

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 338

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-909, IDAHO CODE, TO REVISE PRO-  
2 VISIONS REGARDING THE PUBLIC SCHOOL FACILITIES COOPERATIVE FUNDING  
3 PROGRAM AND FUND; AMENDING SECTION 33-911, IDAHO CODE, TO REVISE PROVI-  
4 SIONS REGARDING THE SCHOOL DISTRICT FACILITIES FUND; PROVIDING FOR THE  
5 TRANSFER OF FUNDS TO THE PUBLIC SCHOOL FACILITIES COOPERATIVE FUND; AND  
6 DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.  
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 33-909, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 33-909. PUBLIC SCHOOL FACILITIES COOPERATIVE FUNDING PROGRAM -- FUND  
12 CREATED. (1) In fulfillment of the constitutional requirement to provide a  
13 general, uniform and thorough system of public, free common schools, it is  
14 the intent of the state of Idaho to advance its responsibility for providing  
15 a safe environment conducive to learning by providing a public school facil-  
16 ities funding program to enable qualifying school districts to address un-  
17 safe facilities identified as unsafe under the standards of the Idaho uni-  
18 form school building safety act.

19 (2) Participation in the program, for the purpose of obtaining state  
20 financial support to abate identified school building safety hazards, re-  
21 quires submission of an application to the public school facilities coopera-  
22 tive funding program panel. Application can be made by:

23 (a) Any school district that has failed to approve at least one (1) or  
24 more bond or plant facility levies for the repair, renovation, or re-  
25 placement of existing unsafe facilities within the two (2) year period  
26 immediately preceding submission of the application; ~~or~~

27 (b) The administrator of the division of occupational and professional  
28 licenses for a school district that has failed to address identified un-  
29 safe facilities as provided in chapter 80, title 39, Idaho Code; ~~or~~

30 (c) Any school district that has approved one (1) or more bond or plant  
31 facility levies for the repair, renovation, or replacement of existing  
32 unsafe facilities, where the cost of such abatement exceeds the amount  
33 of moneys available from such levy or levies.

34 (3) There is hereby created within the ~~office of the state board of edu-~~  
35 ~~cation~~ state department of education the Idaho public school facilities co-  
36 operative funding program panel, hereafter referred to as the panel. The  
37 panel shall consist of the administrator of the division of occupational and  
38 professional licenses, the administrator of the division of public works,  
39 and the ~~executive director of the state board of education~~ superintendent of  
40 public instruction, or a designee appointed by a panel member. It shall be  
41 the duty of the panel to consider all applications made to it and to approve,

1 modify or reject an application based upon the most economical solution to  
2 the problem, as analyzed within a projected twenty (20) year time frame.

3 (4) The application shall contain the following information:

4 (a) The identified school building safety hazards and such other infor-  
5 mation necessary to document the deficiencies;

6 (b) The school district's plan for abating the defects, including costs  
7 and sources and amounts of revenue available to the school district;

8 (c) The market value for assessment purposes of the school district;  
9 and

10 (d) A detailed accounting of all bond and plant facility levies of the  
11 school district and the revenues raised by such levies.

12 For applications initiated by the administrator of the division of occu-  
13 pational and professional licenses pursuant to subsection (2) (b) of this  
14 section, the school district shall provide the information required in this  
15 subsection if such information is not available to the administrator.

16 (5) (a) If the panel determines that it requires additional plans and  
17 information, it may authorize the expenditure of up to one hundred fifty  
18 thousand dollars (\$150,000) per application from the public school fa-  
19 cilities cooperative fund for the procurement thereof. In considering  
20 an application, the panel shall determine whether the plan as proposed  
21 is acceptable, is acceptable with modifications as determined by the  
22 panel, or should be rejected. If the application is approved or ap-  
23 proved with modifications, any expenditures authorized by the panel  
24 pursuant to this subsection shall be added to the project. The panel  
25 shall notify the applicant of its decision, in writing, within ninety  
26 (90) days of receiving the application. At the same time the panel no-  
27 tifies the applicant, the panel shall send notification of an approved  
28 application or a modified application to the state ~~board of education~~  
29 department of education, along with the panel's specifications for the  
30 project and its cost.

31 (b) The panel may, ~~upon the recommendation of the district supervisor,~~  
32 authorize modifications to the approved plan at any time prior to the  
33 completion of the project, giving consideration to the interests of the  
34 school district, the students and the electors in its determination.  
35 Such modification may alter the scope of work or terminate the approved  
36 plan. All modifications must meet the standards as outlined in this  
37 section.

