

IN THE SENATE

SENATE BILL NO. 1023

BY BOCK

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-130, IDAHO CODE, TO
2 PROVIDE THAT THE DEPARTMENT OF EDUCATION ESTABLISH A SYSTEM
3 TO OBTAIN A CRIMINAL HISTORY CHECK ON ALL INDIVIDUALS WHO
4 HAVE UNSUPERVISED CONTACT WITH STUDENTS IN A PREKINDERGARTEN
5 THROUGH TWELVE SETTING; AMENDING SECTION 33-201, IDAHO CODE,
6 TO REVISE A DEFINITION, TO PROVIDE WHEN AGE FOUR YEARS IS
7 DEEMED ATTAINED AND TO PROVIDE CLARIFYING LANGUAGE; AMENDING
8 SECTION 33-208, IDAHO CODE, TO PROVIDE THAT IT IS NOT COMPULSORY
9 FOR INDIVIDUAL SCHOOL DISTRICTS TO ESTABLISH PREKINDERGARTEN
10 PROGRAMS AND THAT IT IS NOT MANDATORY FOR A CHILD TO ENROLL
11 IN PUBLIC PREKINDERGARTEN; AMENDING SECTION 33-302, IDAHO CODE,
12 TO PERMIT ELEMENTARY AND ALL OTHER SCHOOL DISTRICTS TO GIVE
13 INSTRUCTION IN PREKINDERGARTEN; AMENDING SECTION 33-512, IDAHO
14 CODE, TO PROVIDE THE BOARD OF TRUSTEES OF EACH SCHOOL DISTRICT
15 THE AUTHORITY TO PROVIDE CLASSES IN PREKINDERGARTEN, TO PROVIDE
16 THAT, SUBJECT TO AN EXCEPTION, NO APPROPRIATION BY THE STATE
17 OF IDAHO BE DIRECTED TO THE PROVISION OF PREKINDERGARTEN
18 SERVICES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
19 33-1207A, IDAHO CODE, TO REMOVE A DATE, TO PROVIDE THAT THE STATE
20 BOARD OF EDUCATION IS RESPONSIBLE FOR THE DEVELOPMENT OF A
21 SINGLE PRESERVICE ASSESSMENT MEASURE FOR PREKINDERGARTEN
22 PREPARATION PROGRAMS, TO PROVIDE THAT PREKINDERGARTEN TEACHER
23 CANDIDATES FROM AN IDAHO TEACHER PREPARATION PROGRAM PASS
24 THE ASSESSMENT, TO PROVIDE THAT EACH TEACHER EMPLOYED IN A
25 CLASSROOM FOR PREKINDERGARTEN AND EACH SCHOOL ADMINISTRATOR
26 OF A SCHOOL THAT INCLUDES PREKINDERGARTEN COMPLETE SPECIFIED
27 COURSEWORK IN ORDER TO RECERTIFY AND TO MAKE TECHNICAL
28 CORRECTIONS; AMENDING SECTION 33-1225, IDAHO CODE, TO REVISE
29 A DEFINITION; AMENDING SECTION 33-1302, IDAHO CODE, TO REVISE
30 A LEGISLATIVE FINDING AND TO MAKE A TECHNICAL CORRECTION;
31 AMENDING SECTION 33-1303, IDAHO CODE, TO REVISE A DEFINITION;
32 AMENDING SECTION 33-1613, IDAHO CODE, TO REVISE A DEFINITION AND
33 TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-8003,
34 IDAHO CODE, TO INCLUDE PREKINDERGARTEN WITHIN THE UNIFORM
35 PUBLIC SCHOOL BUILDING SAFETY ACT.
36

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

38 SECTION 1. That Section 33-130, Idaho Code, be, and the same is hereby amended to
39 read as follows:

1 33-130. CRIMINAL HISTORY CHECKS FOR SCHOOL DISTRICT EMPLOYEES
 2 OR APPLICANTS FOR CERTIFICATES OR INDIVIDUALS HAVING CONTACT WITH
 3 STUDENTS – STATEWIDE LIST OF SUBSTITUTE TEACHERS. The department of
 4 education, through the cooperation of the Idaho state police, shall establish a system to obtain
 5 a criminal history check on individuals to include, but is not limited to, certificated and
 6 noncertificated employees, all applicants for certificates pursuant to chapter 12, title 33, Idaho
 7 Code, substitute staff, individuals involved in other types of student training such as practicums
 8 and internships, and on all individuals who have unsupervised contact with students in a
 9 preK-12 setting. The criminal history check shall be based on a completed ten (10) finger
 10 fingerprint card or scan and shall include, at a minimum, the following state and national
 11 databases:

- 12 (1) Idaho bureau of criminal identification;
- 13 (2) Federal bureau of investigation (FBI) criminal history check; and
- 14 (3) Statewide sex offender register.

