

# SB0164S01 compared with SB0164

{Omitted text} shows text that was in SB0164 but was omitted in SB0164S01

inserted text shows text that was not in SB0164 but was inserted into SB0164S01

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## School Construction Amendments

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Chris H. Wilson**

House Sponsor: Thomas W. Peterson

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### LONG TITLE

#### General Description:

5 This bill transfers oversight of public school construction from the State Board of  
6 Education to the Division of Facilities Construction and Management (division).

#### Highlighted Provisions:

8 This bill:

- 9 ▶ establishes permitting and inspection authority for the division regarding public school  
construction projects;
- 11 ▶ repeals and reenacts sections related to state board coordination with the division;
- 12 ▶ establishes educational facility planning requirements for a {local education agency (LEA)  
including architect licensing and } school district including notification requirements;
- 14 ▶ establishes public school construction oversight under the division;
- 15 ▶ establishes division authority to adopt comprehensive construction rules covering square footage,  
safety, costs, and building standards;
- 17 ▶ requires consultation with the state security chief on mandatory safety and security standards;
- 19 ▶

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creates architect and design professional cost oversight with benchmarks and review requirements;

21     ▶ establishes plan review and approval authority for the division before construction can begin;

23     ▶ sets mandatory technical compliance requirements including fire safety, accessibility, and energy codes;

25     ▶ creates an online document management system for construction documentation and compliance tracking;

27     ▶ establishes inspection verification and monitoring procedures with qualified inspector requirements;

29     ▶ implements standardized cost reporting systems with detailed requirements and cost database development;

31     ▶ requires {LEAs} a school district to obtain division approval that projects fit within established cost matrices before construction;

33     ▶ requires training and technical assistance programs including resource manuals and annual training conferences;

35     ▶ **authorizes the division to delegate oversight authority to qualified school districts with demonstrated internal capacity;**

37     ▶ **authorizes the division to establish a fee schedule to recover costs of oversight activities;**

35     ▶ designates a school construction liaison for coordination between the state board and division;

37     ▶ allows division-managed construction services for {an LEA} a school district with fee structures and reimbursement requirements;

39     ▶ creates enforcement and penalty provisions including administrative penalties up to \$25,000 and mandatory compliance audits;

41     ▶ establishes a qualified contractor and vendor registry for public school construction projects;

43     ▶ requires {an LEA} a school district to submit historical project information and documentation {to} to the division{upon} upon request;

45     ▶ **{establishes construction oversight fee of 1.25% of project cost for all projects;}**

46     ▶ **{provides charter school alternative compliance options with reduced requirements for smaller projects;}**

48     ▶ **authorizes the division to establish a fee schedule to recover costs of oversight activities;**

48     ▶ provides the division with construction permitting authority;

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49       ▸ sets an implementation timeline requiring full compliance by January 1, 2027; and  
50       ▸ makes conforming changes.

### 52       **Money Appropriated in this Bill:**

53       None

### 54       **Other Special Clauses:**

55       This bill provides a special effective date.

### 56       **Utah Code Sections Affected:**

#### 57       AMENDS:

58       **10-20-304** , as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 15  
60       **17-79-305** , as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 14  
62       **63G-6a-1302** , as last amended by Laws of Utah 2022, Chapter 421

#### 63       ENACTS:

64       **63A-5b-1201** , Utah Code Annotated 1953  
65       **63A-5b-1202** , Utah Code Annotated 1953  
66       **63A-5b-1203** , Utah Code Annotated 1953  
67       **63A-5b-1204** , Utah Code Annotated 1953  
68       **63A-5b-1205** , Utah Code Annotated 1953  
69       **63A-5b-1206** , Utah Code Annotated 1953  
70       **63A-5b-1207** , Utah Code Annotated 1953  
71       **63A-5b-1208** , Utah Code Annotated 1953  
72       **63A-5b-1209** , Utah Code Annotated 1953  
73       **63A-5b-1210** , Utah Code Annotated 1953  
74       **63A-5b-1211** , Utah Code Annotated 1953  
75       **63A-5b-1212** , Utah Code Annotated 1953  
76       **63A-5b-1213** , Utah Code Annotated 1953  
77       **63A-5b-1214** , Utah Code Annotated 1953  
78       **63A-5b-1215** , Utah Code Annotated 1953  
79       **63A-5b-1216** , Utah Code Annotated 1953  
80       **63A-5b-1217** , Utah Code Annotated 1953  
81       **63A-5b-1218** , Utah Code Annotated 1953  
82       **63A-5b-1219** , Utah Code Annotated 1953

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83       **63A-5b-1220** , Utah Code Annotated 1953

84       **63A-5b-1221** , Utah Code Annotated 1953

85       **63A-5b-1222** , Utah Code Annotated 1953

86       REPEALS AND REENACTS:

87       **53E-3-701** , as enacted by Laws of Utah 2018, Chapter 1

88       **53E-3-702** , as last amended by Laws of Utah 2024, Chapter 21

89       **53E-3-703** , as last amended by Laws of Utah 2019, Chapter 186

90       **53E-3-704** , as renumbered and amended by Laws of Utah 2018, Chapter 1

91       REPEALS:

92       **53E-3-705** , as last amended by Laws of Utah 2024, Chapter 85

93       **53E-3-706** , as last amended by Laws of Utah 2024, Chapter 21

94       **53E-3-707** , as last amended by Laws of Utah 2019, Chapter 186

95       **53E-3-708** , as renumbered and amended by Laws of Utah 2018, Chapter 1

96       **53E-3-709** , as last amended by Laws of Utah 2019, Chapter 186

97       **53E-3-710** , as renumbered and amended by Laws of Utah 2018, Chapter 1

98       **53E-3-711** , as renumbered and amended by Laws of Utah 2018, Chapter 1

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

101       Section 1. Section **10-20-304** is amended to read:

102       **10-20-304. Political subdivisions required to conform to municipality's land use ordinances**

103       **-- Exceptions.**

104       (1)

105       (a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.

106       (b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

107       (2)

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(a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.

114 (b)

(i) Notwithstanding Subsection (3), a municipality may:

115 (A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

118 (B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

120 (ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

122 (iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

126 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

129 (3) A municipality may not:

130 (a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials[~~, additional building inspections~~], municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

134 (b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

140 (c) require a district or charter school to pay fees not authorized by this section;

141 (d) provide for inspection of school construction or assess a fee or other charges for inspection[~~, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent~~];

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- (e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;
- (f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or
- (g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:
  - (i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or
  - (ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section [53E-3-710] 53E-3-703 and in accordance with standards the Division of Facilities Construction and Management establishes in rule, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

- (a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and
- (b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at [its] the municipality's discretion:

- (a) [provide] request a walk-through of school construction at no cost and at a time convenient to the school district or charter school; and
- (b) provide recommendations based upon the walk-through[.] to:
  - (i) the school district or charter school; and
  - (ii) the Division of Facilities Construction and Management.

(6)

- (a) The Division of Facilities Construction and Management has the sole authority to approve inspectors for school construction projects under Title 63A, Chapter 5b, Part 12, Public School Construction Oversight.
- (b) A school district {or charter school} shall use only inspectors approved by the Division of Facilities Construction and Management as follows:
  - (i) a Division of Facilities Construction and Management inspector;

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(ii) a municipal building inspector who is on the division's approved roster under Section 63A-5b-1220;  
or

179 (iii) a certified building inspector who meets all of the following requirements:

180 (A) is on the Division of Facilities Construction and Management's approved roster under Section  
63A-5b-1220;  
182 (B) is not an employee of the contractor{, school district, or charter school} ;  
183 (C) is licensed to perform the inspection requested; and  
184 (D) maintains current certifications as required by Division of Facilities Construction and  
Management's rule.

186 [(6)

187 (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:]

188 [(i) a municipal building inspector;]

190 [(ii) for a school district, a school district building inspector from that school district; or]

192 [(B) for a charter school, a school district building inspector from the school district in which the  
charter school is located; or]

195 [(iii) an independent, certified building inspector who is not an employee of the contractor,  
licensed to perform the inspection that the inspector is requested to perform, and approved by a  
municipal building inspector or:]

197 [(A) for a school district, a school district building inspector from that school district; or]

200 [(B) for a charter school, a school district building inspector from the school district in which the  
charter school is located.]

199 [(b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.]

205 [(e) If a school district or charter school uses a school district or independent building inspector  
under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state  
superintendent of public instruction and municipal building official, on a monthly basis during  
construction of the school building, a copy of each inspection certificate regarding the school  
building.]

205 (7)

205 (a) A charter school, home-based microschool, or micro-education entity shall be considered a  
permitted use in all zoning districts within a municipality.

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207 (b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.

210 (c) Parking requirements for a charter school or a micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

213 (d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or a micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.

217 (e)

(i) A certificate authorizing permanent occupancy issued by the Division of Facilities Construction and Management under Section 63A-5b-1208 shall be the exclusive certificate required, and the municipality shall accept the Division of Facilities Construction and Management's certificate as satisfying all local occupancy requirements.

222 (ii) A micro-education entity is not subject to the requirements of Title 63A, Chapter 5b, Part 12, Public School Construction Oversight, and shall comply with local building codes and permitting requirements through municipal or county building officials.

226 [(e)]

(i) ~~A school district, charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:~~

228 [(A) ~~the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or~~]

231 [(B) ~~a municipal official with authority to issue the certificate, if the school district, charter school, or micro-education entity used a municipal building inspector for inspection of the school building.~~]

234 [(ii) ~~A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a).~~]

238 [(iii) ~~A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate,~~]

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~~if the charter school or micro-education entity used a school district building inspector for inspection of the school building.]~~

242 [iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsektion 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.]

246 (f)

(i) A micro-education entity may operate in a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Section 15A-2-103.

249 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i) may have up to 100 students in the facility.

251 (g) A micro-education entity may operate in a facility that is subject to and complies with the same occupancy requirements as a Class A-1, A-3, B, or M Occupancy as defined by the International Building Code, as incorporated by Section 15A-2-103, if:

254 (i) the facility has a code compliant fire alarm system and carbon monoxide detection system;

256 (ii)

(A) each classroom in the facility has an exit directly to the outside at the level of exit or discharge; or

258 (B) the structure has a code compliant fire sprinkler system; and

259 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet.

261 (h)

(i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling.

263 (ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated by Section 15A-2-103.

268 (8)

(a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

270

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- (i) as early as practicable in the development process, but no later than the commencement of construction; and
- (ii) with sufficient detail to enable the land use authority to assess:
  - (A) the specified public agency's compliance with applicable land use ordinances;
  - (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;
  - (C) the amount of any applicable fee described in Sections 10-20-904 and 10-20-910;
  - (D) any credit against an impact fee; and
  - (E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

- (a) modify or supersede Section 10-20-305; or
- (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any other provision of federal law.