38 (6) If either an application received from a school district pursuant  
39 to subsection (2) (b) of this section is accepted or modified by the panel,  
40 or the amount approved by the panel is less than the smallest levy amount re-  
41 jected pursuant to subsection (2) (a) of this section, then the local board of  
42 trustees of that school district, at the next election held pursuant to sec-  
43 tion 34-106, Idaho Code, shall submit the question to the qualified electors  
44 of the school district of whether to approve a bond or plant facility levy in  
45 the amount of the cost of the project as approved by the panel.

46 (7) Within For applications approved or modified by the panel that ex-  
47 ceed five million dollars (\$5,000,000) in cost, within thirty-five (35) cal-  
48 endar days of receiving notification from the panel that an application sub-  
49 mitted by the administrator of the division of occupational and professional  
50 licenses pursuant to subsection (2) (b) of this section has been approved or

1 modified by the panel, or within thirty-five (35) calendar days of receiv-  
2 ing certification from the panel that the question submitted to the elec-  
3 torate pursuant to subsection (6) of this section was not approved in the  
4 election, the ~~state board of education~~ superintendent of public instruction  
5 shall appoint a district supervisor for interim state supervision of the lo-  
6 cal school district. The district supervisor shall be responsible for en-  
7 suring that the project, as approved by the panel, is completed and shall  
8 regularly report to the panel in a manner as determined by the panel upon ap-  
9 proval of the project. The district supervisor shall also have the author-  
10 ity granted to said position by the provisions of section 6-2212, Idaho Code.  
11 A district supervisor's term of service shall continue for the duration of  
12 the project, and such person appointed as a district supervisor shall serve  
13 at the pleasure of the ~~state board of education~~ superintendent of public in-  
14 struction.

15 (8) The abatement of unsafe public school facilities through the pub-  
16 lic school facilities cooperative funding program shall be performed exclu-  
17 sively in accordance with the regular permitting, plan review and inspection  
18 requirements of the division of occupational and professional licenses. The  
19 state fire marshal shall have exclusive authority to perform the powers and  
20 duties prescribed in section 41-254, Idaho Code, for such facilities while  
21 the unsafe condition is being abated ~~and under the jurisdiction of the panel-~~  
22 ~~appointed district supervisor.~~ The Idaho building code board shall func-  
23 tion as a board of appeals for the division of occupational and professional  
24 licenses for such construction in accordance with the provisions of section  
25 39-4107, Idaho Code. Upon successful completion of the construction in ac-  
26 cordance with applicable building codes, a certificate of occupancy shall be  
27 issued by the administrator of the division of occupational and professional  
28 licenses. Upon issuance of a certificate of occupancy, responsibility for  
29 ensuring the safety of the facility or portion thereof so constructed will  
30 then be returned to the school district and responsibility for ensuring sub-  
31 sequent compliance with building codes returned to the authority having ju-  
32 risdiction.

33 (9) Upon approval of an application or a modified application submit-  
34 ted by the administrator of the division of occupational and professional  
35 licenses pursuant to subsection (2) (b) of this section, or upon receipt of  
36 certification from the county that the question submitted to the electorate  
37 pursuant to subsection (6) of this section was not approved in the election,  
38 the panel shall certify the cost of the project, as approved by the panel, to  
39 the state department of education.

40 (a) The total cost of the project shall initially be paid by the state  
41 from the public school facilities cooperative fund. If the ~~district~~  
42 ~~supervisor panel~~ determines that the amount it approved ~~by the panel~~  
43 is insufficient to complete the project in a satisfactory manner, the  
44 panel may request a legislative appropriation of additional moneys from  
45 the public school facilities cooperative fund. If such an appropri-  
46 ation is approved, these additional moneys shall be added to the cost of  
47 the project.

48 (b) The district's share of costs shall be based upon actual funds ex-  
49 pended. The district's share of costs that may be repaid through the  
50 levy payment provisions of this section shall not exceed the district's

1 share of bond payment costs as would have been calculated for the bond  
 2 levy equalization support program, as if such program still existed,  
 3 in the fiscal year in which the application is made. Interest shall be  
 4 charged on the unpaid balance of the district's share of costs, as such  
 5 balance exists at the end of each fiscal year, at the rate of interest  
 6 earned by the state treasurer on the investment of idle funds in that  
 7 fiscal year.

8 (c) It shall be the responsibility of the state department of educa-  
 9 tion to calculate a ~~state-authorized plant facilities levy rate~~ payment  
 10 in accordance with the provisions of subsection (10) of this section,  
 11 which, when imposed over a maximum period not to exceed twenty (20)  
 12 years, may yield the revenues needed to repay the school district's  
 13 share of the cost of the project.

