

## SB0131S02 compared with SB0131S01

~~text~~ shows text that was in SB0131S01 but was deleted in SB0131S02.

text shows text that was not in SB0131S01 but was inserted into SB0131S02.

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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

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#### **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 ~~to~~

~~to~~ adopt guidelines for public school construction; ~~and~~

~~to~~ publish the lowest, average, and highest cost new school building construction completed in the state in the previous five-year period

▶ requires the state auditor to publish information related to the cost of public school

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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 ~~{a local education agency (LEA) with four or more facilities}~~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;
  - submit the facilities plan to affected local governmental entities;
  - adopt and implement measures for involving the public in the process of adopting the facilities plan;~~{ and}~~
  - provide an opportunity for the public to comment on the facilities plan; and
  - submit to the Division of Facilities Construction and Management reports related to use of square footage in existing buildings, and cost of new school construction;
- ▶ requires the Department of Facilities Construction and Management to review reports related to the cost of new school construction that an LEA submits;
- ▶ requires local governmental entities to provide comment on a facilities plan that an LEA submits;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**53E-3-702**, as last amended by Laws of Utah 2019, Chapter 186

**53E-3-705**, as last amended by Laws of Utah 2019, Chapters 186 and 370

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

63A-1-202, as last amended by Laws of Utah 2019, Chapter 214 and renumbered and amended by Laws of Utah 2019, Chapter 370

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

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

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

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

(a) "Guidelines" means the guidelines for public school construction the state board adopts under Subsection (2).

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

(ii) "Major renovation" includes:

(A) remodeling an existing public school building; and

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

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

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

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

(A) a portable classroom; or

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

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

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

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

(A) employed by an LEA;

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

(C) assigned to teach in a classroom.

(2) (a) The state board shall:

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

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(ii) consult with the Division of Facilities Construction and Management Administration on proposed guidelines before adoption.

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

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

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

(b) take into consideration ~~{, and incorporate as applicable,}~~ the guidelines when planning ~~[the public school]~~ new construction[;] and major renovation.

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

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

~~{~~ (4) The state board shall ensure that the guidelines account for:

~~}~~ (a) location factors, including:

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

(ii) the climate in various geographic areas;

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

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

(d) year-round use.

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

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

(i) administrative or office space;

(ii) custodial space;

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- (iii) lockers;
- (iv) standard classroom space;
- (v) special use classrooms;
- (vi) multi-purpose rooms; and
- (vii) media centers;
- (b) minimum and maximum required real property for a public school;
- (c) athletic facilities and fields, playgrounds, and hard surface play areas;
- (d) cost per square foot;
- (e) minimum and maximum qualities and costs for building materials;
- (f) design efficiency;
- (g) parking;
- (h) furnishing;
- (i) proof of compliance with applicable building codes; and
- (j) safety.

~~(6)(7)~~ The state board may:

- ~~(a)~~ adopt new guidelines as necessary to comply with this section ~~f;~~ and
- ~~(b)~~ create prototype public school construction plans that meet the guidelines.
- ~~(7)~~ A licensed architect shall prepare the prototype public school construction plans described in Subsection ~~(6)(b)~~.

~~(8)~~ Upon request, the state board shall report to the Education Interim Committee:

- ~~(a)~~ on the state board's progress in adopting the guidelines; or
- ~~(b)~~ on the guidelines that the state board adopts.

~~(9)~~ Before December 31, 2022, the state board shall work with the Division of Facilities Construction Management to:

- (a) review:
  - (i) public school construction costs;
  - (ii) the procurement processes related to public school construction; and
  - (iii) the use of facility condition assessments in prioritizing public school construction;
- (b) examine the potential value of statewide public school construction standards; and
- (c) evaluate:
  - (i) the benefits of different construction delivery methods to assist LEAs to efficiently

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design, construct, and remodel public school buildings, including the following construction delivery methods, as described in Title 63G, Chapter 6a, Utah Procurement Code:

(A) design-build, as that term is defined in Section 63G-6a-103;

(B) design-bid-build, as described in Section 63G-6a-1205; and

(C) construction manager/general manager, as that term is defined in Section 63G-6a-103; and

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

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

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

(1) As used in this section ~~{,;}~~:

(a) "~~{new}~~New construction" means the same as that term is defined in Section 53E-3-702.