(10) Nothing in Subsection (7) prevents a political subdivision from:

- (a) requiring a home-based microschool or micro-education entity to comply with municipal zoning and land use regulations that do not conflict with this section, including:
  - (i) parking;
  - (ii) traffic; and
  - (iii) hours of operation;
- (b) requiring a home-based microschool or micro-education entity to obtain a business license;
- (c) enacting municipal ordinances and regulations consistent with this section;
- (d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and
- (e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

(11)

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- (a) Section 63A-5b-1218 governs the requirements for permitting and inspection of public school buildings.
- 307 (b) A municipality may not enact any ordinance, policy, or regulation relating to the permitting or inspection of public school buildings.
- 310 **(12) Nothing in this section shall prohibit the required regulation or subsequent inspection by a local health department.**

312 Section 2. Section **17-79-305** is amended to read:

**17-79-305. Other entities required to conform to county's land use ordinances -- Exceptions -- School districts, charter schools, home-based microschools, and micro-education entities -- Submission of development plan and schedule.**

- 313 (1)
  - (a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.
  - 318 (b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.
- 323 (2)
  - (a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.
  - 325 (b)
    - (i) Notwithstanding Subsection (3), a county may:
      - 326 (A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and
      - 329 (B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).
    - 331 (ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

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333 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold  
334 approval of a charter school's land use application is the charter school's failure to comply with a  
335 standard imposed under Subsection (2)(b)(i).

336 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation  
337 to comply with a requirement of an applicable building or safety code to which it is otherwise  
338 obligated to comply.

339 (3) A county may not:

340 (a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or  
341 materials[~~, additional building inspections~~], county building codes, building use for educational  
342 purposes, or the placement or use of temporary classroom facilities on school property;

343 (b) except as otherwise provided in this section, require a school district or charter school to participate  
344 in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or  
345 sidewalk, that is not reasonably necessary for the safety of school children and not located on or  
346 contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise  
347 isolated school site to an existing roadway;

348 (c) require a district or charter school to pay fees not authorized by this section;

349 (d) provide for inspection of school construction or assess a fee or other charges for inspection[~~;~~  
350 ~~unless the school district or charter school is unable to provide for inspection by an inspector,  
351 other than the project architect or contractor, who is qualified under criteria established by the state  
352 superintendent~~];

353 (e) require a school district or charter school to pay any impact fee for an improvement project unless  
354 the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

355 (f) impose regulations upon the location of an educational facility except as necessary to avoid  
356 unreasonable risks to health or safety; or

357 (g) for a land use or a structure owned or operated by a school district or charter school that is not an  
358 educational facility but is used in support of providing instruction to pupils, impose a regulation  
359 that:

360 (i) is not imposed on a similar land use or structure in the zone in which the land use or structure is  
361 approved; or

362 (ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or  
363 regulating the land use or location of the structure.

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367 (4) Subject to Section [53E-3-710] 53E-3-703 and in accordance with standards the Division of  
Facilities Construction and Management establishes in rule, a school district or charter school shall  
coordinate the siting of a new school with the county in which the school is to be located, to:

371 (a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts  
between the new school and future highways; and

373 (b) maximize school, student, and site safety.

374 (5) Notwithstanding Subsection (3)(d), a county may, at [its] the county's discretion:

375 (a) [provide] request a walk-through of school construction at no cost and at a time convenient to the  
school district or charter school; and

377 (b) provide recommendations based upon the walk-through[.] to:

378 (i) the school district or charter school; and

379 (ii) the Division of Facilities Construction and Management.

380 (6)

383 (a) The Division of Facilities Construction and Management has the sole authority to approve  
inspectors for school construction projects under Title 63A, Chapter 5b, Part 12, Public School  
Construction Oversight.

385 (b) A school district {or charter school} shall use only inspectors approved by the Division of Facilities  
Construction and Management as follows:

386 (i) a Division of Facilities Construction and Management inspector;

388 (ii) a county building inspector who is on the Division of Facilities Construction and Management's  
approved roster under Section 63A-5b-1220; or

390 (iii) a certified building inspector who meets all of the following requirements:

392 (A) is on the Division of Facilities Construction and Management's approved roster under Section  
63A-5b-1220;

394 (B) is not an employee of the contractor{, school district, or charter school} ;

396 (C) is licensed to perform the inspection requested; and

398 (D) maintains current certifications as required by Division of Facilities Construction and Management  
rule.

400 [(6)]

402 (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:]

404 [(i) a county building inspector;]

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397 [(:ii)]

399 (A) for a school district, a school district building inspector from that school district; or]

399 (B) for a charter school, a school district building inspector from the school district in which the charter school is located; or]

401 [(iii) an independent, certified building inspector who is not an employee of the contractor, licensed to perform the inspection that the inspector is requested to perform, and approved by a county building inspector or:]

404 [(A) for a school district, a school district building inspector from that school district; or]

406 [(B) for a charter school, a school district building inspector from the school district in which the charter school is located.]

408 [(b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.]

409 [(e) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.]

414 (7)

416 (a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a county.

416 (b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.

419 (c) Parking requirements for a charter school or micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

422 (d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.

426 (e)

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- (i) A certificate authorizing permanent occupancy issued by the Division of Facilities Construction and Management under Section 63A-5b-1208 shall be the exclusive certificate required, and a county shall accept the division's certificate as satisfying all local occupancy requirements.
- 430 (ii) A micro-education entity is not subject to the requirements of Title 63A, Chapter 5b, Part 12, Public School Construction Oversight, and shall comply with local building codes and permitting requirements through county building officials.
- 433 [(e)]
  - (i) ~~A school district, charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:~~
    - 435 [(A) ~~the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district, charter school, or micro-education entity used an independent building inspector for inspection of the school building; or~~]
    - 438 [(B) ~~a county official with authority to issue the certificate, if the school district, charter school, or micro-education entity used a county building inspector for inspection of the school building.~~]
  - 441 [(ii) ~~A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(d)(ii).~~]
  - 445 [(iii) ~~A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.~~]
  - 449 [(iv) ~~A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.~~]
- 453 (f)
  - (i) A micro-education entity may operate a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a).
  - 456 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i) may have up to 100 students in the facility.

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(g) A micro-education entity may operate a facility that is subject to and complies with the same occupancy requirements as a Class A-1, A-3, B, or M Occupancy as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

(i) the facility has a code compliant fire alarm system and carbon monoxide detection system;

(ii) (A) each classroom in the facility has an exit directly to the outside at the level of exit discharge; or

(B) the structure has a code compliant fire sprinkler system; and

(iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet.

(h)

(i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling.

(ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated in Section 15A-1-210.

(8)

(a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 17-79-804;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8) (a) with reasonable promptness in order to allow the specified public agency to consider information

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the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

491 (9) Nothing in this section may be construed to:

492 (a) modify or supersede Section 17-79-306; or

493 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with  
Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42  
U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any  
other provision of federal law.

497 (10) Nothing in Subsection (7) prevents a political subdivision from:

498 (a) requiring a home-based microschool or micro-education entity to comply with local zoning and land  
use regulations that do not conflict with this section, including:  
500 (i) parking;  
501 (ii) traffic; and  
502 (iii) hours of operation;

503 (b) requiring a home-based microschool or micro-education entity to obtain a business license;

505 (c) enacting county ordinances and regulations consistent with this section;

506 (d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk  
and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

509 (e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

511 (11) Notwithstanding any other provision of law, the proximity restrictions that apply to community  
locations do not apply to a micro-education entity.

513 (12)

515 (a) Section 63A-5b-1218 governs the requirements for permitting and inspection of public school  
buildings.

520 (b) A county may not enact any ordinance, policy, or regulation relating to the permitting or inspection  
of public school buildings.

522 (13) Nothing in this section shall prohibit the required regulation or subsequent inspection by a local  
health department.

523 Section 3. Section **53E-3-701** is repealed and reenacted to read:

**53E-3-701. General provisions -- Definitions.**

As used in this part, "division" means the same as that term is defined in Section

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63A-5b-102.

526      Section 4. Section **53E-3-702** is repealed and reenacted to read:

527      **53E-3-702. State board coordination with Division of Facilities Construction and Management.**

524      (1) The state board shall coordinate with the division regarding public school construction oversight as described in Title 63A, Chapter 5b, Part 12, Public School Construction Oversight, through the school construction liaison designated under Section 63A-5b-1212.

528      (2) In providing the coordination described in Subsection (1), the state board may:

529      (a) provide input on educational programming requirements that affect construction standards;

531      (b) participate in construction rules development and review;

532      (c) assist with training programs for {LEA} school district officials;

533      (d) coordinate on matters affecting educational programs and construction oversight; and

534      (e) maintain expertise in educational facility planning and design.

535      (3) The state board shall maintain the state board's authority over:

536      (a) educational program requirements that may affect facility needs;

537      (b) coordination between construction projects and educational planning;

538      (c) policies related to educational use of facilities; and

539      (d) other matters not specifically described in Title 63A, Chapter 5b, Part 12, Public School Construction Oversight.

546      Section 5. Section **53E-3-703** is repealed and reenacted to read:

547      **53E-3-703. Educational facility planning requirements.**

543      (1) In planning school construction, {an LEA} a school district shall consider:

544      (a) educational program requirements for different grade levels;

545      (b) year-round use requirements;

546      (c) specific needs of various student populations; and

547      (d) coordination between facility design and educational delivery.

548      (2) {An LEA} A school district shall ensure a licensed architect prepares plans and specifications for school construction or alteration, subject to cost oversight requirements established by the division described in Section 63A-5b-1204.

551      {(3) {Before purchasing real property in relation to a construction project or an existing building for school use, an LEA shall provide written notice to:}}

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553 {~~(a) {the municipality or county where the property is located;}~~} }  
554 {~~(b) {affected utility companies;}~~} }  
555 {~~(c) {relevant transportation authorities; and}~~} }  
556 {~~(d) {the local fire authority.}~~} }  
557 {~~(4) {The LEA shall ensure the notice is provided at least 30 days before:}~~} }  
558 {~~(a) {closing on a property purchase; or}~~} }  
559 {~~(b) {entering into a lease agreement for school use.}~~} }  
560 {~~(5) {Before beginning construction of a school building, an LEA shall submit to the entities listed in Subsection (3):}~~} }  
562 {~~(a) {a development plan and schedule;}~~} }  
563 {~~(b) {anticipated enrollment and traffic impacts; and}~~} }  
564 {~~(c) {child access routing plans.}~~} }  
565 {~~(6) {(3) {An LEA } A school district shall ensure all construction contracts include the provisions for construction contracts as the division determines.~~

558 Section 6. Section **53E-3-704** is repealed and reenacted to read:

### **53E-3-704. Procurement, bonding, and contracting requirements.**

559 {~~An LEA } A school district shall comply with Title 63G, Chapter 6a, Utah Procurement Code, for all construction contracts.~~

560 (2) A school district shall require payment and performance bonds as provided in Section 14-1-18 for construction contracts exceeding \$50,000.