14 (d) The ~~levy rate~~ payment calculated by the state department of edu-  
 15 cation shall be certified by the department to the ~~county or counties~~  
 16 ~~wherein the boundaries of the school district are contained for as-~~  
 17 ~~essment of the levy and collection of the revenues by such county or~~  
 18 ~~counties in the manner provided by law~~ school district. The revenues  
 19 collected by imposition of the ~~state-authorized plant facilities levy~~  
 20 ~~payment~~ shall be remitted to the state treasurer for deposit to the pub-  
 21 lic school facilities cooperative fund.

22 ~~(10) The annual state-authorized plant facilities levy rate shall be~~  
 23 ~~limited to the greater of:~~

24 ~~(a) The difference between the school district's combined bond and~~  
 25 ~~plant facilities levy rates and the statewide average bond and plant~~  
 26 ~~facility levy rates; or~~

27 ~~(b) The statewide average plant facility levy rate.~~

28 (10) (a) The annual payment shall be the amount received by the school  
 29 district pursuant to section 33-911, Idaho Code, that is applied pur-  
 30 suant to section 33-911(2) (b), Idaho Code.

31 (b) The initial levy rate so calculated amount calculated for the  
 32 initial payment pursuant to paragraph (a) of this subsection shall be  
 33 established as the minimum levy rate that shall be imposed payment that  
 34 shall be made for the amount of time required to reimburse the state  
 35 for the school district's share of the project cost, but not to exceed  
 36 twenty (20) years, even if this period would not provide reimbursement  
 37 of the entire amount of the school district's share of the cost of the  
 38 project. The state department of education is authorized and directed  
 39 to recalculate the ~~levy rate~~ payment on an annual basis and is autho-  
 40 riized to increase or decrease the ~~levy rate~~ payment according to the  
 41 scheduled payback payment schedule, but the ~~levy rate~~ payment shall not  
 42 be less than the ~~levy rate~~ payment initially imposed. Provided however,  
 43 if the ~~levy rate~~ payment calculated is estimated to raise more money  
 44 than would be necessary to repay the district's share of costs, then the  
 45 state department of education shall certify to the ~~county or counties~~  
 46 wherein the boundaries of the school district are contained the moneys  
 47 necessary to repay the district's share of costs.

48 (11) There is hereby created in the state treasury a public school fa-  
 49 cilities cooperative fund. The fund shall contain such moneys as may be  
 50 directed pursuant to appropriation. Moneys in the fund shall be used exclu-

1 sively to finance the public school facilities cooperative funding program,  
 2 except as provided in subsection (9) (a) of this section, and are hereby  
 3 continuously appropriated for such purposes as authorized by this section.  
 4 Moneys in the fund shall be invested by the state treasurer in the same manner  
 5 as provided under section 67-1210, Idaho Code, with respect to other idle  
 6 moneys in the state treasury. Interest earned on the investments shall be  
 7 credited to the school district building account retained by the fund.

8 SECTION 2. That Section 33-911, Idaho Code, be, and the same is hereby  
 9 amended to read as follows:

10 33-911. SCHOOL DISTRICT FACILITIES FUND. (1) There is hereby cre-  
 11 ated in the state treasury the school district facilities fund. The fund  
 12 shall consist of moneys provided pursuant to sections 57-811, 63-3638, and  
 13 67-7434, Idaho Code, and any legislative transfers or appropriations. In-  
 14 terest earned from the investment of moneys in the fund shall be returned to  
 15 the fund.

16 (2) The moneys in the fund shall be distributed by the state controller  
 17 to the state department of education by August 1 each year for the purpose of  
 18 construction or renovation of school facilities. The moneys shall be dis-  
 19 tributed by the state department of education to each school district, as  
 20 defined in section 33-1001(21), Idaho Code, first as provided in subsection  
 21 (7) of this section and then on a per-pupil basis using the average daily at-  
 22 tendance calculation provided in section 33-1003A, Idaho Code, for each stu-  
 23 dent in kindergarten through grade 12 at physical facilities that are part  
 24 of and on school grounds of the school district in which the student is en-  
 25 rolled with verification, as needed, by the office of the state board of edu-  
 26 cation. Upon formal approval by the state board of education, a school dis-  
 27 trict may receive an exemption to the physical facility requirement pursuant  
 28 to this subsection if the student would have attended a physical facility  
 29 in the school district if not for a stated emergency. The state department  
 30 of education shall transfer the moneys by no later than August 31 each year  
 31 to each school district. Such moneys shall be used in place of property tax  
 32 levy moneys and shall be expended by a school district for one (1) or more of  
 33 the purposes set forth in paragraphs (a) through ~~(d)~~ (f) of this subsection.  
 34 Moneys in the fund must be used by a school district in the following order of  
 35 priority:

