

1 **UTAH SCHOOLS SEISMIC HAZARD INVENTORY**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Larry B. Wiley**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill establishes requirements relating to public school seismic safety.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ enacts the School Seismic Safety Act, which:

13 • requires a school district or charter school to conduct a seismic evaluation of
14 each facility used by the school district or charter school using specified
15 standards;

16 • creates and specifies the duties of the Public School Seismic Safety Committee;

17 • directs the State Board of Education to adopt rules; and

18 • provides certain immunity from suit relating to a seismic safety evaluation;

19 ▶ repeals the School Seismic Safety Act on July 1, 2021; and

20 ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22 This bill appropriates:

23 ▶ \$500,000 from the General Fund for fiscal year 2011-12 only, to the State Board of
24 Education.

25 **Other Special Clauses:**

26 This bill takes effect on July 1, 2011.

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **63G-7-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

30 **63I-2-253**, as last amended by Laws of Utah 2010, Chapter 11

31 **63J-1-602.3**, as enacted by Laws of Utah 2010, Chapter 265

32 ENACTS:

33 **53A-15-1201**, Utah Code Annotated 1953

34 **53A-15-1202**, Utah Code Annotated 1953

35 **53A-15-1203**, Utah Code Annotated 1953

36 **53A-15-1204**, Utah Code Annotated 1953



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

39 Section 1. Section **53A-15-1201** is enacted to read:

40 **Part 12. School Seismic Safety Act**

41 **53A-15-1201. Title.**

42 This part is known as the "School Seismic Safety Act."

43 Section 2. Section **53A-15-1202** is enacted to read:

44 **53A-15-1202. Definitions.**

45 As used in this part:

46 (1) "Committee" means the Public School Seismic Safety Committee created in

47 Section 53A-15-1203.

48 (2) "Evaluation score worksheet" means the appropriate scoring worksheet for the

49 location and type of building, as contained within federal guidelines.

50 (3) "Federal guidelines" means guidelines and procedures specified in "Rapid Visual

51 Screening of Buildings for Potential Seismic Hazards: A Handbook, 2nd Edition" published by

52 the United States Federal Emergency Management Agency.

53 (4) "Threshold score" means a score on an evaluation score worksheet that indicates

54 that a building warrants a more detailed structural evaluation for its intended use.

55 Section 3. Section **53A-15-1203** is enacted to read:

56 **53A-15-1203. Public School Seismic Safety Committee.**

57 (1) There is created the Public School Seismic Safety Committee consisting of seven

58 members.

59 (2) (a) The governor shall appoint three members who are licensed structural engineers,
60 including:

61 (i) one member from the public or private sector appointed from a list of at least two
62 names submitted by the Utah Seismic Safety Commission;

63 (ii) one member from the public or private sector appointed from a list of at least two
64 names submitted by the state superintendent of public instruction; and

65 (iii) one member from the public or private sector, after considering recommendations
66 from professional associations representing structural engineers.

67 (b) The state superintendent shall appoint four members, including:

68 (i) one member representing a small school district;

69 (ii) one member representing a medium-sized school district;

70 (iii) one member representing a large school district; and

71 (iv) one member from the state superintendent's staff.

72 (3) (a) Except as required by Subsection (3)(b), each member is appointed to a
73 four-year term.

74 (b) The governor and state superintendent shall, at the time of appointment, adjust the
75 length of terms to ensure that the terms of committee members are staggered so that
76 approximately half of the committee is appointed every two years.

77 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
78 appointed for the unexpired term in the same manner as the vacated member was chosen.

79 (4) A member may not receive compensation or benefits for the member's service, but
80 may receive per diem and travel expenses in accordance with:

81 (a) Section 63A-3-106;

82 (b) Section 63A-3-107; and

83 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
84 63A-3-107.

85 (5) (a) The committee shall elect one of the members to serve as chair.

86 (b) A majority of the members of the committee constitute a quorum of the committee.

87 (c) The action of a majority of a quorum constitutes the action of the committee.

88 (6) The state superintendent's staff shall provide staff support to the committee.

89 (7) The committee shall:

90 (a) advise and make recommendations to the Legislature, governor, state
91 superintendent, and State Board of Education on seismic safety issues in public schools;

92 (b) provide technical assistance to the State Board of Education, state superintendent,
93 school districts, and charter schools in conducting and overseeing the seismic safety
94 evaluations required by Section 53A-15-1204; and

95 (c) after completion of the seismic safety evaluations required by Subsection
96 53A-15-1204(1), establish the threshold score.