15 The state department of education shall charge all such individuals a fee of forty dollars
 16 (\$40.00) for undergoing a criminal history check pursuant to this section. The fee shall be
 17 sufficient to cover costs charged by the federal bureau of investigation, the state police and the
 18 state department of education. A record of all background checks shall be maintained at the
 19 state department of education in a data bank for all employees of a school district with a copy
 20 going to the applicant upon request.

21 The state department of education shall maintain a statewide list of substitute teachers.
 22 The term "substitute teacher" shall have the meaning as provided in section 33-512(15), Idaho
 23 Code.

24 The Idaho state police and the department of education shall implement a joint exercise
 25 of powers agreement pursuant to sections 67-2328 through 67-2333, Idaho Code, necessary to
 26 implement the provisions of this section.

27 SECTION 2. That Section 33-201, Idaho Code, be, and the same is hereby amended to
 28 read as follows:

29 33-201. SCHOOL AGE. The services of the public schools of this state are extended to
 30 any acceptable person of school age. "School age" is defined as including all persons resident
 31 of the state, between the ages of ~~five~~ four (4) and twenty-one (21) years. For a child enrolling
 32 in prekindergarten, the age of four (4) years shall be attained when the fourth anniversary of
 33 birth occurs on or before the first day of September of the school year in which the child is
 34 enrolled in prekindergarten. ~~For the purposes of this section a child enrolling in kindergarten,~~
 35 the age of five (5) years shall be attained when the fifth anniversary of birth occurs on or before
 36 the first day of September of the school year in which the child is to enroll in kindergarten. For
 37 a child enrolling in the first grade, the age of six (6) years must be reached on or before the first
 38 day of September of the school year in which the child is to enroll. Any child of the age of
 39 five (5) years who has completed a private or public out-of-state kindergarten for the required
 40 four hundred fifty (450) hours but has not reached the "school age" requirement in Idaho shall
 41 be allowed to enter the first grade.

42 For resident children with disabilities who qualify for special education and related
 43 services under the federal individuals with disabilities education act (IDEA) and subsequent
 44 amendments thereto, and applicable state and federal regulations, "school age" shall begin at

1 the attainment of age three (3) and shall continue through the semester of school in which the
2 student attains the age of twenty-one (21) years.

3 SECTION 3. That Section 33-208, Idaho Code, be, and the same is hereby amended to
4 read as follows:

5 33-208. PREKINDERGARTENS, KINDERGARTENS AND CHILD ATTENDANCE
6 NOT COMPULSORY. It shall not be compulsory for individual school districts to establish a
7 prekindergarten or a kindergarten program; and it shall not be mandatory for a child who is
8 eligible by age for attendance to enroll in an established public prekindergarten or kindergarten.

9 SECTION 4. That Section 33-302, Idaho Code, be, and the same is hereby amended to
10 read as follows:

11 33-302. CLASSIFICATION OF SCHOOL DISTRICTS. Elementary school districts
12 shall give instruction only to pupils in grades one (1) through eight (8), and may give
13 instruction in prekindergarten and kindergarten. All other school districts shall give instruction
14 to pupils in grades one (1) through twelve (12), and may give instruction in prekindergarten and
15 kindergarten, and shall maintain secondary schools giving instruction to pupils in grades seven
16 (7) through twelve (12), or any combination of such grades.

17 Any school district maintaining its only secondary school building situate not less than
18 twenty-five (25) miles from the nearest Idaho secondary school, and which employs not less
19 than six (6) teachers within its district, may be authorized by the state board of education to
20 instruct pupils in two (2) or more grades above grade seven (7).

21 Whenever any district lies, or shall lie, in more than one (1) county it shall be designated
22 as a joint district of its class.

23 SECTION 5. That Section 33-512, Idaho Code, be, and the same is hereby amended to
24 read as follows:

25 33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district
26 shall have the following powers and duties:

27 (1) To fix the days of the year and the hours of the day when schools shall be in session.
28 However:

29 (a) Each school district shall annually adopt and implement a school calendar which
30 provides its students at each grade level with the following minimum number of
31 instructional hours:

Grades	Hours
9-12	990
4-8	900
1-3	810
K	450

37 (b) School assemblies, testing and other instructionally related activities involving
38 students directly may be included in the required instructional hours.