- 36 (a) Payment of existing school bonds authorized pursuant to chapter 11,  
 37 title 33, Idaho Code, and issued prior to July 1, 2025;  
 38 (b) Payments required pursuant to section 33-909, Idaho Code;  
 39 (c) Payment of existing school bonds authorized pursuant to chapter 11,  
 40 title 33, Idaho Code, and issued on or after July 1, 2025;  
 41 ~~(b)~~ (d) Payment of supplemental school levies authorized pursuant to  
 42 section 33-802, Idaho Code, excluding indefinite term supplemental  
 43 levies described in section 33-802(5), Idaho Code;  
 44 ~~(e)~~ (e) Payment of school plant facility levies authorized pursuant to  
 45 sections 33-804 and 33-804A, Idaho Code; and  
 46 ~~(d)~~ (f) Any moneys that remain following the payments provided in  
 47 paragraphs (a) through ~~(e)~~ (e) of this subsection may be: used for con-  
 48 struction of a new school facility, renovation, or maintenance needs;  
 49 used to secure and make payments on a new school facilities bond; or

1 saved in a reserve account by the school district for future school  
2 facility needs. Uses of funds shall include regular and routine facili-  
3 ties maintenance, including preventive maintenance, building repairs,  
4 and building security, and periodic major facilities projects that in-  
5 volve planning, design, construction, renovation, retrofitting, and  
6 replacing of buildings and building systems, components, and features,  
7 as well as site acquisition, site improvements, and new construction.

8 (3) The amount of moneys received by a school district pursuant to this  
9 section must be deducted from a school levy that would otherwise have been  
10 paid by property taxpayers. Such moneys may not be duplicated by the collec-  
11 tion of property tax, and no property taxes may be collected in order to make  
12 extra payments on expenses described in subsection (2) of this section in ex-  
13 cess of required amounts.

14 (4) Each school district shall identify the amount received in the cur-  
15 rent year pursuant to this section in the certification of its budget in ac-  
16 cordance with section 63-803, Idaho Code. Said amount must be subtracted  
17 from the amount to be levied. The amount of moneys thereby saved from being  
18 collected by a property tax levy shall be reported on each property tax no-  
19 tice pursuant to section 63-902, Idaho Code.

20 (5) Each school district shall report annually to the state department  
21 of education, in a manner prescribed by it, on the expenditure of moneys it  
22 has received pursuant to this section. The state department of education  
23 shall present the reports to the legislature each January.

24 (6) For the purposes of this section, the Idaho school for the deaf and  
25 the blind shall be considered a school district and shall receive a distribu-  
26 tion based on the average daily attendance of the school.

27 (7) (a) For state fiscal year 2025 only, any school district that would  
28 have received support from the bond levy equalization support program  
29 for a qualified bond passed prior to January 1, 2024, and for which prop-  
30 erty taxes were levied in property tax year 2023 pursuant to the amount  
31 intended by the bond shall receive a distribution of funds from the dis-  
32 tribution provided under subsection (2) of this section of at least as  
33 much as would have been provided through bond levy equalization support  
34 on July 1, 2024.

35 (b) For state fiscal year 2026 only, any school district that would have  
36 received support from the bond levy equalization support program for a  
37 qualified bond passed prior to January 1, 2024, and for which property  
38 taxes were levied in property tax year 2024 pursuant to the amount in-  
39 tended by the bond shall receive a distribution of funds from the dis-  
40 tribution provided under subsection (2) of this section of at least as  
41 much as would have been provided through bond levy equalization support  
42 on July 1, 2025.

43 (c) The state department of education may adjust distributions for re-  
44 maining districts proportionally as necessary pursuant to this para-  
45 graph. On and after July 1, 2024, school districts may use funds pro-  
46 vided in this section and section 33-913, Idaho Code, to offset the bond  
47 levy equalization support.

48 SECTION 3. The state controller shall transfer twenty-five million  
49 dollars (\$25,000,000) from the bond levy equalization fund to the public  
50 school facilities cooperative fund.

1           SECTION 4. An emergency existing therefor, which emergency is hereby  
2 declared to exist, Section 3 of this act shall be in full force and effect on  
3 and after passage and approval, and Sections 1 and 2 of this act shall be in  
4 full force and effect on and after July 1, 2025.