

Representative Bradley G. Last proposes the following substitute bill:

USE OF PUBLIC EDUCATION STABILIZATION ACCOUNT

ONE-TIME FUNDING

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: Derrin R. Owens

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 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);



- 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 - Public Education Capital Projects Fund, as a one-time
- 35 appropriation:

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

- 38 ▶ to Capital Budgets - Public Education Capital Development, as a one-time
- 39 appropriation:

- 40 • from Public Education Capital Development Fund, One-time, \$30,000,000;

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

- 43 • from Public Education Economic Stabilization Restricted Account, One-time,
- 44 \$91,500,000; and

- 45 ▶ to Capital Budget - Public Education Capital Development Fund, as a one-time
- 46 appropriation:

- 47 • from the Public Education Economic Stabilization Restricted Account,
- 48 One-time, \$30,000,000.

49 **Other Special Clauses:**

50 This bill provides a special effective date.

51 This bill provides revisor instructions.

52 **Utah Code Sections Affected:**

53 ENACTS:

54 **53F-7-202**, Utah Code Annotated 1953

55 **53F-9-601**, Utah Code Annotated 1953

56 **53F-10-101**, Utah Code Annotated 1953

- 57 **53F-10-102**, Utah Code Annotated 1953
- 58 **53F-10-201**, Utah Code Annotated 1953
- 59 **53F-10-202**, Utah Code Annotated 1953
- 60 **53F-10-301**, Utah Code Annotated 1953
- 61 **53F-10-302**, Utah Code Annotated 1953

Utah Code Sections Affected by Revisor Instructions:

- 62 **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); 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

88 (C) for a school district with enrollment greater than 5% of total state enrollment,
89 \$200,000; and

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

92 (2) (a) An LEA shall:

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

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

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

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

101 **53F-9-601. Small School District Capital Projects Fund.**

102 (1) As used in this section:

103 (a) "Capital development project" means the same as that term is defined in Section
104 [63A-5b-401](#).

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

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

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

112 (c) The fund shall:

113 (i) be funded by:

114 (A) one-time appropriations; and

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

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

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

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

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

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

121 **Part 1. General Provisions**

122 **53F-10-101. Definitions.**

123 As used in this section:

124 (1) "Capital development project" means the same as that term is defined in Section
125 63A-5b-401, including new construction, capital expansion, and renovation.

126 (2) "Capital local levy" means the levy that a local school board imposes under Section
127 53F-8-303.

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

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

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

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

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

135 (b) that qualifies for state guarantee funding related to local levies under Section
136 53F-2-601.

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

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

140 **53F-10-102. Capital development project proposal process -- State board role.**

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

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

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

147 (c) management of panel processes and administration.

148 (2) The state board may fund direct costs and administration of the panel, not to exceed
149 \$200,000.

150 (3) The state board shall:

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

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

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

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

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

158 **53F-10-201. Capital Projects Evaluation Panel.**

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

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

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

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

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

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

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

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

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

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

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

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

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

181 (B) appointing a new panel member; and
182 (iii) in the case of a vacancy created under Subsection (3)(a)(ii), for the remainder of
183 the vacated term.

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

186 (4) A panel member:

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

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

192 (i) Sections [63A-3-106](#) and [63A-3-107](#); and

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

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

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

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

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

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

200 **53F-10-202. Panel duties.**

201 (1) The panel shall:

202 (a) determine criteria for:

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

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

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

209 (C) addresses essential program growth and capacity;

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

211 (E) comports with the school district's provision of matching funds and sufficient

212 revenues for ongoing operation and maintenance;

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

215 (c) prioritize capital development projects;

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

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

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

220 (2) The panel may:

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

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

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

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

228 **53F-10-301. Capital development project grants.**

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

234 (i) for an eligible school district with a capital local levy rate of at least 0.00105, up to
235 50% of the total cost of the capital development project as a 1:1 matching grant;

236 (ii) for an eligible school district with a capital local levy rate of at least 0.0015, up to
237 66.67% of the total cost of the capital development project as a 2:1 matching grant;

238 (iii) for an eligible school district with a capital local levy rate of at least 0.0018, up to
239 75% of the total cost of the capital development project as a 3:1 matching grant;

240 (iv) for an eligible school district with a capital local levy rate of at least 0.00225, up to
241 80% of the total cost of the capital development project as a 4:1 matching grant; and

242 (v) up to 100% of the total cost of the capital development project as a non-matching

243 grant for an eligible school district that:

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

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

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

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

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

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

263 **53F-10-302. Capital development project loans.**

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

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

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

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

273 (ii) that has incurred debt equal to 90% of the debt limit imposed by Utah Constitution,

274 Article XIV, Section 4.

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

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

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

283 **Section 9. Appropriation.**

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

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

290 **ITEM 1**

291 To State Board of Education - Public Education Capital Projects Fund

292 From Public Education Economic

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

294 Schedule of Programs:

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

296 The Legislature intends that the State Board of Education distribute appropriated funds
297 from the Small School District Capital Projects Fund, in accordance with Title 53F, Chapter
298 10, State Funding -- Capital Projects.

299 **ITEM 2**

300 To Capital Budgets -- Public Education Capital Development

301 From Public Education Capital Development Fund One-time \$30,000,000

302 Schedule of Programs:

303 Schools for the Deaf and the Blind Salt Lake \$15,000,000

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

305 The Legislature intends that:

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

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

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

316 ITEM 3

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

319 From Public Education Economic

320 Stabilization Restricted Account, One-time \$91,500,000

321 Schedule of Programs:

322 Public Education Capital and Technology,

323 One-time \$91,500,000

324 The Legislature intends that the State Board of Education distribute funds under this
325 item in accordance with Section [53F-7-202](#).

326 ITEM 4

327 The Legislature intends that the Public Education Appropriations Subcommittee:

328 (a) receive input from the State Board of Education, governor, and local education
329 agencies regarding the distribution of one-time allocations from the Public Education
330 Economic Stabilization Restricted Account to school districts and charter schools described in
331 Items 1 through 3; and

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

334 Section 9(b). **Capital Projects Fund.**

335 The Legislature has reviewed the following capital projects funds. The Legislature

336 authorizes the State Division of Finance to transfer amounts between funds and accounts as
337 indicated.

338 ITEM 5

339 To Capital Budget - Public Education Capital Development Fund

340 From Public Education Economic Stabilization Restricted Account,

341 One-time \$30,000,000

342 Schedule of Programs:

343 Public Education Capital Development Fund \$30,000,000

344 Section 10. **Effective date.**

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

349 Section 11. **Revisor instructions.**

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