

Senator Wayne A. Harper proposes the following substitute bill:

**PUBLIC EDUCATION BUILDINGS STANDARDS AND
PROCESS**

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill amends provisions related to public school building construction guidelines and plans.

Highlighted Provisions:

This bill:

- ▶ requires to the State Board of Education (state board) to adopt guidelines for public school construction;
- ▶ requires the state auditor to publish information related to the cost of public school construction on the Utah Public Finance Website;
- ▶ permits the state board to create prototype school building plans that conform to the guidelines for public school construction;
- ▶ requires an LEA that has four or more school buildings and plans to renovate or build school buildings in the next five years to:
 - adopt an educational facilities plan (facilities plan) for facilities maintenance and renovation, and new school building construction, for a five or ten year period;
 - update the facilities plan at least every five years;



- 26 • submit the facilities plan to affected local governmental entities;
- 27 • adopt and implement measures for involving the public in the process of
- 28 adopting the facilities plan;
- 29 • provide an opportunity for the public to comment on the facilities plan; and
- 30 • submit to the Division of Facilities Construction and Management reports
- 31 related to use of square footage in existing buildings, and cost of new school
- 32 construction;
- 33 ▶ requires the Department of Facilities Construction and Management to review
- 34 reports related to the cost of new school construction that an LEA submits;
- 35 ▶ requires local governmental entities to provide comment on a facilities plan that an
- 36 LEA submits;
- 37 ▶ defines terms; and
- 38 ▶ makes technical and conforming changes.

39 **Money Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 None

43 **Utah Code Sections Affected:**

44 AMENDS:

- 45 **53E-3-702**, as last amended by Laws of Utah 2019, Chapter 186
- 46 **53E-3-705**, as last amended by Laws of Utah 2019, Chapters 186 and 370
- 47 **53E-3-708**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 48 **63A-1-202**, as last amended by Laws of Utah 2019, Chapter 214 and renumbered and
- 49 amended by Laws of Utah 2019, Chapter 370



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

52 Section 1. Section **53E-3-702** is amended to read:

53 **53E-3-702. School construction guidelines -- Prototype school construction plans**
54 **-- Evaluation of school design and construction process.**

55 (1) As used in this section[, "public"]:

56 (a) "Guidelines" means the guidelines for public school construction the state board

57 adopts under Subsection (2).

58 (b) (i) "Major renovation" means public school construction that affects more than 40%
59 of an existing public school building's area.

60 (ii) "Major renovation" includes:

61 (A) remodeling an existing public school building; and

62 (B) an addition to an existing public school building.

63 (c) "New construction" means construction of a new public school building.

64 (d) (i) "Public school building" means a building any part of which an LEA uses as a
65 public kindergarten, elementary school, middle school, junior high school, or high school.

66 (ii) "Public school building" does not include:

67 (A) a portable classroom; or

68 (B) a school facility as that term is defined in Section [63A-1-202](#).

69 (e) (i) "Public school construction" means construction work on a [new] public school
70 building.

71 (ii) "Public school construction" includes new construction and major renovation.

72 (f) "Teacher" means an individual who is:

73 (A) employed by an LEA;

74 (B) required to hold an educator license issued by the state board; and

75 (C) assigned to teach in a classroom.

76 (2) (a) The state board shall:

77 (i) on or before August 1, 2022, adopt guidelines for public school construction; and

78 (ii) consult with the Division of Facilities Construction and Management

79 Administration on proposed guidelines before adoption.

80 (b) The state board shall ensure that guidelines adopted under Subsection (2)(a)(i)
81 maximize funds used for public school construction and reflect efficient and economic use of
82 those funds, including adopting guidelines that address a school's essential needs rather than
83 encouraging or endorsing excessive costs per square foot of construction or nonessential
84 facilities, design, or furnishings.

85 (3) Before [~~a school district or charter school~~] an LEA may begin public school
86 construction, the school district or charter school shall:

87 (a) review the guidelines adopted by the state board under this section; and

88 (b) take into consideration the guidelines when planning [~~the public school~~] new
89 construction[-] and major renovation.

90 (4) After complying with the requirements of Subsection (3), an LEA may incorporate
91 the guidelines as applicable when planning new construction and major renovation.

