# Agenda Item: D

## Date: July 27, 2023

## Title: First and Final Review of Recommendation Regarding Literary Fund Loan Applications Approval for Release of Loan Funds

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## Presenter: Mr. Kent C. Dickey, Deputy Superintendent of Budget, Finance, and Operations

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## Purpose of Presentation

Action required by state or federal law or regulation and Board of Education regulation.

## Executive Summary

The Literary Fund provides low-interest loans for new school construction and for additions or permanent improvements to existing schools to help provide students with a safe and secure environment in which to learn. In accordance with the provisions § [22.1-142](https://law.lis.virginia.gov/vacode/title22.1/chapter10/section22.1-142/) of the *Code of Virginia*, the Board of Education (Board) is responsible for the management of the Literary Fund. The State Treasurer serves as accountant of the Fund. This item aligns with Priority 1 of the Board’s Comprehensive Plan: Provide high-quality, effective learning environments for all students.

Item [137](https://budget.lis.virginia.gov/item/2022/2/HB30/Chapter/1/137/), Paragraph C.11.c of the 2022 Appropriation Act authorizes $200 million from the Literary Fund for school construction loans in both fiscal year 2023 and 2024.

The Board of Education may offer up to $200,000,000 the first year and up to $200,000,000 the second year from the Literary Fund in school construction loans, subject to the availability of funds. Amounts designated for school construction loans that are not obligated in the first year may be obligated in the second year. In addition, the Department of Education may offer Literary Fund loans from the uncommitted balances of the Literary Fund after meeting the obligations of the interest rate subsidy sales and the amounts set aside from the Literary Fund for Debt Service Payments for Education Technology and Security Equipment in this Item.

Pursuant to new appropriation act provisions and Board guidelines, the Department of Education (VDOE) conducted an open application process from December 2022 through February 2023 for school divisions to apply for construction loans from the Literary Fund. Nine school divisions/localities submitted loan applications for 19 school construction or renovation projects. Following the close of the open application period, VDOE staff reviewed the submitted loan applications and accompanying required documentation.

This item requests the Board to approve release of a Literary Fund loan requested by Franklin County for roof and HVAC replacements, electrical upgrades, and associated building renovations at Benjamin Franklin Middle School. Franklin County is requesting a Literary Fund loan in the amount of $25.0 million for the project payable over 20 years and is eligible for a three percent annual loan interest rate. The project application is shown in Attachment A.

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## Action Requested

Final review: Action requested at this meeting.

## Superintendent’s Recommendation

The Superintendent of Public Instruction recommends that the Board waive first review and approve the release of the Literary Fund loan to Franklin County in the amount of $25 million for the Benjamin Franklin Middle School renovation project, at an annual interest rate of three precent and payable over 20 years.

## Rationale for Action

All requirements have been met by Franklin County for release of the Literary Fund loan for this project, including submission of the division superintendent and architect approval letters and final project plans and specifications pursuant to § [22.1-140](https://law.lis.virginia.gov/vacode/title22.1/chapter9/section22.1-140/) of the *Code of Virginia*. Sufficient funding from the Literary Fund is authorized and available for the Board to approve the release of this loan.

## Previous Review or Action

No previous review or action.

## Background Information and Statutory Authority

Several key changes were made to the Literary Fund program at the 2022 Special Session I of the General Assembly through the appropriation act and amendments to the *Code of Virginia*, intended to make the Literary Fund a more competitive and accessible source of school construction financing for school divisions and localities. Item [137](https://budget.lis.virginia.gov/item/2022/2/HB30/Chapter/1/137/), Paragraph C.11.b of the 2022 Appropriation Act and amendments to §§ [22.1-147](https://law.lis.virginia.gov/vacode/title22.1/chapter10/section22.1-147/) and [22.1-150](https://law.lis.virginia.gov/vacode/title22.1/chapter10/section22.1-150/) of the *Code of Virginia*: (1) establish a maximum Literary Fund loan amount per project of $25.0 million (from $7.5 million); (2) in consultation with the Department of the Treasury, establish loan interest rates that are benchmarked to a market index on an annual basis, not to exceed two percent for the tier of localities with a school division local composite index between 0.0000 and 0.2999, and with the Board using a sliding scale based on the school division's composite index to determine the interest rate on loans; (3) replace the existing First Priority and Second Priority waiting lists with an annual open application process to apply for loans, with priority for release of loans based on the local composite index; and (4) offer a loan add-on not to exceed $5.0 million per loan for projects that will result in school consolidation and the net reduction of at least one existing school. The Board adopted guidelines at its September 2022 meeting written to help implement these new provisions.

Franklin County has met all application and documentation requirements for release of the Literary Fund loan for this project. The proceeds from the Literary Fund loan will be used by Franklin County to pay construction costs on these school projects. A Literary Fund loan constitutes general obligation debt of the locality evidenced by bonds or notes payable to the Commonwealth for the benefit of the Literary Fund.

## Stakeholder Engagement

Both the Franklin County School Board and Franklin County Board of Supervisors passed authorizing resolutions approving the Literary Fund application for this project and for repayment of the loan if approved for release. VDOE staff worked with representatives from both the school division and the county government in the application review and approval process.

## Implementation and Communication

VDOE will notify Franklin County Public Schools of the Board’s approval to release the requested Literary Fund loan for the Benjamin Franklin Middle School renovation project. Franklin County will proceed with the local processes to close on the loan, which will be serviced by the state Department of the Treasury, at which time the loan proceeds will be available for reimbursement of qualifying construction costs incurred on the project. Funds from a Literary Fund loan are provided on a cost reimbursement basis for qualifying capital costs.

As additional Literary Fund loan applications received during the open application period are approved by staff, recommendations will be made to the Board at subsequent monthly business meetings to approve release of requested loan funds for those projects, with the Literary Fund cash balance reduced as loan releases are approved by the Board. Additional funding remains from the $200 million authorized for Literary Fund loans in fiscal year 2023, along with the $200 million authorized for fiscal year 2024, for VDOE to conduct another open application process later this calendar year for school divisions to submit loan applications.

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## Impact on Fiscal and Human Resources:

Current Board policy provides that, upon initial release of funds, Literary Fund cash is encumbered in the total amount of the approved loan to assure that cash is available as required for project completion or for refinancing of a previous local borrowing. The disbursement of funds is based on actual invoices or other evidence of bills due and payable from the Literary Fund for the project. VDOE staff will approve invoices submitted by Franklin County for reimbursement of project costs and send vouchers to the Department of the Treasury requesting payment to Franklin County from its Literary Fund loan.