97 Section 4. Section **53A-15-1204** is enacted to read:

98 **53A-15-1204. Seismic safety evaluation.**

99 (1) On or before June 30, 2012, each school district and charter school shall:

100 (a) conduct a seismic safety rapid visual screening of each facility used by the school
101 district or charter school that has not been evaluated in accordance with federal guidelines or a
102 more detailed seismic structural evaluation;

103 (b) complete the appropriate evaluation score worksheet; and

104 (c) report its findings to the State Board of Education, including for each building:

105 (i) the evaluation score worksheet;

106 (ii) the current estimated number of building occupants during normal business hours;

107 and

108 (iii) the square footage.

109 (2) The rapid visual screening and completion of the evaluation score worksheet under
110 Subsection (1) shall be supervised or performed by a licensed professional structural engineer
111 or a licensed professional civil engineer with experience in seismic evaluations.

112 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
113 State Board of Education, after consultation with the Public School Seismic Safety Committee,
114 shall make rules to establish standardized forms and procedures for conducting and reporting
115 the results of the rapid visual screening.

116 (4) (a) The State Board of Education shall reimburse school districts and charter
117 schools for the costs of complying with this section from funds appropriated for that purpose.

118 (b) If reimbursement requests from school districts and charter schools exceed
119 available funds, the State Board of Education shall proportionately reduce the allocation for
120 each reimbursement request to match the level of available funds.

121 (c) (i) If reimbursement requests from school districts and charter schools are less than
122 available funds, the State Board of Education, after consultation with the Public School
123 Seismic Safety Committee, shall allocate any remaining funds for additional evaluations of
124 buildings that receive a score on the building's evaluation score worksheet that is below the
125 threshold score established by the committee.

126 (ii) If additional evaluations are funded pursuant to Subsection (4)(c)(i), the State
127 Board of Education, after consultation with the Public School Seismic Safety Committee, shall
128 require that the additional evaluations be performed using a nationally recognized standard.

129 (iii) The State Board of Education may require matching funds as a condition of
130 funding any additional evaluations.

131 (5) The Public School Seismic Safety Committee shall report to the Education Interim
132 Committee the provisional findings of the statewide seismic evaluation, including any
133 additional evaluations, on or before October 31, 2013, including:

134 (a) by school district or charter school, the total number of screened buildings and the
135 score for each building;

136 (b) the total estimated number of building occupants;

137 (c) the total estimated number of building occupants in structures that receive a score
138 on the building's evaluation score worksheet that is below the threshold score established by
139 the committee;

140 (d) the total facility square footage statewide;

141 (e) the total facility square footage statewide in structures that receive a score on the
142 building's evaluation score worksheet that is below the threshold score established by the
143 committee; and

144 (f) the number of school districts, charter schools, and facilities for which no report
145 was submitted.

146 (6) Immunity from suit of a governmental entity is not waived if the injury arises out
147 of, in connection with, or results from, a seismic safety evaluation, including a seismic safety
148 rapid visual screening, or failure to conduct a seismic safety evaluation, including a seismic
149 safety rapid visual screening.

150 (7) (a) A seismic safety evaluation, seismic safety rapid visual screening, score,
151 worksheet, report, or any document created or prepared as a result of, or in connection with, a

152 seismic safety evaluation is not subject to discovery, subpoena, or similar compulsory process
153 in any civil, judicial, or administrative proceeding.

154 (b) An individual or organization with access to the data described in Subsection (7)(a)
155 may not be compelled to testify with regard to a seismic safety evaluation or proceedings in
156 connection with a seismic safety evaluation.

157 (c) Documents described in Subsection (7)(a) and testimony described in Subsection
158 (7)(b) are not admissible in a civil, judicial, or administrative proceeding.

159 Section 5. Section **63G-7-201** is amended to read:

160 **63G-7-201. Immunity of governmental entities from suit.**

161 (1) Except as may be otherwise provided in this chapter, each governmental entity and
162 each employee of a governmental entity are immune from suit for any injury that results from
163 the exercise of a governmental function.

164 (2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a
165 governmental entity, its officers, and its employees are immune from suit for any injury or
166 damage resulting from the implementation of or the failure to implement measures to:

167 (a) control the causes of epidemic and communicable diseases and other conditions
168 significantly affecting the public health or necessary to protect the public health as set out in
169 Title 26A, Chapter 1, Local Health Departments;

170 (b) investigate and control suspected bioterrorism and disease as set out in Title 26,
171 Chapter 23b, Detection of Public Health Emergencies Act; ~~and~~

172 (c) respond to a national, state, or local emergency, a public health emergency as
173 defined in Section 26-23b-102, or a declaration by the President of the United States or other
174 federal official requesting public health related activities[-]; and

175 (d) conduct a seismic safety evaluation, including a seismic safety rapid visual
176 screening pursuant to Title 53A, Chapter 15, Part 12, School Seismic Safety Act.