92 [~~(4)~~] (5) In adopting the guidelines [~~for public school construction~~], the state board
93 shall consider [~~the following and adopt alternative guidelines as needed~~]:

94 (a) location factors, including:

95 (i) whether the school is in a rural, suburban, or urban setting[;]; and [~~climate factors~~];

96 (ii) the climate in various geographic areas;

97 (b) [~~variations in guidelines for~~] significant or minimal projected student population
98 growth;

99 (c) [~~guidelines specific to~~] schools that serve various populations and grades, including
100 high schools, junior high schools, middle schools, elementary schools, alternative schools, and
101 schools for people with disabilities; and

102 (d) year-round use.

103 [~~(5)~~] (6) The guidelines shall address the following:

104 (a) recommended square footage per student[;] and per teacher, including to
105 accommodate:

106 (i) administrative or office space;

107 (ii) custodial space;

108 (iii) lockers;

109 (iv) standard classroom space;

110 (v) special use classrooms;

111 (vi) multi-purpose rooms; and

112 (vii) media centers;

113 (b) minimum and maximum required real property for a public school;

114 (c) athletic facilities and fields, playgrounds, and hard surface play areas;

115 (d) cost per square foot;

116 (e) minimum and maximum qualities and costs for building materials;

117 (f) design efficiency;

118 (g) parking;

- 119 (h) furnishing;
- 120 (i) proof of compliance with applicable building codes; and
- 121 (j) safety.

122 (7) The state board may adopt new guidelines as necessary to comply with this section.

123 (8) Before December 31, 2022, the state board shall work with the Division of
124 Facilities Construction Management to:

- 125 (a) review:
- 126 (i) public school construction costs;
- 127 (ii) the procurement processes related to public school construction; and
- 128 (iii) the use of facility condition assessments in prioritizing public school construction;
- 129 (b) examine the potential value of statewide public school construction standards; and
- 130 (c) evaluate:

131 (i) the benefits of different construction delivery methods to assist LEAs to efficiently
132 design, construct, and remodel public school buildings, including the following construction
133 delivery methods, as described in Title 63G, Chapter 6a, Utah Procurement Code:

- 134 (A) design-build, as that term is defined in Section [63G-6a-103](#);
- 135 (B) design-bid-build, as described in Section [63G-6a-1205](#); and
- 136 (C) construction manager/general manager, as that term is defined in Section

137 [63G-6a-103](#); and

- 138 (ii) the merits of having standard public school building designs for each type of school
139 building in the state.

140 Section 2. Section **53E-3-705** is amended to read:

141 **53E-3-705. School plant capital outlay report.**

- 142 (1) As used in this section:
- 143 (a) "New construction" means the same as that term is defined in Section [53E-3-702](#).
- 144 (b) "Public school building" means the same as that term is defined in Section
145 [53E-3-702](#).
- 146 (c) "Teacher" means the same as that term is defined in Section [53E-3-702](#).

147 ~~[(+)]~~ (2) The state board shall prepare an annual school plant capital outlay report of all
148 school districts, which includes information on the number and size of building projects
149 completed and under construction.

150 (3) (a) When an LEA completes new construction, the LEA shall include in the annual
151 school plant capital outlay report described in Subsection (4) the cost of the new construction:

- 152 (i) in total dollars;
- 153 (ii) per square foot;
- 154 (iii) per student; and
- 155 (iv) per teacher.

156 (b) An LEA shall include in the annual school plant capital outlay report described in
157 Subsection (4), for each public school building in the LEA, the square footage:

- 158 (i) per student; and
- 159 (ii) per teacher.

160 ~~[(2)]~~ (4) (a) A school district or charter school shall prepare and submit an annual
161 school plant capital outlay report [in accordance with Section 63A-1-202:] to the state auditor
162 on or before a date designated by the state auditor.

163 (b) The state auditor shall make a school plant capital outlay report described in
164 Subsection (4)(a) available to the Division of Facilities Construction and Management for
165 purposes of the review described in Subsection (5).

166 (5) The Division of Facilities Construction and Management shall:

167 (a) review a school plant capital outlay report to:

- 168 (i) assess historical costs for similar school buildings;
- 169 (ii) compare new construction costs to identify construction efficiencies or
170 inefficiencies;

171 (iii) assess an LEA's use of energy efficient design elements; and

172 (iv) identify elements that an LEA included in a public school construction project that:

- 173 (A) improve energy savings;
- 174 (B) reduce maintenance costs;
- 175 (C) enhance the longevity of the public school building; and
- 176 (D) reduce the need for future public school construction; and

177 (b) provide to the state auditor a report of the review described in Subsection (5)(a) for
178 posting on the Utah Public Finance Website.