~~{{(1)}}{(2) The state board shall:~~

~~—— (a) }b) "Public school building" means the same as that term is defined in Section 53E-3-702.~~

(c) "Teacher" means the same as that term is defined in Section 53E-3-702.

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

~~—— (b) beginning in 2022, annually identify the lowest cost and highest cost of}~~

(3) (a) When an LEA completes new construction ~~{ completed in the state during the previous five-year period}~~, the LEA shall include in the annual school plant capital outlay report described in Subsection (4) the cost of the new construction:

(i) in total dollars;

(ii) per square foot; ~~{ and}~~

(iii) per student; ~~{}~~

~~—— (c) list the information} and~~

(iv) per teacher.

(b) An LEA shall include in the annual school plant capital outlay report described in Subsection ~~(~~{2}~~4)~~{(b)}~~~~, for each ~~{of the following categories:~~

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- ~~(i) elementary public school building;~~
- ~~(ii) middle school or junior high school building; and~~
- ~~(iii) high school building; and~~
- ~~(d) annually make the information described in Subsection (2)(b) available and easily accessible to an LEA and to the public;~~
- ~~(3) When an LEA completes new construction, the LEA shall report to the state board the cost of the new construction:~~
  - ~~(a) in total dollars;~~
  - ~~(b) per square foot; and~~
  - ~~(c) per student; in the LEA, the square footage:~~
    - (i) per student; and
    - (ii) per teacher.

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

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

- (5) The Division of Facilities Construction and Management shall:
- (a) review a school plant capital outlay report to:
    - (i) assess historical costs for similar school buildings;
    - (ii) compare new construction costs to identify construction efficiencies or inefficiencies;
    - (iii) assess an LEA's use of energy efficient design elements; and
    - (iv) identify elements that an LEA included in a public school construction project that:
      - (A) improve energy savings;
      - (B) reduce maintenance costs;
      - (C) enhance the longevity of the public school building; and
      - (D) reduce the need for future public school construction; and
  - (b) provide to the state auditor a report of the review described in Subsection (5)(a) for posting on the Utah Public Finance Website.

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

**53E-3-708. Local education agency to adopt educational facilities plan -- Licensed architect to prepare public school construction plans.**

(1) As used in this section:

(a) "Affected local governmental entity" means:

(i) a municipality, for planned public school construction within a municipality identified in an educational facilities plan; or

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

~~{ (b) "Change order" means the same as that term is defined in Section 63G-6a-103.~~

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

~~{ (d) "Covered LEA" means an LEA that:~~

~~(i) has at least four or more school facilities.~~

~~(e) buildings; and~~

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

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

~~{ (e) "Guidelines" means the same as that term is defined in Section 53E-3-702.~~

~~{ (f) "Major renovation" means the same as that term is defined in Section 53E-3-702.~~

~~{ (g) "Municipality" means the same as that term is defined in Section 10-1-104.~~

~~{ (h) "New school construction" means the same as that term is defined in Section 53E-3-702.~~

~~(i) "School building" means the same as the term "public school building" is defined in Section 53E-3-702.~~

~~(j) "Public school construction" means the same as that term is defined in Section 53E-3-702.~~

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

(i) an educational facilities plan; and



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(ii) a community involvement plan.

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

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

(b) A covered LEA's facilities plan may:

(i) include an inventory of existing school facilities;

(ii) identify major renovation the covered LEA anticipates over the period the educational facilities plan covers;

(iii) identify new school construction the covered LEA anticipates over the period the educational facilities plan covers;

(iv) identify public school construction not identified under Subsection (3)(b)(iii), that the covered LEA anticipates over the period the educational facilities plan covers;

(v) identify options to reduce the need for new school construction;

(vi) include a concept schedule of major renovation and public school construction necessary to maintain the covered LEA's facilities;

(vii) identify which public school construction projects included in the educational facilities plan the covered LEA could fund from current revenues; and

(viii) identify additional sources of revenue for public school construction projects not identified under Subsection (3)(b)(vii).