561 (3) {~~An LEA } A school district shall ensure a construction contract includes:~~

562 (a) contract provisions the division establishes under Subsection 53E-3-703(6);

563 (b) insurance requirements meeting division standards; and

564 (c) dispute resolution procedures.

565 Section 7. Section 7 is enacted to read:

### **63A-5b-1201. General provisions -- Definitions.**

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566 (1) This part does not apply to micro-education entities as defined in Section 53G-6-201.

567 (2) As used in this part:

568 {~~(4) {"Charter school" means a charter school established under Title 53G, Chapter 5, Charter Schools.}~~} }

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584 {~~(b)~~ {"LEA" means the same as that term is defined in Section 53E-1-102.})}

585 (c)~~(a)~~ "Public school construction" means construction work on a new public school facility or major alteration of an existing public school facility with a total project cost exceeding the delineated thresholds for a capital development project or capital improvement project as defined in Section 63A-5b-401.

589 (d)~~(b)~~ "School construction liaison" means the individual designated under Section 63A-5b-1212 to coordinate between the division and the state board regarding public school construction matters.

592 (e)~~(c)~~ "School district" means a local school district established under Title 53G, Chapter 3, School District Creation and Change.

594 (f)~~(d)~~ "State board" means the same as that term is defined in Section 53E-1-102.

583 Section 8. Section 8 is enacted to read:

### **63A-5b-1202. Division authority over public school construction -- Construction standards.**

598 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing comprehensive standards for public school construction that {~~may~~} ~~shall~~ include:

601 (a) minimum and maximum real property requirements;

602 (b) cost per square foot parameters;

603 (c) building material quality and cost standards;

604 (d) parking and access requirements;

605 (e) standardized cost reporting requirements;

606 (f) mandatory plan review and approval procedures;

607 (g) qualified reviewer certification requirements;

608 (h) a process for permitting of public school construction in accordance with Section 63A-5b-1218;

610 (i) a process for {an LEA} a school district to report project related issues;

611 (j) other construction related requirements;

612 (k) transition and replacement of existing State Board of Education rules related to school construction;

614 (l) facility condition assessment requirements, including:

615 (i) frequency of assessments;

616 (ii) qualifications for third-party engineering firms conducting assessments;

617 (iii) standardized assessment methodologies; and

618 (iv) reporting and database requirements;

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619 (m) building maintenance standards for public school facilities;  
620 (n) building commissioning requirements, including:  
621 (i) commissioning scope and procedures;  
622 (ii) qualified commissioning agent requirements;  
623 (iii) functional performance testing standards;  
624 (iv) commissioning documentation and closeout requirements; and  
625 (v) ongoing commissioning for major building systems;  
626 (o) construction delivery method criteria and approval procedures consistent with Section 63G-6a-1302;  
628 (p) construction manager or general contractor use restrictions and oversight requirements in  
629 accordance with Subsections 63G-6a-1302(4) and (5);  
630 (q) factors to be considered in selecting appropriate delivery methods under Subsection  
631 63G-6a-1302(3);  
632 (r) standards for {LEA} school district coordination with municipalities and counties regarding school  
633 siting, traffic impacts, and site safety considerations; and  
634 (s) cost matrix establishment and application, including:  
635 (i) cost per square foot parameters by building type and region;  
636 (ii) allowable cost ranges and variance thresholds;  
637 (iii) factors for adjusting costs based on project complexity;  
638 (iv) pre-construction approval procedures and timelines; and  
639 (v) appeal procedures for cost matrix determinations.  
640 (2) In developing the rules described in Subsection (1), the division shall consider:  
641 (a) project costs;  
642 (b) location factors, including rural or urban setting and climate;  
643 (c) projected student population growth or declines;  
644 (d) specific needs of different school types and grade levels;  
645 (e) year-round use requirements; and  
646 (f) accessibility compliance under state and federal law.  
647 (3) The division shall consult with:  
648 (a) the fire marshal;  
649 (b) the school construction liaison on educational programming needs and coordination of safety and  
650 security requirements;

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651 (c) representatives from {LEAs} school districts; and

652 (d) {design} architects, engineers, and construction professionals.

653 (4) As described in Section 63A-5b-1213, the division may establish fee-for-service construction management programs to:

655 (a) provide professional construction oversight for {an LEA} a school district lacking internal capacity;

656 (b) ensure consistent application of standards across all projects;

657 (c) leverage state procurement expertise and economies of scale; and

658 (d) reduce compliance risks for complex projects.

659 (5) The division shall require {an LEA} a school district to:

660 (a) review division rules and policies before beginning construction;

661 (b) demonstrate compliance with rules and policies as a condition of permit approval;

662 (c) use qualified, certified inspectors for all required inspections; and

663 (d) submit monthly construction reports through the online system described in Section 63A-5b-1207.

665 (6) The school construction liaison, in coordination with the School Safety Center established under Section 53G-8-802 and the state security chief appointed under Section 53-22-102, shall:

668 (a) ensure compliance with mandatory safety and security standards established under Section 53-22-102;

670 (b) review construction plans to verify that proposed designs meet mandatory safety and security requirements;

672 (c) coordinate with the division regarding safety and security compliance before the division issues construction permits; and

674 (d) report safety and security compliance to the division as part of the plan approval process under Section 63A-5b-1205.

676 (7) The division {may contract} shall collaborate with the state fire marshal, state security chief, {or} and local governmental entities to:

678 (a) examine plans and specifications for school buildings;

679 (b) verify inspections during and following construction; and

680 (c) perform other functions necessary to ensure compliance.

681 (8) In exercising oversight authority, the division shall recognize that:

682 (a) public school construction is typically funded through local bond measures approved by school district voters;

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684 (b) school facilities are owned and operated by the {LEA} school district;

685 (c) local communities have legitimate interests in facility design and construction decisions; and

687 (d) division oversight is intended to ensure standardized cost controls, compliance with safety, efficiency, and accountability standards while preserving appropriate local autonomy.

679 (9) The division may delegate oversight authority to qualified school districts as provided in Section 63A-5b-1217.

690 (9){(10)} {An LEA} A school district may appeal division determinations under this section to the appeals panel established under Section 63A-5b-1221.

692 (10){(11)} The division shall require:

693 (a) building commissioning for all new construction and major renovations exceeding \$5,000,000, including:

695 (i) commissioning of mechanical, electrical, plumbing, and building envelope systems;

697 (ii) verification of system performance against design intent;

698 (iii) training of facility staff on commissioned systems; and

699 (iv) delivery of comprehensive commissioning documentation;

700 (b) facility condition assessments:

701 (i) every five years for all facilities over 20 years old;

702 (ii) conducted by qualified third-party architectural and engineering firms;

703 (iii) addressing all major building systems and components; and

704 (iv) integrated with the deferred maintenance reporting under Section 63A-5b-1210.

696 Section 9. Section 9 is enacted to read:

697 **63A-5b-1203. Construction delivery methods -- Restrictions.**

707 (1) For public school construction exceeding \$3,000,000, {an LEA} a school district shall use one of the following delivery methods authorized under Section 63G-6a-1302:

709 (a) design-bid-build;

710 (b) design-build; or

711 (c) a construction manager {or} general contractor, subject to the restrictions in Subsection (2).

713 (2)

714 (a) {An LEA may only} A school district may use a construction manager {or} general contractor delivery method if:

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- (i) the {LEA} school district demonstrates to the division that the project meets appropriate criteria for using a construction manager {or} general contractor under Subsection 63G-6a-1302(3);
- (ii) the {LEA} school district employs or contracts with qualified construction management staff with demonstrated construction manager {or} general contractor experience; and
- (iii) the {LEA} school district submits a detailed project management plan approved by the division; {and}
- {(iv) {the division determines that a construction manager or general contractor is the most appropriate delivery method for the specific project.}}

(b) The division may only deny approval for a construction manager {or} general contractor delivery method if:

- (i) the {LEA} school district lacks sufficient {internal} expertise to manage the project;
- (ii) the project does not meet appropriate criteria under Subsection 63G-6a-1302(3); or
- (iii) {design-build} other methods of delivery would provide better cost control and project outcomes.

(3) The division shall:

- (a) establish clear criteria for when a construction manager {or} general contractor delivery method is appropriate, considering the factors described in Subsection 63G-6a-1302(3);
- (b) provide training to {an LEA} a school district on:
  - (i) proper implementation of each delivery method authorized under Section 63G-6a-1302;
  - (ii) cost control measures for each delivery method; and
  - (iii) circumstances when each delivery method is most appropriate; and
- (c) require additional oversight and reporting for projects using a construction manager or general contractor {; and} ;
- {(d) {encourage use of a design-build delivery method for new school construction through:}}
- {(i) {streamlined approval processes;}}
- {(ii) {reduced administrative requirements; and}}
- {(iii) {technical assistance programs.}}

(4) For projects under \$3,000,000, {an LEA} a school district shall use design-bid-build unless the division approves an alternative delivery method under Section 63G-6a-1302.

(5) {An LEA} A school district shall comply with all procurement requirements under Title 63G, Chapter 6a, Utah Procurement Code, when using any construction delivery method, including:

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- (a) requirements for selection of contractors in Subsection 63G-6a-1302(5) when using a construction manager or general contractor;
- (b) requirements for subcontractor procurement in Subsection 63G-6a-1302(5)(b); and
- (c) any other applicable procurement standards established in Title 63G, Chapter 6a, Utah Procurement Code.

(6) For projects exceeding \$500,000, {an LEA} ~~a school district~~ shall select contractors only from the qualified contractor registry established under Section 63A-5b-1216.

(7) The contractor registry requirement in Subsection (6):

- (a) establishes pre-qualification standards but does not replace competitive procurement requirements;
- (b) limits the pool of eligible bidders to qualified contractors; and
- (c) applies to all delivery methods authorized under this section.