179 Section 3. Section 53E-3-708 is amended to read:

180 **53E-3-708. Local education agency to adopt educational facilities plan -- Licensed**

181 **architect to prepare public school construction plans.**

182 (1) As used in this section:

183 (a) "Affected local governmental entity" means:

184 (i) a municipality, for planned public school construction within a municipality

185 identified in an educational facilities plan; or

186 (ii) a county, for planned public school construction within an unincorporated area in
187 the county identified in an educational facilities plan.

188 (b) "Community involvement plan" means measures that a covered LEA adopts for
189 involving the public in the process of adopting a covered LEA's educational facilities plan.

190 (c) "Covered LEA" means an LEA that:

191 (i) has at least four or more school buildings; and

192 (ii) plans public school construction within the next five years.

193 (d) "Educational facilities plan" means a comprehensive planning document for an
194 LEA's facilities needs described in Subsection (3).

195 (e) "Guidelines" means the same as that term is defined in Section [53E-3-702](#).

196 (f) "Major renovation" means the same as that term is defined in Section [53E-3-702](#).

197 (g) "Municipality" means the same as that term is defined in Section [10-1-104](#).

198 (h) "New school construction" means the same as that term is defined in Section
199 [53E-3-702](#).

200 (i) "School building" means the same as the term "public school building" is defined in
201 Section [53E-3-702](#).

202 (j) "Public school construction" means the same as that term is defined in Section
203 [53E-3-702](#).

204 (2) (a) Beginning in 2022, and at least every five years thereafter, a covered LEA shall
205 adopt:

206 (i) an educational facilities plan; and

207 (ii) a community involvement plan.

208 (b) A covered LEA may decide whether the covered LEA's educational facilities plan
209 covers the succeeding five years or succeeding ten years.

210 (3) (a) A covered LEA shall ensure that an educational facilities plan identifies the
211 covered LEA's facilities needs over the succeeding five or ten years.

- 212 (b) A covered LEA's facilities plan may:
- 213 (i) include an inventory of existing school facilities;
- 214 (ii) identify major renovation the covered LEA anticipates over the period the
- 215 educational facilities plan covers;
- 216 (iii) identify new school construction the covered LEA anticipates over the period the
- 217 educational facilities plan covers;
- 218 (iv) identify public school construction not identified under Subsection (3)(b)(iii), that
- 219 the covered LEA anticipates over the period the educational facilities plan covers;
- 220 (v) identify options to reduce the need for new school construction;
- 221 (vi) include a concept schedule of major renovation and public school construction
- 222 necessary to maintain the covered LEA's facilities;
- 223 (vii) identify which public school construction projects included in the educational
- 224 facilities plan the covered LEA could fund from current revenues; and
- 225 (viii) identify additional sources of revenue for public school construction projects not
- 226 identified under Subsection (3)(b)(vii).
- 227 (4) Before an LEA adopts or amends an educational facilities plan, the LEA shall:
- 228 (a) follow the measures the covered LEA adopts in the covered LEA's community
- 229 involvement plan;
- 230 (b) coordinate with each affected local governmental entity; and
- 231 (c) provide an opportunity for public comment.
- 232 (5) An affected local governmental entity shall:
- 233 (a) review an educational facilities plan that a covered LEA submits under Subsection
- 234 (4); and
- 235 (b) no later than 30 days after a covered LEA submits an educational facilities plan,
- 236 provide comment to the LEA.
- 237 (6) A covered LEA may:
- 238 (a) amend an adopted educational facilities plan as needed during the five-year period
- 239 described in Subsection (2)(a); and
- 240 (b) complete public school construction that is not included in the facilities plan if a
- 241 life-threatening safety hazard, a fire safety hazard, or a seismic hazard:
- 242 (i) exists:

- 243 (A) in a school building; or
- 244 (B) on the school premises; and
- 245 (ii) necessitates the public school construction.

246 (7) A licensed architect shall prepare the plans and specifications for [the construction
 247 or alteration of school buildings] public school construction.