177 Section 6. Section **63I-2-253** is amended to read:

178 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**

179 (1) Section 53A-1-403.5 is repealed July 1, 2012.

180 (2) Subsection 53A-1-603(5) is repealed July 1, 2015.

181 (3) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2014.

182 (4) Subsection 53A-13-110(4) is repealed July 1, 2013.

183 [~~(5)~~ Section 53A-17a-152 is repealed July 1, 2010.]

184 (5) Title 53A, Chapter 15, Part 12, School Seismic Safety Act, is repealed July 1, 2021.

185 (6) Section 53A-17a-162 is repealed July 1, 2012.

186 Section 7. Section **63J-1-602.3** is amended to read:

187 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

188 (1) Certain funds associated with the Law Enforcement Operations Account, as
189 provided in Section 51-9-411.

190 (2) The Public Safety Honoring Heroes Restricted Account created in Section
191 53-1-118.

192 (3) Funding for the Search and Rescue Financial Assistance Program, as provided in
193 Section 53-2-107.

194 (4) Appropriations made to the Department of Public Safety from the Department of
195 Public Safety Restricted Account, as provided in Section 53-3-106.

196 (5) Appropriations to the Motorcycle Rider Education Program, as provided in Section
197 53-3-905.

198 (6) The DNA Specimen Restricted Account created in Section 53-10-407.

199 (7) Money appropriated to the State Board of Education for reimbursement of school
200 district and charter school seismic safety evaluation costs incurred pursuant to Section
201 53A-15-1204 and expenses of the Public School Seismic Safety Committee created under
202 Section 53A-15-1203.

203 [~~(7)~~ (8) Appropriations to the State Board of Education, as provided in Section
204 53A-17a-105.

205 [~~(8)~~ (9) Certain funds appropriated from the Uniform School Fund to the State Board
206 of Education for new teacher bonus and performance-based compensation plans, as provided in
207 Section 53A-17a-148.

208 [~~(9)~~ (10) Certain funds appropriated from the Uniform School Fund to the State Board
209 of Education for implementation of proposals to improve mathematics achievement test scores,
210 as provided in Section 53A-17a-152.

211 [~~(10)~~ (11) The School Building Revolving Account created in Section 53A-21-401.

212 [~~(11)~~ (12) Money received by the State Office of Rehabilitation for the sale of certain
213 products or services, as provided in Section 53A-24-105.

214 [~~(12)~~] (13) The State Board of Regents, as provided in Section 53B-6-104.

215 [~~(13)~~] (14) Certain funds appropriated from the General Fund to the State Board of
216 Regents for teacher preparation programs, as provided in Section 53B-6-104.

217 [~~(14)~~] (15) A certain portion of money collected for administrative costs under the
218 School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

219 [~~(15)~~] (16) Certain surcharges on residence and business telecommunications access
220 lines imposed by the Public Service Commission, as provided in Section 54-8b-10.

221 [~~(16)~~] (17) Certain fines collected by the Division of Occupational and Professional
222 Licensing for violation of unlawful or unprofessional conduct that are used for education and
223 enforcement purposes, as provided in Section 58-17b-505.

224 [~~(17)~~] (18) The Nurse Education and Enforcement Account created in Section
225 58-31b-103.

226 [~~(18)~~] (19) The Certified Nurse Midwife Education and Enforcement Account created
227 in Section 58-44a-103.

228 [~~(19)~~] (20) Certain fines collected by the Division of Occupational and Professional
229 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
230 provided in Section 58-63-103.

231 [~~(20)~~] (21) The Professional Geologist Education and Enforcement Account created in
232 Section 58-76-103.

233 [~~(21)~~] (22) Certain money in the Water Resources Conservation and Development
234 Fund, as provided in Section 59-12-103.

235 Section 8. **Appropriation.**

236 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
237 following sums of money are appropriated from resources not otherwise appropriated out of the
238 funds or accounts indicated for the fiscal year beginning July 1, 2011 and ending June 30,
239 2012. These are additions to amounts previously appropriated for fiscal year 2012.

240 To State Board of Education

241 From General Fund, One-time \$500,000

242 Schedule of Programs:

243 School Seismic Safety \$500,000

244 Section 9. **Effective date.**

245

This bill takes effect on July 1, 2011.

Legislative Review Note
as of 2-10-11 6:38 PM

Office of Legislative Research and General Counsel