{(8) {A charter school with a project under \$5,000,000:}}

{(a) {may use any delivery method authorized by Section 63G-6a-1302;}}

{(b) {shall notify the division of the selected delivery method; and}}

{(c) {shall provide justification to the division if using a construction manager or general contractor delivery method.}}

Section 10. Section 10 is enacted to read:

### **63A-5b-1204. Architect and design professional cost oversight.**

(1) The division shall establish and publish maximum allowable fees for ~~both basic services and complexities for~~ architect and design professional services based on:

- (a) project size and complexity;
- (b) regional market conditions;
- (c) industry standards for educational facilities; and
- (d) historical cost data from comparable projects.

(2) {An LEA} ~~A school district~~ shall:

- (a) ensure that no contract for architect or design professional services exceeds the maximum fees established by the division under Subsection (1);
- (b) submit all proposed contracts to the division for verification of compliance with maximum fee limits before execution; and
- (c) demonstrate through competitive procurement that proposed fees represent fair market value within the established maximums.

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782 (3) If {an LEA} a school district believes a project requires fees exceeding the division's maximum  
783 allowable fees, the {LEA} school district shall:

784 (a) submit a detailed written request to the division before soliciting proposals;

785 (b) provide documentation of unique project circumstances requiring specialized expertise;

786 (c) demonstrate that the project cannot be completed within the fee schedule; and

787 (d) obtain written approval from the division before proceeding.

788 (4) The division shall:

789 (a) review cost submissions within 15 business days;

790 (b) provide written explanation for any required modifications; and

791 (c) update cost benchmarks annually based on market conditions.

792 (5) The division shall develop and maintain a library of standardized school design templates developed  
793 in collaboration with architects experienced in the design of school facilities that:

794 (a) provide pre-approved design options for common school types and sizes;

795 (b) reduce architectural costs through standardized specifications;

796 (c) accelerate the approval process for {LEAs} school districts using standard designs;

797 (d) allow modifications for site-specific requirements; and

798 (e) are updated every five years to reflect current educational needs.

799 (6) The division shall develop and maintain a library of standardized school design prototypes  
800 developed in collaboration with architects experienced in the design of school facilities that:

801 (a) provide pre-approved design options for common school types and sizes;

802 (b) reduce architectural costs through:

803 (i) reduced design scope for projects using prototype designs;

804 (ii) standardized specifications and details;

805 (iii) elimination of redundant design work; and

806 (iv) lower fee schedule tiers for prototype-based projects;

807 (c) accelerate the approval process through:

808 (i) pre-approved building systems and layouts;

809 (ii) reduced plan review time for projects adhering to prototype designs; and

810 (iii) streamlined permitting when no significant prototype modifications are made;

811 (d) allow modifications for site-specific requirements; and

812 (e) are updated every five years to reflect current educational needs and building standards.

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815 (7) {An LEA} A school district using a standardized design prototype:

816 (a) shall comply with all procurement requirements under Title 63G, Chapter 6a, Utah Procurement  
Code;

818 (b) may receive reduced architect fees reflecting the limited scope of site adaptation work;

820 (c) may receive an expedited plan review within 10 business days if no significant modifications are  
made;

822 (d) is encouraged to use design-build delivery methods with prototype designs to maximize cost  
savings; and

824 (e) shall coordinate with the division on any proposed modifications to ensure continued compliance  
with prototype standards.

826 (8) {An LEA} A school district shall procure architect and design professional services:

827 (a) in accordance with Title 63G, Chapter 6a, Part 15, Design Professional Services;

828 (b) using qualifications-based selection procedures as required by Subsection 63G-6a-1502(1);

830 (c) based on demonstrated competence and qualification for the type of services required; and

832 (d) not based solely on price.

833 (9) {An LEA} A school district may appeal the division's maximum fee determinations or denials of  
requests for fee exceptions to the appeals panel established under Section 63A-5b-1221.

817 Section 11. Section 11 is enacted to read:

### **63A-5b-1205. Plan review and approval authority.**

837 (1) In accordance with the division's permitting authority described in Section 63A-5b-1218, the  
division shall review and approve or deny all construction documents for public school construction:

840 (a) within 10 business days; and

841 (b) before {an LEA} a school district may begin construction.

842 (2) The division's plan review shall verify compliance with:

843 (a) adopted building codes and standards;

844 (b) division construction rules;

845 (c) accessibility requirements;

846 (d) energy code compliance;

847 (e) structural engineering requirements;

848 (f) fire and school safety provisions;

849 (g) mandatory safety and security standards;

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850 (h) emergency response and evacuation protocols required under Subsection 53-22-102(3)(c); and  
852 (i) other building or construction codes the division determines relevant.

853 (3) The division may require corrections to construction documents and may not approve plans that fail  
to meet applicable standards.

855 (4) {An LEA} A school district may not begin construction until the division has issued a written  
857 approval of the construction documents and a permit under Section 63A-5b-1218.

858 (5) Before approving any construction contract exceeding \$1,000,000, {an LEA} a school district shall:

861 (a) submit proposed contract costs to the division for benchmark comparison when such comparisons  
become reasonably available following the division's establishment of a baseline;

863 (b) provide written justification for any costs exceeding division benchmarks by more than 10%;

864 (c) demonstrate compliance with standardized procurement procedures; and

865 (d) receive division approval before contract execution.

866 (6) Before beginning any public school construction project, {an LEA} a school district shall:

867 (a) submit a pre-construction application to the division that includes:

868 (i) detailed project scope and specifications;

869 (ii) preliminary cost estimates;

870 (iii) a proposed project timeline; and

871 (iv) funding sources and financial capacity documentation;

872 (b) receive division approval that the project:

873 (i) fits within the cost matrix established by division rule;

874 (ii) meets cost per square foot parameters for the building type and region;

875 (iii) demonstrates reasonable and appropriate costs for the proposed scope; and

876 (iv) complies with all applicable standards and requirements; and

877 (c) demonstrate that the project costs are consistent with:

878 (i) division cost benchmarks for similar projects;

879 (ii) regional cost factors;

880 (iii) current market conditions; and

881 (iv) industry standards for educational facilities.

882 (7) The division shall:

883 (a) review pre-construction applications within 15 business days;

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- (b) approve, conditionally approve with modifications, or deny applications based on cost matrix compliance;
- (c) provide written explanation for any required modifications or denials;
- (d) work with the {LEA} school district to bring non-compliant projects into compliance with the cost matrix; and
- (e) maintain records of all project approvals and cost matrix determinations.

(8) The division may not issue a construction permit under Section 63A-5b-1218 until the project has received cost matrix approval under this section.

(9) The division may delegate plan review responsibilities to qualified third-party reviewers subject to division oversight and final approval.

(10) {An LEA} A school district may appeal the following determinations under this section to the appeals panel established under Section 63A-5b-1221:

- (a) denial of construction permit applications;
- (b) cost matrix determinations under Subsections (6) and (7);
- (c) required plan corrections under Subsection (3);
- (d) pre-construction application denials under Subsection (7)(b); and
- (e) conditions imposed on project approvals.

Section 12. Section 12 is enacted to read:

### **63A-5b-1206. Mandatory technical compliance requirements.**

- (1) The division shall establish and enforce specific technical standards including:
  - (a) fire wall construction and continuity requirements as described in International Building Code, Chapter 7;
  - (b) accessibility compliance verification procedures as described in International Code Council A117.1;
  - (c) energy code inspection protocols with mandatory R-value verification;
  - (d) mechanical, plumbing, and electrical system review depth requirements;
  - (e) special inspection requirements for both structural and nonstructural elements; and
  - (f) structural observation reporting mandates for Risk Category III buildings as as defined in the International Building Code adopted under Section 15A-1-204.
- (2) The division may not issue a construction permit without verified compliance with Subsection (1).
- (3) The division shall use qualified plan reviewers and inspectors from the roster established under Section 63A-5b-1220 for all plan review and inspection activities.

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916 (4) Requirements related to safety and security standards established under Section 53-22-102 shall be  
coordinated through the school construction liaison as provided in Subsection 63A-5b-1202(6).

919 (5) {An LEA} A school district may appeal technical compliance determinations under this section to  
the appeals panel established under Section 63A-5b-1221.

903 Section 13. Section **13** is enacted to read:

### **63A-5b-1207. Online document management system.**

923 (1) The division shall develop and maintain an online document management system that:

924 (a) maintains all required construction and inspection documentation;

925 (b) enables real-time verification of compliance with statutes and rules;

926 (c) tracks pre-construction permit submissions and approvals;

927 (d) facilitates enforcement through automated notifications;

928 (e) provides reporting capabilities for oversight and auditing; and

929 (f) ensures secure access for authorized users.

930 (2) {An LEA} A school district shall use the online system to:

931 (a) submit all required pre-construction documentation;

932 (b) upload inspection reports and certifications;

933 (c) report construction costs using standardized formats; and

934 (d) track project milestones and compliance status.

935 (3) The division shall provide training and technical support for {LEAs} school districts, including  
proper use of the online document management system.

919 Section 14. Section **14** is enacted to read:

### **63A-5b-1208. Inspection verification and monitoring.**

939 (1) The division shall establish inspection verification procedures that:

940 (a) go beyond simple attestation to verify actual compliance;

941 (b) include regular monitoring of inspection documentation;

942 (c) provide mechanisms for addressing noncompliance; and

943 (d) coordinate with local governmental entities as required by law, including Sections 10-9a-305 and  
17-27a-305.

945 (2) Before beginning construction, {an LEA} A school district shall:

946 (a) provide all required notices in accordance with Section 53E-3-703;

947 (b) obtain all required permits from the division in accordance with Section 63A-5b-1218;

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948 (c) submit complete construction documents to the division;  
949 (d) demonstrate compliance with division rules and policies; and  
950 (e) provide evidence of qualified inspection arrangements that meet the requirements described in  
Subsection 63A-5b-1220.

952 (3) During construction, {an LEA-} a school district shall:  
953 (a) use qualified, certified inspectors the division approves for all required inspections;  
954 (b) submit inspection reports through the online system described in Section 63A-5b-1207;  
956 (c) notify the division of any significant changes or issues;  
957 (d) maintain detailed inspection records;  
958 (e) coordinate with local building officials;  
959 (f) as required, provide special inspection reports for all International Building Code, Chapter 17,  
requirements;  
961 (g) submit structural observation reports for buildings with an occupancy greater than 250; and  
963 (h) document correction of all deficiencies before proceeding.

964 (4) The division may:  
965 (a) conduct random audits of inspection procedures;  
966 (b) require additional inspections when warranted;  
967 (c) review and approve alternative inspection arrangements; and  
968 (d) suspend construction permits for serious violations.