248 Section 4. Section **63A-1-202** is amended to read:

249 **63A-1-202. Utah Public Finance Website -- Establishment and administration --**
 250 **Records disclosure -- Exceptions.**

251 (1) There is created the Utah Public Finance Website to be administered by the state
 252 auditor.

253 (2) The Utah Public Finance Website shall:

254 (a) permit Utah taxpayers to:

255 (i) view, understand, and track the use of taxpayer dollars by making public financial
 256 information available on the Internet for participating state entities, independent entities, and
 257 participating local entities, using the Utah Public Finance Website; and

258 (ii) link to websites administered by participating local entities or independent entities
 259 that do not use the Utah Public Finance Website for the purpose of providing participating
 260 local entities' or independent entities' public financial information as required by this part and
 261 by rule under Section [63A-1-204](#);

262 (b) allow a person who has Internet access to use the website without paying a fee;

263 (c) allow the public to search public financial information on the Utah Public Finance
 264 Website using criteria established by the board;

265 (d) provide access to financial reports, financial audits, budgets, or other financial
 266 documents that are used to allocate, appropriate, spend, and account for government funds, as
 267 may be established by rule under Section [63A-1-204](#);

268 (e) have a unique and simplified website address;

269 (f) be directly accessible via a link from the main page of the official state website;

270 (g) include other links, features, or functionality that will assist the public in obtaining
 271 and reviewing public financial information, as may be established by rule under Section
 272 [63A-1-204](#); and

273 (h) include a link to school report cards published on the State Board of Education's

274 website under Section [53E-5-211](#).

275 (3) (a) The state auditor shall:

276 (i) establish and maintain the website, including the provision of equipment, resources,
277 and personnel as necessary;

278 (ii) maintain an archive of all information posted to the website;

279 (iii) coordinate and process the receipt and posting of public financial information from
280 participating state entities; and

281 (iv) coordinate and regulate the posting of public financial information by participating
282 local entities and independent entities.

283 (b) The department shall provide staff support for the advisory committee.

284 (4) (a) A participating state entity and each independent entity shall permit the public
285 to view the entity's public financial information via the website, beginning with information
286 that is generated not later than the fiscal year that begins July 1, 2008, except that public
287 financial information for an:

288 (i) institution of higher education shall be provided beginning with information
289 generated for the fiscal year beginning July 1, 2009; and

290 (ii) independent entity shall be provided beginning with information generated for the
291 entity's fiscal year beginning in 2014.

292 (b) No later than May 15, 2009, the website shall:

293 (i) be operational; and

294 (ii) permit public access to participating state entities' public financial information,
295 except as provided in Subsections (4)(c) and (d).

296 (c) An institution of higher education that is a participating state entity shall submit the
297 entity's public financial information at a time allowing for inclusion on the website no later
298 than May 15, 2010.

299 (d) No later than the first full quarter after July 1, 2014, an independent entity shall
300 submit the entity's public financial information for inclusion on the Utah Public Finance
301 Website or via a link to its own website on the Utah Public Finance Website.

302 (5) (a) The Utah Educational Savings Plan, created in Section [53B-8a-103](#), shall
303 provide the following financial information to the state auditor for posting on the Utah Public
304 Finance Website:

305 (i) administrative fund expense transactions from its general ledger accounting system;
306 and

307 (ii) employee compensation information.

308 (b) The plan is not required to submit other financial information to the state auditor,
309 including:

310 (i) revenue transactions;

311 (ii) account owner transactions; and

312 (iii) fiduciary or commercial information, as defined in Section [53B-12-102](#).

313 (6) (a) The following independent entities shall each provide administrative expense
314 transactions from its general ledger accounting system and employee compensation
315 information to the state auditor for posting on the Utah Public Finance Website or via a link to
316 a website administered by the independent entity:

317 (i) the Utah Housing Corporation, created in Section [63H-8-201](#); and

318 (ii) the School and Institutional Trust Lands Administration, created in Section
319 [53C-1-201](#).

320 (b) The Utah Capital Investment Corporation, an independent entity created in Section
321 [63N-6-301](#), shall provide the following information to the division for posting on the Utah
322 Public Finance Website or via a link to a website administered by the independent entity for
323 each fiscal year ending on or after June 30, 2015:

324 (i) aggregate compensation information for full-time and part-time employees,
325 including benefit information;

326 (ii) aggregate business travel expenses;

327 (iii) aggregate expenses related to the Utah Capital Investment Corporation's allocation
328 manager; and

329 (iv) aggregate administrative, operating, and finance costs.

