNDING -- CAPITAL PROJECTS**

118 **Part 1. General Provisions**

119 **53F-10-101. Definitions.**

120 As used in this section:

121 (1) "Capital development project" means the same as that term is defined in Section
122 63A-5b-401, including new construction, capital expansion, and renovation.

123 (2) "Capital local levy" means the levy that a local school board imposes under Section
124 53F-8-303.

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

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

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

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

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

132 (b) that qualifies for state guarantee funding related to local levies under Section
133 53F-2-601.

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

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

137 **53F-10-102. Capital development project proposal process -- State board role.**

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

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

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

144 (c) management of panel processes and administration.

145 (2) The state board may fund direct costs and administration of the panel, not to exceed
146 \$200,000.

147 (3) The state board shall:

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

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

152 (c) oversee the disbursement of capital development funding.

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

154 **Part 2. Capital Projects Evaluation Panel**

155 **53F-10-201. Capital Projects Evaluation Panel.**

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

158 (2) The panel consists of the following members:

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

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

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

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

167 (e) the state treasurer or the state treasurer's designee, only in the case of panel action
168 regarding a loan under Section [53F-10-302](#).

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

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

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

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

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

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

178 (B) appointing a new panel member; and

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

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

- 183 (4) A panel member:
- 184 (a) may not receive compensation or benefits for the member's service on the panel
- 185 other than a member who is an existing state employee receiving the employee's existing
- 186 compensation and benefits related to the employee's state employment; and
- 187 (b) may receive per diem and reimbursement for travel expenses that the member
- 188 incurs as a panel member at the rates that the Division of Finance establishes under:
- 189 (i) Sections [63A-3-106](#) and [63A-3-107](#); and
- 190 (ii) rules that the Division of Finance makes under Sections [63A-3-106](#) and [63A-3-107](#).
- 191 (5) (a) A majority of the panel members constitutes a quorum.
- 192 (b) The action of a majority of a quorum constitutes an action of the panel.
- 193 (6) (a) The state board shall provide staff support to the panel.
- 194 (b) The division shall provide technical expertise to the panel as requested by the
- 195 panel.
- 196 Section 6. Section **53F-10-202** is enacted to read:
- 197 **53F-10-202. Panel duties.**
- 198 (1) The panel shall:
- 199 (a) determine criteria for:
- 200 (i) the allowed uses of capital project fund resources described in Sections [53F-10-301](#)
- 201 and [53F-10-302](#) and the prioritization of proposed capital development projects, including the
- 202 extent to which a proposed project:
- 203 (A) eliminates risks to student life and safety through renewal or replacement;
- 204 (B) enhances efficiency of use, including combining necessarily existent small schools,
- 205 described in Section [53F-2-304](#);
- 206 (C) addresses essential program growth and capacity;
- 207 (D) provides a cost effective solution that is appropriate for the facility's need; and
- 208 (E) comports with the school district's provision of matching funds and sufficient
- 209 revenues for ongoing operation and maintenance;
- 210 (b) evaluate capital development project proposals to ensure viability, efficiency, and
- 211 adherence to education and construction standards;
- 212 (c) prioritize capital development projects;
- 213 (d) recommend that the state board distribute capital project funding to school districts;

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

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

217 (2) The panel may:

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

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

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

224 **Part 3. Local Capital Development Project Funding**

225 **53F-10-301. Capital development project grants.**

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

231 (i) for an eligible school district with a capital local levy rate of at least 0.00105, up to
232 50% of the total cost of the capital development project as a 1:1 matching grant;

233 (ii) for an eligible school district with a capital local levy rate of at least 0.0015, up to
234 66.67% of the total cost of the capital development project as a 2:1 matching grant;

235 (iii) for an eligible school district with a capital local levy rate of at least 0.0018, up to
236 75% of the total cost of the capital development project as a 3:1 matching grant;

237 (iv) for an eligible school district with a capital local levy rate of at least 0.00225, up to
238 80% of the total cost of the capital development project as a 4:1 matching grant; and

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

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

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

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

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

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

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

260 **53F-10-302. Capital development project loans.**

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

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

266 (b) at no interest for a school district:

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

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

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

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

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

280 Section 9. **Appropriation.**

281 The following sums of money are appropriated for the fiscal year beginning July 1,
282 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for
283 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
284 Act, the Legislature appropriates the following sums of money from the funds or accounts
285 indicated for the use and support of the government of the state of Utah.

286 ITEM 1

287 To State Board of Education - School Building Programs - Capital Outlay Programs

288 From Uniform School Fund Restricted - Public Education Economic

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

290 Schedule of Programs:

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

292 The Legislature intends that the State Board of Education distribute appropriated funds
293 from the Small School District Capital Projects Fund, in accordance with Title 53F, Chapter
294 10, State Funding -- Local Capital Development Projects.

295 ITEM 2

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

298 From Uniform School Fund Restricted - Public Education Economic

299 Stabilization Restricted Account, One-time \$30,000,000

300 Schedule of Programs:

301 Utah Schools for the Deaf and the Blind

302 Capital Facilities \$30,000,000

303 The Legislature intends that:

304 (1) the State Board of Education in consultation with the Division of Facilities
305 Construction and Management, evaluate the provision of capital facilities for the Utah Schools
306 for the Deaf and the Blind in southwestern Utah and Salt Lake County to address student

307 academic needs of direct instruction and support services, efficiency of use, and maximizing
308 student capacity, impact of delivering services to students in each region, cost effectiveness,
309 and priority of construction;

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

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

314 ITEM 3

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

317 From Uniform School Fund Restricted - Public Education Economic
318 Stabilization Restricted Account, One-time

\$128,100,000

319 Schedule of Programs:

320 Student and School Support, One-time \$128,000,000

321 The Legislature intends that:

322 (1) the State Board of Education distribute funds under this item in accordance with
323 Section 53F-7-202; and

324 (2) the Public Education Appropriations Subcommittee:

325 (a) receive input from the State Board of Education, governor, and local education
326 agencies regarding the distribution of one-time allocations from the Public Education
327 Economic Stabilization Restricted Account to school districts and charter schools in
328 accordance with Section 53F-7-202; and

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

331 **Section 10. Effective date.**

332 If approved by two-thirds of all the members elected to each house, this bill takes effect
333 upon approval by the governor, or the day following the constitutional time limit of Utah
334 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
335 the date of veto override.

336 **Section 11. Revisor instructions.**

337 The Legislature intends that the Office of Legislative Research and General Counsel, in

338 preparing the Utah Code database for publication, replace the reference in Section [53F-10-301](#)
339 from "the effective date of this bill" to the bill's actual effective date.