969 (5) Upon completion of construction and verification of all required inspections, the division shall issue  
a certificate authorizing permanent occupancy if:

971 (a) all required inspections have been completed by qualified inspectors on the division's approved  
roster;  
973 (b) all inspection reports verify compliance with applicable codes and standards;  
974 (c) all identified deficiencies have been corrected and documented;  
975 (d) the {LEA-} school district has submitted all required closeout documentation through the online  
system described in Section 63A-5b-1207;  
977 (e) structural observation reports have been submitted for buildings with an occupancy greater than 250  
as required under Subsection (3)(g);  
979 (f) special inspection reports verify compliance with all International Building Code, Chapter 17,  
requirements; and

## SB0164 compared with SB0164S01

981 (g) the project complies with mandatory safety and security standards established by the state security  
982 chief under Section 53-22-102.

983 (6) The division shall:

984 (a) review occupancy certificate applications within 10 business days of receiving complete  
985 documentation;

986 (b) issue written certificates that include:

987 (i) the project address and description;

988 (ii) the authorized occupancy type and capacity;

989 (iii) verification that all inspections confirm code compliance;

990 (iv) the effective date of the certificate; and

991 (v) any conditions or limitations on occupancy;

992 (c) maintain a database of all occupancy certificates issued; and

993 (d) provide copies of certificates to:

994 (i) the {LEA} **school district**;

995 (ii) the municipality or county where the facility is located; and

996 (iii) the local fire authority.

997 (7)

998 (a) A certificate authorizing permanent occupancy issued by the division under this section:

999 (i) is the exclusive certificate required for public school facilities subject to this part;

1000 (ii) satisfies all municipal and county occupancy requirements under Sections 10-20-304 and  
1001 17-79-305; and

1002 (iii) authorizes the {LEA} **school district** to occupy and use the facility for educational purposes.

1003 (b) Municipalities and counties shall accept the division's certificate without requiring additional local  
1004 certificates of occupancy.

1005 (8) If the division determines that a facility does not meet requirements for occupancy, the division  
1006 shall:

1007 (a) deny the occupancy certificate application;

1008 (b) provide written explanation of all deficiencies requiring correction;

1009 (c) specify a timeline for the {LEA} **school district** to address deficiencies; and

1010 (d) allow the {LEA} **school district** to resubmit for occupancy certification after corrections are made.

## SB0164 compared with SB0164S01

(9) The {LEA} school district shall notify the division within 10 days of beginning occupancy of any facility for which the division has issued an occupancy certificate.

1013 (10) For temporary or partial occupancy during construction:

1014 (a) {an LEA} a school district may request a temporary certificate of occupancy from the division;

1015 (b) the division may issue a temporary certificate if:

1016 (i) the portion to be occupied meets all safety and code requirements;

1017 (ii) the {LEA} school district demonstrates that temporary occupancy will not create safety hazards;

1018 (iii) appropriate separation exists between occupied and construction areas; and

1019 (iv) the {LEA} school district provides a timeline for completing remaining work; and

1020 (c) temporary certificates expire upon the earlier of:

1021 (i) issuance of a permanent occupancy certificate; or

1022 (ii) 180 days from issuance, unless extended by the division for good cause.

1023 (11) {An LEA} A school district may appeal the following determinations under this section to the appeals panel established under Section 63A-5b-1221:

1025 (a) denial of occupancy certificates under Subsection (8);

1026 (b) conditions or limitations imposed on occupancy under Subsection (6)(b)(v);

1027 (c) denial of temporary occupancy certificates under Subsection (10);

1028 (d) requirements for additional inspections under Subsection (4)(b); and

1029 (e) determinations that deficiencies shall be corrected before occupancy.

1015 Section 15. Section 15 is enacted to read:

### **63A-5b-1209. Historical project documentation and information requests.**

1032 (1) Upon written request from the division, {an LEA} a school district shall provide:

1033 (a) documentation and information regarding past construction projects, including projects completed before the effective date of this part;

1035 (b) cost data, construction documents, and project records;

1036 (c) contractor and vendor information and performance records;

1037 (d) change order documentation and justifications;

1038 (e) inspection records and certificates of occupancy;

1039 (f) as-built drawings and project closeout documentation;

1040 (g) warranty information and maintenance records; and

1041 (h) any other project-related information the division determines necessary for.

## SB0164 compared with SB0164S01

1042 (i) establishing cost benchmarks and databases;

1043 (ii) analyzing construction cost trends;

1044 (iii) developing standardized design templates;

1045 (iv) creating training programs and best practices; or

1046 (v) other purposes related to public school construction oversight.

1047 (2) {An LEA} A school district shall provide requested information:

1048 (a) within 90 days of receiving the division's written request;

1049 (b) in the format specified by the division;

1050 (c) organized and indexed for efficient review;

1051 (d) with complete documentation for each requested project; and

1052 (e) at no cost to the division.

1053 (3) If {an LEA} a school district is unable to provide requested information within 30 days due to volume or complexity, the {LEA} school district shall:

1055 (a) notify the division within 10 days of receiving the request;

1056 (b) provide a detailed explanation of the delay;

1057 (c) propose a reasonable timeline for providing the information; and

1058 (d) provide interim updates on progress.

1059 (4) The division may use the information collected under this section to:

1060 (a) populate the construction cost database described in Section 63A-5b-1210;

1061 (b) establish baseline cost benchmarks;

1062 (c) identify best practices and areas for improvement;

1063 (d) develop training materials and resources;

1064 (e) create standardized design templates;

1065 (f) conduct research on construction cost drivers; and

1066 (g) provide better technical assistance to {an LEA} a school district.

1067 (5) The division shall:

1068 (a) maintain the confidentiality of proprietary information submitted by {an LEA} a school district;

1069 (b) use submitted information only for the purposes described in this section;

1070 (c) aggregate data when publishing reports or benchmarks to protect {LEA-specific} school district-specific information where appropriate; and

1072 (d) provide {an LEA} a school district with access to aggregated data and analysis.

## SB0164 compared with SB0164S01

1073 (6) Failure of {an LEA} a school district to provide requested information without good cause may result in:

1074 (a) loss of certain oversight autonomy, including requirement for division-managed construction services under Section 63A-5b-1213; or

1076 (b) administrative penalties not exceeding \$5,000, subject to appeal under Section 63A-5b-1221.

1078 (7) This section applies to:

1079 (a) all {LEAs} school districts;

1080 (b) projects completed within the last 5 years, including projects completed before January 1, 2027; and

1082 (c) both new construction and major renovation projects.

1069 Section 16. Section 16 is enacted to read:

1070 **63A-5b-1210. Standardized cost reporting.**

1085 (1) The division shall implement a standardized cost reporting system that:

1086 (a) requires {an LEA} a school district to report construction costs using consistent categories and formats;

1087 (b) enables accurate cost comparison between projects and districts;

1088 (c) tracks cost trends and identifies potential cost savings;

1089 (d) provides data for legislative oversight and budget planning; and

1090 (e) contains detailed cost reporting requirements, including:

1091 (i) pre-construction cost estimates using the Construction Specifications Institute MasterFormat categories;

1093 (ii) monthly cost reports during construction with variance explanations;

1094 (iii) change order documentation with justification and approval authority;

1095 (iv) final reconciled costs with cost-per-square-foot analysis;

1096 (v) separate reporting of construction, equipment, and soft costs;

1097 (vi) comparison to division cost benchmarks by building type and region;

1098 (vii) supports for audit and compliance activities; and

1099 (viii) annual deferred maintenance reporting including:

1100 (A) identification of all maintenance items deferred during the reporting period;

1101 (B) estimated costs for each deferred maintenance item;

1102 (C) priority ranking based on safety, functionality, and cost implications;

1103 (D) projected timeline for addressing deferred items; and

## SB0164 compared with SB0164S01

1104 (E) cumulative deferred maintenance backlog by facility and system type.

1105 (2)

1106 (a) Notwithstanding the division's tracking of deferred maintenance, the division and the state assume no liability for any deferred maintenance costs or issues arising from deferred maintenance.

1107 (b) The {LEA} school district shall retain all liability for deferred maintenance costs and any consequences resulting from deferred maintenance decisions.

1108 (3) The division shall:

1109 (a) analyze cost data to identify trends and outliers;

1110 (b) provide cost guidance to {an LEA} a school district;

1111 (c) upon request, report to the Legislature on construction cost trends; and

1112 (d) make aggregated cost data available to support planning and budgeting.

1113 (4) The division shall establish and maintain a comprehensive construction cost database that:

1114 (a) is accessible to the State Board of Education and other relevant stakeholders as the division determines;

1115 (b) consolidates historical cost data from all {LEA} school district projects completed after January 1, 2025;

1116 (c) provides cost benchmarks updated quarterly;

1117 (d) identifies cost outliers and investigates variances exceeding 15%;

1118 (e) generates annual cost trend reports for legislative review;

1119 (f) supports {an LEA} a school district budget planning with predictive cost modeling;

1120 (g) tracks deferred maintenance trends across {an LEA} a school district and facility types;

1121 (h) identifies facilities with excessive deferred maintenance backlogs requiring intervention; and

1122 (i) provides predictive modeling for long-term maintenance and replacement costs.

1123 (5) Beginning July 1, 2029, {an LEA} a school district shall submit annual deferred maintenance reports to the division that:

1124 (a) identify all maintenance items with estimated costs exceeding \$25,000 that were deferred during the fiscal year, limited to items described in Subsections 63A-5b-405(2)(c)(i) and (ii);

1125 (b) provide justification for deferral decisions;

1126 (c) include facility condition assessments updated at least every five years;

1127 (d) demonstrate how deferred maintenance decisions align with long-term capital planning; and

1128 (e) report on progress addressing previously identified deferred maintenance items.

## SB0164 compared with SB0164S01

1139 (6) The division shall implement the requirements of this section in phases as follows:

1140 (a) by July 1, 2027:

1141 (i) complete initial cost database framework development;

1142 (ii) begin collecting historical cost data under Section 63A-5b-1209; and

1143 (iii) develop standardized reporting formats;

1144 (b) by July 1, 2028:

1145 (i) establish preliminary cost benchmarks for elementary and secondary schools;

1146 (ii) implement basic cost comparison tools; and

1147 (iii) provide initial training to {LEAs} school districts on standardized cost reporting;

1148 (c) by July 1, 2029:

1149 (i) complete baseline cost benchmarks for all major building types and regions;

1150 (ii) implement automated cost comparison and analysis tools; and

1151 (iii) establish full compliance requirements for deferred maintenance reporting; and

1152 (d) by July 1, 2030:

1153 (i) achieve full implementation of all cost database and reporting requirements; and

1154 (ii) provide comprehensive training and technical assistance to all {LEAs} school districts.