330 (c) For purposes of this part, an independent entity described in Subsection (6)(a) or (b)
331 is not required to submit to the state auditor, or provide a link to, other financial information,
332 including:

333 (i) revenue transactions of a fund or account created in its enabling statute;

334 (ii) fiduciary or commercial information related to any subject if the disclosure of the
335 information:

- 336 (A) would conflict with fiduciary obligations; or
- 337 (B) is prohibited by insider trading provisions;
- 338 (iii) information of a commercial nature, including information related to:
 - 339 (A) account owners, borrowers, and dependents;
 - 340 (B) demographic data;
 - 341 (C) contracts and related payments;
 - 342 (D) negotiations;
 - 343 (E) proposals or bids;
 - 344 (F) investments;
 - 345 (G) the investment and management of funds;
 - 346 (H) fees and charges;
 - 347 (I) plan and program design;
 - 348 (J) investment options and underlying investments offered to account owners;
 - 349 (K) marketing and outreach efforts;
 - 350 (L) lending criteria;
 - 351 (M) the structure and terms of bonding; and
 - 352 (N) financial plans or strategies; and
- 353 (iv) information protected from public disclosure by federal law.
- 354 (7) (a) As used in this Subsection (7):
 - 355 (i) "Local education agency" means a school district or a charter school.
 - 356 (ii) "New school building project" means:
 - 357 (A) the construction of a school or school facility that did not previously exist in a local
 - 358 education agency; or
 - 359 (B) the lease or purchase of an existing building, by a local education agency, to be
 - 360 used as a school or school facility.
 - 361 (iii) "School facility" means a facility, including a pool, theater, stadium, or
 - 362 maintenance building, that is built, leased, acquired, or remodeled by a local education agency
 - 363 regardless of whether the facility is open to the public.
 - 364 (iv) "Significant school remodel" means a construction project undertaken by a local
 - 365 education agency with a project cost equal to or greater than \$2,000,000, including:
 - 366 (A) the upgrading, changing, alteration, refurbishment, modification, or complete

367 substitution of an existing school or school facility in a local education agency; or
368 (B) the addition of a school facility.
369 (b) For each new school building project or significant school remodel, the local
370 education agency shall:
371 (i) prepare an annual school plant capital outlay report; and
372 (ii) submit the report:
373 (A) to the state auditor for publication on the Utah Public Finance Website; and
374 (B) in a format, including any raw data or electronic formatting, prescribed by
375 applicable policy established by the state auditor.
376 (c) The local education agency shall include in the capital outlay report described in
377 Subsection (7)(b)(i) the following information as applicable to each new school building
378 project or significant school remodel:
379 (i) the name and location of the new school building project or significant school
380 remodel;
381 (ii) construction and design costs, including:
382 (A) the purchase price or lease terms of any real property acquired or leased for the
383 project or remodel;
384 (B) facility construction;
385 (C) facility and landscape design;
386 (D) applicable impact fees; and
387 (E) furnishings and equipment;
388 (iii) the gross square footage of the project or remodel;
389 (iv) the year construction was completed; and
390 (v) the final student capacity of the new school building project or, for a significant
391 school remodel, the increase or decrease in student capacity created by the remodel.
392 (d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c),
393 the local education agency shall report the actual cost, fee, or other expense.
394 (ii) The state auditor may require that a local education agency provide further itemized
395 data on information listed in Subsection (7)(c).
396 (e) (i) No later than May 15, 2015, a local education agency shall provide the state
397 auditor a school plant capital outlay report for each new school building project and significant

398 school remodel completed on or after July 1, 2004, and before May 13, 2014.

399 (ii) For a new school building project or significant school remodel completed after
400 May 13, 2014, the local education agency shall provide the school plant capital outlay report
401 described in this Subsection (7) to the state auditor annually by a date designated by the state
402 auditor.

403 (f) The Division of Facilities Construction and Management shall provide to the state
404 auditor, for publication on the Utah Public Finance Website, the report described in Subsection
405 [53E-3-705\(5\)\(b\)](#).

406 (8) A person who negligently discloses a record that is classified as private, protected,
407 or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is
408 not criminally or civilly liable for an improper disclosure of the record if the record is disclosed
409 solely as a result of the preparation or publication of the Utah Public Finance Website.