39 (c) When approved by a local school board, annual instructional hour requirements stated
40 in paragraph (a) may be reduced as follows:

1 (i) Up to a total of twenty-two (22) hours to accommodate staff development
2 activities conducted on such days as the local school board deems appropriate.

3 (ii) Up to a total of eleven (11) hours of emergency school closures due to
4 adverse weather conditions and facility failures.

5 However, transportation to and from school, passing times between classes, recess and
6 lunch periods shall not be included.

7 (d) Student and staff activities related to the opening and closing of the school year,
8 grade reporting, program planning, staff meetings, and other classroom and building
9 management activities shall not be counted as instructional time or in the reductions
10 provided in paragraph (c)(i) of this section.

11 (e) For multiple shift programs, this rule applies to each shift (i.e., each student must
12 have access to the minimum annual required hours of instructions).

13 (f) The instructional time requirement for grade 12 students may be reduced by action
14 of a local school board for an amount of time not to exceed eleven (11) hours of
15 instructional time.

16 (g) The state superintendent of public instruction may grant an exemption from the
17 provisions of this section for an individual building within a district, when the closure
18 of that building, for unforeseen circumstances, does not affect the attendance of other
19 buildings within the district.

20 (2) To adopt and carry on, and provide for the financing of, a total educational program
21 for the district. Such programs in other than elementary school districts may include education
22 programs for out-of-school youth and adults; and such districts may provide classes in
23 prekindergarten and kindergarten; provided however, and except as provided in section 33-201,
24 Idaho Code, there shall be no appropriation by the state of Idaho directed to the provision of
25 prekindergarten services to children eligible therefor;

26 (3) To provide, or require pupils to be provided with, suitable textbooks and supplies,
27 and for advice on textbook selections may appoint a ~~textbook~~ curricular materials adoption
28 committee as provided in section 33-512A, Idaho Code;

29 (4) To protect the morals and health of the pupils;

30 (5) To exclude from school, children not of school age;

31 (6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including
32 rules on student harassment, intimidation and bullying, such rules to be included in a district
33 discipline code adopted by the board of trustees and a summarized version thereof to be
34 provided in writing at the beginning of each school year to the teachers and students in the
35 district in a manner consistent with the student's age, grade and level of academic achievement;

36 (7) To exclude from school, pupils with contagious or infectious diseases who are
37 diagnosed or suspected as having a contagious or infectious disease or those who are not
38 immune and have been exposed to a contagious or infectious disease; and to close school on
39 order of the state board of health and welfare or local health authorities;

40 (8) To equip and maintain a suitable library or libraries in the school or schools and to
41 exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian
42 nature;

43 (9) To determine school holidays. Any listing of school holidays shall include not less
44 than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day,
45 and Christmas Day. Other days listed in section 73-108, Idaho Code, if the same shall fall on

1 a school day, shall be observed with appropriate ceremonies; and any days the state board of
2 education may designate, following the proclamation by the governor, shall be school holidays;

3 (10) To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or
4 flagpole, and display thereon the flag of the United States of America on all days, except during
5 inclement weather, when the school is in session; and for each Veterans Day, each school
6 in session shall conduct and observe an appropriate program of at least one (1) class period
7 remembering and honoring American veterans;

8 (11) To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering
9 in schoolhouses or on school grounds and to provide for the removal from each schoolhouse
10 or school grounds of any individual or individuals who disrupt the educational processes or
11 whose presence is detrimental to the morals, health, safety, academic learning or discipline of
12 the pupils. A person who disrupts the educational process or whose presence is detrimental
13 to the morals, health, safety, academic learning or discipline of the pupils or who loiters in
14 schoolhouses or on school grounds, is guilty of a misdemeanor;

15 (12) To supervise and regulate, including by contract with established entities, those
16 extracurricular activities which are by definition outside of or in addition to the regular
17 academic courses or curriculum of a public school, and which extracurricular activities shall not
18 be considered to be a property, liberty or contract right of any student, and such extracurricular
19 activities shall not be deemed a necessary element of a public school education, but shall be
20 considered to be a privilege;

21 (13) To govern the school district in compliance with state law and rules of the state
22 board of education;

23 (14) To submit to the superintendent of public instruction not later than July 1 of each
24 year documentation which meets the reporting requirements of the federal gun-free schools act
25 of 1994 as contained within the federal improving America's schools act of 1994;