1155 (7) Beginning December 1, 2027, the division shall report annually to:

1156 (a) the Education Interim Committee; and

1157 (b) the Transportation and Infrastructure Appropriations Subcommittee.

1158 (8) The annual report shall include:

1159 (a) progress on phased implementation under Subsection (6);

1160 (b) status of cost database development and benchmark establishment;

1161 (c) implementation status of automated cost comparison tools;

1162 (d) training provided to {LEAs} school districts on standardized cost reporting;

1163 (e) analysis of construction cost trends and outliers;

1164 (f) deferred maintenance trends across {an LEA} a school district and facility types;

1165 (g) compliance audit results and enforcement actions taken;

1166 (h) construction oversight fee revenue and expenditures; and

1167 (i) recommendations for statutory or policy improvements.

1155 Section 17. Section 17 is enacted to read:

1156 **63A-5b-1211. Training and technical assistance.**

## SB0164 compared with SB0164S01

1170 (1) In collaboration with the school construction liaison described in Section 63A-5b-1212, the division  
1171 shall develop and maintain a school construction resource manual including:

1172 (a) current legal requirements;  
1173 (b) construction and inspection rules;  
1174 (c) compliance procedures and documentation standards; and  
1175 (d) standardized forms and reporting requirements.

1176 (2) The division shall review and update the manual at least every three years or when significant  
1177 changes in building codes occur.

1178 (3)

1179 (a) In collaboration with the school construction liaison described in Section 63A-5b-1212, the division  
1180 shall provide annual training for {LEA} school district officials covering:

1181 (i) construction oversight responsibilities and procedures;  
1182 (ii) building code compliance requirements;  
1183 (iii) inspection documentation and verification;  
1184 (iv) cost reporting procedures;  
1185 (v) use of the online management system described in Section 63A-5b-1207; and  
1186 (vi) coordination with local building officials.

1187 (b) The division may not use a third-party vendor or provider to fulfill the requirements of Subsection  
1188 (3)(a).

1189 (4) The division shall provide additional training for:

1190 (a) design professionals working on school projects;  
1191 (b) third-party plan reviewers and inspectors;  
1192 (c) construction managers and general contractors; and  
1193 (d) building officials involved in school construction as the division determines.

1194 (5) The division shall update trainings regularly to reflect:

1195 (a) changes in building codes and standards;  
1196 (b) new construction technologies and methods;  
1197 (c) lessons learned from project audits and reviews; and  
1198 (d) best practices from other jurisdictions.

1199 (6) The division may:

1200 (a) charge reasonable fees for specialized training programs; and

## SB0164 compared with SB0164S01

1200 (b) in accordance with Subsection (3)(b), contract with qualified entities to provide training services.

1190       Section 18. Section **18** is enacted to read:

1191       **63A-5b-1212. School construction liaison -- Coordination with state board.**

1204 (1) The state board shall designate a school construction liaison who:

1205 (a) serves as the primary contact between the state board and the division on school construction  
matters;

1207 (b) coordinates on educational programming requirements that may affect construction standards;

1209 (c) participates in administrative rule development and review processes;

1210 (d) provides input on educational facility needs and trends;

1211 (e) assists with training programs for {LEA} school district officials; and

1212 (f) facilitates resolution of construction-related issues affecting educational programs.

1213 (2) The school construction liaison shall:

1214 (a) be an employee of the state board;

1215 (b) have expertise in school construction, educational facilities, or related fields;

1216 (c) participate in relevant division meetings and committees;

1217 (d) maintain regular communication with division staff; and

1218 (e) report to the state board on construction oversight activities and issues.

1219 (3) The division and state board shall establish a memorandum of understanding that:

1220 (a) defines roles and responsibilities for school construction oversight;

1221 (b) establishes communication protocols and meeting schedules;

1222 (c) addresses coordination on policy development and implementation;

1223 (d) provides for information sharing and joint training activities; and

1224 (e) includes dispute resolution procedures.

1213       Section 19. Section **19** is enacted to read:

1214       **63A-5b-1213. Division-managed construction services.**

1227 (1) The division may provide comprehensive construction management services to {an LEA} a school  
district, including:

1229 (a) project procurement and contractor selection;

1230 (b) construction oversight and inspection coordination;

1231 (c) cost management and change order approval;

1232 (d) compliance verification and quality assurance;

## SB0164 compared with SB0164S01

1233 (e) project scheduling and milestone management; and  
1234 (f) architect and design professional services when required under Section 63A-5b-1204 or requested by  
1235 {an LEA} a school district.  
1236 (2) {An LEA} A school district may request division construction management services for:  
1237 (a) any project exceeding \$3,500,000 in total cost;  
1238 (b) complex projects requiring specialized expertise; or  
1239 (c) projects where the {LEA} school district lacks sufficient internal capacity.  
1240 (3) The division shall provide construction management services when:  
1241 (a) requested by {an LEA} a school district and capacity allows; or  
1242 (b) {an LEA} a school district has demonstrated repeated compliance failures.  
1243 (4)  
1244 (a) The division shall establish a cost structure for managed services where:  
1245 (i) the {LEA} school district reimburses the division for all direct project costs;  
1246 (ii) administrative fees do not exceed:  
1247 (A) 3% of total project cost; and  
1248 (B) for projects under \$3,500,000, the actual cost of providing management services in relation to the  
1249 specific project;  
1250 (iii) fee schedules are published annually in division rules; and  
1251 (iv) cost savings achieved through division management may be shared with the {LEA} school  
1252 district.  
1253 (b) The division shall ensure:  
1254 (i) the administrative fee structure for division-managed projects includes the construction oversight fee  
1255 required by Section 63A-5b-1214; and  
1256 (ii) {an LEA shall} a school district may not pay duplicative fees.  
1257 (c) The division shall provide {an LEA} a school district with a detailed fee breakdown showing:  
1258 {(i) {the 1.25% construction oversight fee component;}}  
1259 (ii) {(i)} additional direct project management costs; and  
1260 (iii) {(ii)} the total administrative fee percentage.  
1261 (5) The division shall ensure that for division-managed projects:  
1262 (a) the division assumes full responsibility for code compliance;  
1263 (b) all procurement follows state procurement rules;

## SB0164 compared with SB0164S01

1262 (c) the {LEA} school district retains authority over educational program requirements; and

1263 (d) regular progress and financial reports are provided to the {LEA} school district governing board as defined in Section 53E-1-102.

1265 (6) {An LEA} A school district may appeal the division's determination to require division-managed construction services to the appeals panel established under Section 63A-5b-1221.

1255 Section 20. Section 20 is enacted to read:

1256 **63A-5b-1214. Construction oversight fee.**

1269 (1) {For} Except for a school district that has hired a division approved project manager to provide services as described in this section, for all public school construction projects, {an LEA} a school district shall pay the division a construction oversight, building official, plan review, and administration fee in accordance with a fee {equal to 1.25% of the total project cost} schedule established by division rule under Section 63A-5b-1217 and approved by the rate committee created in Section 63A-1-114.

1271 (2) The construction oversight fee:

1272 (a) applies to all projects subject to this part, regardless of whether the division is providing direct construction management services;

1274 (b) shall be calculated based on the total project cost including:

1275 (i) construction contracts;

1276 (ii) architect and design professional fees;

1277 (iii) furniture, fixtures, and equipment;

1278 (iv) site development and utility connections;

1279 (v) testing and inspection services; and

1280 (vi) other project-related costs;

1281 (c) shall be {paid to the} established by division {according} rule under Section 63A-5b-1217 to recover the {following schedule:} reasonable costs of oversight activities and may be reduced or waived for school districts with delegated oversight authority; and

1282 {*(i) {25% upon issuance of a construction permit;}*} {*(ii) {25% at 25% project completion;}*} {*(iii) {25% at 50% project completion; and}*} {*(iv) {25% at substantial completion; and}*}

1283 (d) may be included in the {LEA's} school district's bond authorization or other funding mechanism.

## SB0164 compared with SB0164S01

1287 (3) The construction oversight fee assessed to {an LEA} ~~a school district~~ shall fund the division's  
activities, including:

1289 (a) plan review and permitting;  
1290 (b) inspection roster maintenance and oversight;  
1291 (c) cost database development and maintenance;  
1292 (d) training and technical assistance programs;  
1293 (e) compliance monitoring and enforcement;  
1294 (f) online document management system operation;  
1295 (g) standardized design template development; and  
1296 (h) other oversight activities required by this part.

1297 (4) For projects where the division provides direct construction management services under Section  
63A-5b-1213:

1299 {(a) {the administrative fee structure in Subsection 63A-5b-1213(4) includes the 1.25% construction  
oversight fee;} }  
(b){(a) the {LEA} school district shall not pay duplicative fees; and  
(c){(b) the division shall clearly delineate {in} the fee structure {how the construction} for  
oversight  
{fee is incorporated} activities.

1304 (5) The division shall:

1305 (a) deposit all construction oversight fees into the restricted account established in Section  
63A-5b-1219;  
(b) use fee revenue exclusively for public school construction oversight activities;  
(c) report annually to the Legislature on fee revenue and expenditures; and  
(d) adjust the fee rate only through legislative action.

1310 {(6) {A charter school subject to alternative compliance under Section 63A-5b-1217 shall:} }  
{(a) {pay the construction oversight fee for projects exceeding \$500,000 in total cost;} }  
{(b) {for projects under \$500,000, pay a reduced fee of 0.75% of total project cost; and} }  
{(c) {follow the same payment schedule as provided in Subsection (2)(e).} }  
(7){(6) {An LEA} A school district may appeal fee assessments or payment schedule requirements  
under this section to the appeals panel established under Section 63A-5b-1221.

1300 Section 21. Section 21 is enacted to read:  
**63A-5b-1215. Enforcement and penalties.**

## SB0164 compared with SB0164S01

1318 (1) If {an LEA} a school district fails to comply with requirements established under this part, the  
1319 division may:

1320 (a) issue written warnings and compliance orders;

1321 (b) suspend or revoke construction permits;

1322 (c) require additional inspections at the {LEA's} school district's expense;

1323 (d) impose administrative penalties as provided in rule; and

1324 (e) refer matters to appropriate authorities for further action.

1325 (2) The division may not assess administrative penalties that exceed:

1326 (a) \$1,000 for minor violations;

1327 (b) \$5,000 for significant violations; and

1328 (c) \$25,000 for violations that pose safety risks or involve willful noncompliance.

1329 (3) Before imposing penalties, the division shall:

1330 (a) provide written notice of alleged violations;

1331 (b) allow reasonable time for correction;

1332 (c) provide opportunity for a hearing; and

1333 (d) consider the {LEA's} school district's compliance history and efforts to remedy violations.