(4) Before an LEA adopts or amends an educational facilities plan, the LEA shall:

(a) follow the measures the covered LEA adopts in the covered LEA's community involvement plan;

(b) coordinate with each affected local governmental entity; and

(c) provide an opportunity for public comment.

(5) An affected local governmental entity shall:

(a) review an educational facilities plan that a covered LEA submits under Subsection (4); and

(b) no later than 30 days after a covered LEA submits an educational facilities plan, provide comment to the LEA.

(6) A covered LEA may:

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(a) amend an adopted educational facilities plan as needed during the five-year period described in Subsection (2)(a) ~~and~~; and

(b) complete public school construction that is not included in the facilities plan if a life-threatening safety hazard, a fire safety hazard, or a seismic hazard:

(i) exists:

(A) in a school building; or

(B) on the school premises; and

(ii) necessitates the public school construction.

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

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

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

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

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

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

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

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

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

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

(e) have a unique and simplified website address;

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

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

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(3) (a) The state auditor shall:

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

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

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

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

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

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

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

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

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

(i) be operational; and

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

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

(d) No later than the first full quarter after July 1, 2014, an independent entity shall

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submit the entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.

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

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

(ii) employee compensation information.

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

(i) revenue transactions;

(ii) account owner transactions; and

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

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

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

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

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

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

(ii) aggregate business travel expenses;

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

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

(c) For purposes of this part, an independent entity described in Subsection (6)(a) or (b)

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is not required to submit to the state auditor, or provide a link to, other financial information, including:

- (i) revenue transactions of a fund or account created in its enabling statute;
- (ii) fiduciary or commercial information related to any subject if the disclosure of the

information:

- (A) would conflict with fiduciary obligations; or
- (B) is prohibited by insider trading provisions;
- (iii) information of a commercial nature, including information related to:
  - (A) account owners, borrowers, and dependents;
  - (B) demographic data;
  - (C) contracts and related payments;
  - (D) negotiations;
  - (E) proposals or bids;
  - (F) investments;
  - (G) the investment and management of funds;
  - (H) fees and charges;
  - (I) plan and program design;
  - (J) investment options and underlying investments offered to account owners;
  - (K) marketing and outreach efforts;
  - (L) lending criteria;
  - (M) the structure and terms of bonding; and
  - (N) financial plans or strategies; and
- (iv) information protected from public disclosure by federal law.
- (7) (a) As used in this Subsection (7):
  - (i) "Local education agency" means a school district or a charter school.
  - (ii) "New school building project" means:
    - (A) the construction of a school or school facility that did not previously exist in a local
    - education agency; or
    - (B) the lease or purchase of an existing building, by a local education agency, to be
    - used as a school or school facility.
  - (iii) "School facility" means a facility, including a pool, theater, stadium, or

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maintenance building, that is built, leased, acquired, or remodeled by a local education agency regardless of whether the facility is open to the public.

(iv) "Significant school remodel" means a construction project undertaken by a local education agency with a project cost equal to or greater than \$2,000,000, including:

(A) the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school or school facility in a local education agency; or

(B) the addition of a school facility.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the state auditor for publication on the Utah Public Finance Website; and

(B) in a format, including any raw data or electronic formatting, prescribed by applicable policy established by the state auditor.

(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the new school building project or significant school remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

(B) facility construction;

(C) facility and landscape design;

(D) applicable impact fees; and

(E) furnishings and equipment;

(iii) the gross square footage of the project or remodel;

(iv) the year construction was completed; and

(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c),

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the local education agency shall report the actual cost, fee, or other expense.

(ii) The state auditor may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the state auditor a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

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

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

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