1334 (4) Penalty funds collected shall be deposited into the account established in Section 63A-5b-1219.

1335 (5) {An LEA} A school district may appeal enforcement actions, penalties, or other division decisions  
1336 under this section to the appeals panel established under Section 63A-5b-1221.

1337 (6) The division shall conduct mandatory compliance audits of:

1338 (a) 10% of all projects annually, selected randomly;

1339 (b) any project exceeding cost benchmarks by more than 20%;

1340 (c) any {LEA} school district with previous compliance violations; and

1341 (d) any project with reported safety concerns.

1342 (7) For serious violations involving life safety, the division may:

1343 (a) require immediate work stoppage until corrections are made;

1344 (b) mandate third-party oversight at {an LEA's} a school district's expense;

1345 (c) require remedial training for {LEA} school district officials; and

1346 (d) refer matters to the applicable professional licensing board.

1347 Section 22. Section 22 is enacted to read:

1348 **63A-5b-1216. Qualified contractor pre-qualification registry.**

## SB0164 compared with SB0164S01

1350 (1) The division shall establish and maintain a pre-qualification registry of contractors and vendors  
1351 eligible to bid on public school construction projects as an original contractor, as that term is defined  
1352 in Section 38-1a-102, that:

1353 (a) establishes minimum qualification standards based on experience, financial capacity, and  
1354 performance history;

1355 (b) standardizes contractor evaluation criteria across all {LEAs} school districts;

1356 (c) provides performance ratings based on completed projects;

1357 (d) enables volume purchasing agreements for common materials and services; and

1358 (e) facilitates cost comparison across contractors and regions.

1359 (2) To be eligible to bid on public school construction exceeding \$500,000, a contractor shall:

1360 (a) register with the division's contractor registry;

1361 (b) meet minimum qualifications established by division rule;

1362 (c) maintain current insurance and licensing requirements;

1363 (d) submit to performance evaluations on completed projects; and

1364 (e) participate in division-sponsored training programs.

1365 (3) The contractor registry:

1366 (a) creates a pool of pre-qualified contractors from which {LEAs} school districts select through  
1367 competitive procurement under Title 63G, Chapter 6a, Utah Procurement Code;

1368 (b) does not replace or eliminate competitive bidding requirements;

1369 (c) does not give the division authority to select contractors for specific {LEA} school district projects;  
1370 and

1371 (d) requires {LEAs} school districts to use standard procurement processes when selecting from  
1372 registry contractors as provided in Section 63A-5b-1203.

1373 (4) The division may establish preferred contractor programs that:

1374 (a) reward consistent performance with streamlined bidding processes;

1375 (b) provide volume discounts for {an LEA} a school district using registry contractors;

1376 (c) ensure geographic coverage in rural and urban areas; and

1377 (d) maintain competitive pricing through transparent cost comparisons.

1378 (5) {An LEA} A school district or contractor may appeal registry determinations, including denial  
1379 of registration or removal from the registry, to the appeals panel established under Section  
1380 63A-5b-1221.

## SB0164 compared with SB0164S01

1366 Section 23. Section 23 is enacted to read:

1367 **63A-5b-1217. {Charter school alternative compliance} Delegated oversight authority for**  
**qualified school districts.**

1383 {(1) {Except as provided in Subsektion (2), a charter school may elect to comply with this part  
through:} }

1385 {(a) {full compliance with all sections applicable to an LEA; or} }

1386 {(b) {alternative compliance under this section.} }

1387 {(2) {A charter school with a project exceeding \$5,000,000 in total cost shall comply with all  
requirements applicable to LEAs under this part.} }

1368 (1) Notwithstanding any other provision of this part, the division may delegate oversight authority for  
school facility planning, design review, and construction plan approval to a school district that has  
demonstrated internal capacity in construction management, procurement, and project delivery.

1372 (2) A school district seeking delegated oversight authority shall submit documentation of qualifications,  
internal controls, and project management capacity to the division in a form and manner defined by  
rule.

1375 (3)

1389 (3){(a) {A {charter} school {electing alternative} district granted delegated oversight authority

remains subject to all applicable reporting, audit, and compliance {shall:} reviews by the division.

1390 {(a) {comply with architect cost oversight requirements under Section 63A-5b-1204;} }

1391 {(b) {submit all projects to standardized cost reporting under Section 63A-5b-1210;} }

1392 {(c) {use qualified, certified inspectors from the division's approved roster;} }

1393 {(d) {comply with all safety and security standards established by the state security chief;} }

1394 {(e) {notify affected entities under Subsektion (4) for any construction or major alteration project; and}  
}

1396 {(f) {receive division approval for plan compliance verification under Subsektion (5).} }

1397 {(4) {In accordance with Section 53E-3-703, before beginning any construction, major alteration, or  
occupancy of an existing building for school use, a charter school shall notify and coordinate with:}  
}

1400 {(a) {the municipality or county where the facility is located;} }

1401 {(b) {the relevant transportation authorities if the project may impact traffic patterns;} }

1402 {(c) {utility companies serving the area;} }

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1403 {~~(d) {the local fire authority; and}~~} }

1404 {~~(e) {any other entities the division identifies as potentially affected by the project.}~~} }

1405 {~~(5) {For plan compliance verification and exemption from the full plan review process under Section 63A-5b-1205, a charter school shall:}~~} }

1407 {~~(a) {submit construction documents or occupancy plans to the division;}~~} }

1408 {~~(b) {demonstrate compliance with building codes, accessibility requirements, and safety standards; and}~~} }

1410 {~~(e) {receive written division approval before occupancy.}~~} }

1411 {~~(6) {A charter school using alternative compliance is exempt from:}~~} }

1412 {~~(a) {mandatory use of the online document management system under Section 63A-5b-1207, but shall submit required reports in division-approved formats;}~~} }

1414 {~~(b) {detailed monthly construction reporting requirements; and}~~} }

1415 {~~(e) {mandatory compliance audits, unless the charter school has demonstrated repeated violations.}~~} }

1417 {~~(7){(b)}~~ The division may {require a charter school} revoke delegated authority upon a finding of material non-compliance or substantial risk to {use full LEA compliance if:} health, safety, or fiscal integrity.

1418 {~~(a) {the charter school has violated safety standards;}~~} }

1419 {~~(b) {the total project cost exceeds \$3,000,000; or}~~} }

1420 {~~(e) {the charter school has demonstrated repeated noncompliance with alternative requirements.}~~} }

1422 {~~(8) }~~ }

1423 {~~(a) {This section applies only to charter schools.}~~} }

1425 {~~(b) {Micro-education entities are exempt from all requirements of this part and shall comply with applicable local building codes and permitting requirements.}~~} }

1427 {~~(9) {A charter school may appeal the following determinations under this section to the appeals panel established under Section 63A-5b-1221:}~~} }

1428 {~~(a) {requirements to use full LEA compliance under Subsection (7);}~~} }

1429 {~~(b) {plan compliance verification denials under Subsection (5);}~~} }

1430 {~~(c) {architect cost oversight determinations under Subsection (3)(a); and}~~} }

1430 {~~(d) {safety and security compliance requirements under Subsection (3)(d).}~~} }

1379

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(4) If the division grants delegated oversight authority to a school district under this section, the division shall adjust, reduce, or waive any oversight fee assessed under this part to reflect the scope and level of oversight actually performed by the division.

1382 (5) The division shall establish by rule a schedule for oversight fees that is proportional to the oversight services provided, including reduced or zero fees where oversight is primarily satisfied through audits, reporting, or delegated authority.

1385 Section 24. Section **24** is enacted to read:

**63A-5b-1218. Construction permitting authority.**

1433 (1) The division shall have exclusive authority to issue permits for public school construction projects.

1435 (2) In accordance with Sections 10-9a-305 and 17-27a-305, counties and municipalities may not require separate permits for public school construction but may:

1437 (a) receive notification of projects from the State Board of Education or the division;

1438 (b) through a process the division facilitates, provide input during the division's review process; and

1440 (c) in accordance with this part, coordinate on infrastructure connections and traffic impacts.

1442 (3) The division's permit supersedes any local permitting requirement for public school construction.

1444 (4) Notwithstanding the division's exclusive permitting authority, the division may not override local zoning ordinances or land use regulations except as specifically authorized by statute.

1447 (5) {An LEA} **A school district** may appeal permitting decisions under this section to the appeals panel established under Section 63A-5b-1221.

1403 Section 25. Section **25** is enacted to read:

**63A-5b-1219. Public School Construction Oversight Restricted Account.**

1451 (1)

(a) There is created within the General Fund a restricted account known as the "Public School Construction Oversight Restricted Account."

1453 (b) The account shall be funded by:

1454 (i) construction oversight fees collected under Section 63A-5b-1214;

1455 (ii) administrative fees collected for division-managed construction services under Section 63A-5b-1213; and

1457 (iii) any penalties collected under Section 63A-5b-1215.

1458 (c) Money in the account:

1459 (i) shall be used exclusively for public school construction oversight activities described in this part;

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1461 (ii) may not be used for other division operations unrelated to public school construction oversight;  
1463 (iii) does not lapse at the end of a fiscal year; and  
1464 (iv) shall earn interest, which shall be deposited into the account.  
1465 (2) The Legislature may appropriate money from the account to the division for implementation of this part, including:  
1467 (a) plan review and permitting activities;  
1468 (b) inspection roster maintenance and oversight;  
1469 (c) cost database development and maintenance;  
1470 (d) training and technical assistance programs;  
1471 (e) compliance monitoring and enforcement;  
1472 (f) online document management system operation;  
1473 (g) standardized design template development;  
1474 (h) staffing costs directly related to public school construction oversight;  
1475 (i) contracted services necessary for oversight activities; and  
1476 (j) other oversight activities this part requires.  
1477 (3) The division shall:  
1478 (a) maintain separate accounting for revenue and expenditures from the account;  
1479 (b) upon request, report to the Legislature on:  
1480 (i) total fee revenue collected;  
1481 (ii) account balance;  
1482 (iii) expenditures by category; and  
1483 (iv) projected future revenue and expenses; and  
1484 (c) ensure that fee rates are sufficient to fund oversight activities without requiring additional appropriations.  
1440 Section 26. Section **26** is enacted to read:  
1441 **63A-5b-1220. Qualified inspector and plan reviewer roster.**  
1488 (1) The division shall establish and maintain a unified roster of qualified inspectors and plan reviewers for public school construction.  
1490 (2) To be included on the roster, an inspector or plan reviewer shall:  
1491 (a) meet International Code Council certification requirements for discipline, including:  
1492 (i) for plan reviewers:

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1493 (A) International Code Council commercial building plans examination (B3);or  
1494 {B} {International Code Council commercial energy plans examination (78); or}  
1495 (C){B} structural peer review certification for educational facilities; or  
1496 (ii) for inspectors, International Code Council certification appropriate for inspection discipline;  
1498 (b) be licensed by the state as a building inspector or professional engineer as applicable;  
1499 (c) complete division-approved training on school construction requirements; and  
1500 (d) maintain current certifications and continuing education.

1501 (3) {An LEA} A school district may only use inspectors and plan reviewers from the division's  
1501 approved roster.

1456 (4) An inspector, plan reviewer, or building code official meeting the requirements of Subsection (2)  
1456 may be an employee of the school district and included on the division roster.

1502 (4){5} The division may remove individuals from the approved roster for:  
1503 (a) failure to maintain required certifications;  
1504 (b) documented compliance failures; or  
1505 (c) failure to complete required training updates.

1506 (5){6} The division shall:  
1507 (a) publish the roster on the division's website;  
1508 (b) update the roster quarterly; and  
1509 (c) provide geographic distribution information to assist {LEAs} school districts in selecting qualified  
1509 professionals.

1468 Section 27. Section 27 is enacted to read:

1469 **63A-5b-1221. Appeals panel -- Composition -- Procedures.**

1513 (1) There is created an appeals panel to resolve disputes between {an LEA} a school district and the  
1513 division regarding decisions made under this part.

1515 (2) The appeals panel shall consist of three members:  
1516 (a) the executive director of the Department of Government Operations, or the executive director's  
1516 designee, who shall serve as the panel chair;  
1518 (b) the school construction liaison designated under Section 63A-5b-1212; and  
1519 (c) a third member with relevant expertise selected jointly by the members described in Subsections (2)  
1519 (a) and (b).

1521 (3) The third panel member described in Subsection (2)(c):

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1522 (a) shall be selected based on expertise relevant to the specific matter under appeal, which may include:

1524 (i) construction management;

1525 (ii) architectural or engineering services;

1526 (iii) building code compliance;

1527 (iv) cost estimation and project budgeting;

1528 (v) procurement and contracting; or

1529 (vi) educational facility planning;

1530 (b) may not be an employee of the {LEA} school district filing the appeal or of the division;

1531 (c) may not have a financial interest in the outcome of the appeal; and

1532 (d) shall be selected within 10 business days of the appeal being filed.

1533 (4) {An LEA} A school district may appeal the following division decisions to the appeals panel:

1534 (a) denial or conditional approval of construction permits under Section 63A-5b-1218;

1535 (b) denial of alternative delivery method requests under Section 63A-5b-1203;

1536 (c) cost matrix determinations under Subsection 63A-5b-1205(6);

1537 (d) architect and design professional fee determinations under Section 63A-5b-1204;

1538 (e) enforcement actions and penalties under Section 63A-5b-1215;

1539 (f) requirements for division-managed construction services under Subsection 63A-5b-1213(3);

1541 (g) contractor registry determinations under Section 63A-5b-1216;

1542 (h) denial of standardized design prototype modifications under Subsection 63A-5b-1204(7);

1544 (i) plan review determinations under Section 63A-5b-1205;

1545 (j) inspection and occupancy certificate determinations under Section 63A-5b-1208; and

1546 (k) any other division decision that substantively affects {an LEA's} a school district's ability to complete a construction project in compliance with this part.

1548 (5) To file an appeal, {an LEA} a school district shall:

1549 (a) submit a written notice of appeal to the division and the executive director of the Department of Government Operations within 30 days of receiving the division's written decision; and

1552 (b) include in the notice:

1553 (i) a description of the division's decision being appealed;

1554 (ii) the specific grounds for the appeal;

1555 (iii) all relevant documentation supporting the {LEA's} school district's position;

1556 (iv) the relief requested; and

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1557 (v) whether the {LEA} school district requests an expedited review due to project timeline constraints.

1558 (6) Upon receiving a notice of appeal:

1559 (a) the division shall provide the division's written response within 15 business days, including:

1561 (i) the basis for the challenged decision;

1562 (ii) all documentation supporting the division's position; and

1563 (iii) any proposed resolution;

1564 (b) the appeals panel shall convene within 30 days of receiving the division's response, or within 15 days if expedited review is requested and granted;

1566 (c) the panel shall provide both parties opportunity to present evidence and argument; and

1568 (d) the panel may request additional information from either party or from independent experts.

1570 (7) The appeals panel shall:

1571 (a) conduct proceedings in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to the extent applicable;

1573 (b) issue a written decision within:

1574 (i) 45 days of the initial appeal filing for standard reviews; or

1575 (ii) 20 days of the initial appeal filing for expedited reviews;

1576 (c) include in the written decision:

1577 (i) findings of fact;

1578 (ii) conclusions regarding compliance with applicable statutes and rules;

1579 (iii) the rationale for the decision; and

1580 (iv) any conditions or requirements for implementation;

1581 (d) provide the decision to the {LEA} school district, the division, and the state board; and

1582 (e) publish anonymized summaries of decisions to provide guidance for future cases.

1583 (8) The appeals panel may:

1584 (a) affirm the division's decision;

1585 (b) reverse the division's decision and direct specific action;

1586 (c) modify the division's decision with conditions;

1587 (d) remand the matter to the division for further consideration with specific direction; or

1588 (e) extend timelines for good cause shown by either party.

1589 (9) The appeals panel's decision:

1590 (a) is final and binding on both the {LEA} school district and the division;

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1591 (b) may only be challenged through judicial review under Section 63G-4-401; and  
1592 (c) does not prevent either party from seeking emergency relief through the courts if immediate and  
irreparable harm would result from delay.

1594 (10) During the pendency of an appeal:

1595 (a) the division may not take additional enforcement action related to the subject of the appeal unless  
necessary to address imminent safety concerns;  
1597 (b) construction timelines and permit expiration dates shall be tolled;  
1598 (c) the {LEA} ~~school district~~ may proceed with construction if the division grants a stay pending  
appeal; and  
1600 (d) the panel may issue interim orders to preserve the status quo or prevent irreparable harm.

1602 (11) For appeals involving highly technical or specialized issues:

1603 (a) the panel may retain independent experts to provide technical analysis;  
1604 (b) costs of expert review shall be shared equally by the {LEA} ~~school district~~ and the division unless  
the panel determines otherwise based on the outcome; and  
1606 (c) expert reports shall be provided to both parties for review and response before the panel issues the  
panel's decision.

1566 Section 28. Section **28** is enacted to read:

1567 **63A-5b-1222. Implementation and transition.**

1610 (1) Before January 1, 2027, the division shall:

1611 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt  
comprehensive rules implementing this part;  
1613 (b) establish the online document management system described in Section 63A-5b-1207;  
1614 (c) develop standardized forms and procedures;  
1615 (d) create training programs for {LEA} ~~school district~~ officials; and  
1616 (e) coordinate with the State Board of Education to:  
1617 (i) repeal or substantially revise State Board of Education administrative rules related to school  
construction; and  
1619 (ii) ensure that remaining State Board of Education rules defer to division authority established under  
this part.

1621 (2) All projects beginning construction after January 1, 2027, shall comply fully with this part.  
1623

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(3) The division shall conduct remedial audits of projects completed in 2024, 2025, and 2026 to identify systemic issues requiring immediate attention.

1583       Section 29. Section **63G-6a-1302** is amended to read:

**63G-6a-1302. Alternative methods of construction contracting management.**

(1) A rulemaking authority shall, by rule provide as many alternative methods of construction contracting management as determined to be feasible.

(2) The rules described in Subsection (1) shall:

(a) grant to the procurement official responsible for carrying out the construction project the discretion to select the appropriate method of construction contracting management for a particular project; and

(b) require the procurement official to execute and include in the contract file a written statement describing the facts that led to the selection of a particular method of construction contracting management for each project.

(3) Before choosing a construction contracting management method, the procurement official responsible for carrying out the construction project shall consider the following factors:

(a) when the project must be ready to be occupied;

(b) the type of project;

(c) the extent to which the requirements of the procurement unit, and the way they are to be met are known;

(d) the location of the project;

(e) the size, scope, complexity, and economics of the project;

(f) the source of funding and any resulting constraints necessitated by the funding source;

(g) the availability, qualification, and experience of public personnel to be assigned to the project and the amount of time that the public personnel can devote to the project; and

(h) the availability, qualifications, and experience of outside consultants and contractors to complete the project under the various methods being considered.

(4) A rulemaking authority may make rules that authorize the use of a construction manager/general contractor as one method of construction contracting management.

(5) The rules described in Subsection (2) shall require that:

(a) the construction manager/general contractor be selected using:

(i) a standard procurement process; or

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1656 (ii) an exception to the requirement to use a standard procurement process, described in Part 8,  
Exceptions to Procurement Requirements; and

1658 (b) when entering into a subcontract that was not specifically included in the construction manager/  
general contractor's cost proposal, the construction manager/general contractor shall procure the  
subcontractor by using a standard procurement process, or an exception to the requirement to use a  
standard procurement process, described in Part 8, Exceptions to Procurement Requirements, in the  
same manner as if the subcontract work was procured directly by the procurement unit.

1665 (6) Procurement rules adopted by the facilities division under Subsections (1) through (3) for state  
building construction projects and school construction projects described in Title 63A, Chapter 5b,  
Part 12, Public School Construction Oversight, may authorize the use of a design-build provider as  
one method of construction contracting management.

1669 (7) A design-build contract may include a provision for obtaining the site for the construction project.

1671 (8) A design-build contract or a construction manager/general contractor contract may include provision  
by the contractor of operations, maintenance, or financing.

### 1631 Section 30. **Repealer.**

This Bill Repeals:

1632 This bill repeals:

1633 Section **53E-3-705, School plant capital outlay report.**

1634 Section **53E-3-706, Enforcement of part by state superintendent -- Employment of**  
1635 **personnel -- School districts and charter schools -- Certificate of inspection verification.**

1636 Section **53E-3-707, School building construction and inspection manual -- Annual**  
1637 **construction and inspection conference -- Verification of school construction inspections.**

1638 Section **53E-3-708, Licensed architect to prepare plans.**

1639 Section **53E-3-709, Power of state board regarding expected federal aid to build schools.**

1640 Section **53E-3-710, Notification to affected entities of intent to acquire school site or**  
1641 **construction of school building -- Local government -- Negotiation of fees -- Confidentiality.**

1642 Section **53E-3-711, Required contract terms.**

1643 Section 31. **Effective date.**

Effective Date.

This bill takes effect on July 1, 2026.

2-6-26 11:36 AM