26 (15) To require that all certificated and noncertificated employees hired on or after July
27 1, 2008, and other individuals who are required by the provisions of section 33-130, Idaho
28 Code, to undergo a criminal history check shall submit a completed ten (10) finger fingerprint
29 card or scan to the department of education no later than five (5) days following the first
30 day of employment or unsupervised contact with students in a preK-12 setting, whichever is
31 sooner. Such employees and other individuals shall pay the cost of the criminal history check.
32 If the criminal history check shows that the employee has been convicted of a felony crime
33 enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination,
34 dismissal or other personnel action of the district, except that it shall be the right of the school
35 district to evaluate whether an individual convicted of one (1) of these crimes and having been
36 incarcerated for that crime shall be hired. Provided however, that any individual convicted
37 of any felony offense listed in section 33-1208 2., Idaho Code, shall not be hired. For the
38 purposes of criminal history checks, a substitute teacher is any individual who temporarily
39 replaces a certificated classroom educator and is paid a substitute teacher wage for one (1) day
40 or more during a school year. A substitute teacher who has undergone a criminal history check
41 at the request of one (1) district in which he has been employed as a substitute shall not be
42 required to undergo an additional criminal history check at the request of any other district in
43 which he is employed as a substitute if the teacher has obtained a criminal history check within
44 the previous five (5) years. If the district next employing the substitute still elects to require
45 another criminal history check within the five (5) year period, that district shall pay the cost of
46 the criminal history check or reimburse the substitute teacher for such cost. To remain on the

1 statewide substitute teacher list maintained by the state department of education, the substitute
2 teacher shall undergo a criminal history check every five (5) years;

3 (16) To maintain a safe environment for students by developing a system that
4 cross-checks all contractors or other persons who have irregular contact with students against
5 the statewide sex offender register;

6 (17) To provide support for teachers in their first two (2) years in the profession in the
7 areas of: administrative and supervisory support, mentoring, peer assistance and professional
8 development.

9 SECTION 6. That Section 33-1207A, Idaho Code, be, and the same is hereby amended
10 to read as follows:

11 33-1207A. TEACHER PREPARATION. (1) Higher Education Institutions. The state
12 board shall review teacher preparation programs at the institutions of higher education under
13 ~~their~~ its supervision and shall assure that the course offerings and graduation requirements are
14 consistent with the state board approved, research based "Idaho Comprehensive Literacy Plan."
15 To assure the most immediate compliance with this requirement, the board may allocate funds,
16 subject to appropriation, to institutions which require revision of the program.

17 The state board shall be responsible for the development of a single preservice
18 assessment measure for all prekindergarten and all kindergarten through grade eight (8)
19 teacher preparation programs. The assessment must include a demonstration of teaching skills
20 and knowledge congruent with current research on best reading practices. In addition the
21 assessment must include how children acquire language; the basic sound structure of English,
22 including phonological and phonemic awareness; phonics and structural analysis; semantics
23 and syntactics; how to select reading textbooks; and how to use diagnostic tools and test
24 data to improve teaching. It shall also include the preservice teacher's knowledge base of
25 reading process: phonological awareness; sound-symbol correspondence (intensive, systematic
26 phonemes); semantics (meaning); syntax (grammar and language patterns); pragmatics
27 (background knowledge and life experience); and comprehension and critical thinking. ~~By~~
28 ~~September 2002, a~~ All prekindergarten and K-8 teacher candidates from an Idaho teacher
29 preparation program shall pass this assessment in order to qualify for an Idaho standard
30 elementary teaching certificate. The state board shall report the number of preservice teachers
31 taking and passing the performance-based reading assessment to the legislature and governor
32 annually. All costs associated with administration of this test shall be borne by the institution
33 which administers the test and shall be shown as a line item in the appropriation request of the
34 institution for state reimbursement.

35 (2) In-service Programs. Each teacher employed in a classroom for prekindergarten
36 and kindergarten through grade eight (8), ~~¶~~ title I, or special education and each school
37 administrator of a school which includes prekindergarten and kindergarten through grade
38 eight (8), ~~¶~~ title I, or special education shall complete three (3) credits (or forty-five (45)
39 contact hours of in-service training) of a state approved reading instruction course titled
40 "Idaho Comprehensive Literacy Course" based on the state approved research based "Idaho
41 Comprehensive Literacy Plan" in order to recertify. Courses which qualify for credit shall
42 be approved by the state department of education, and any educator who completes a state
43 approved reading instruction course prior to September 2001, shall be deemed to have met the
44 requirements of this subsection. Completion of a state approved reading instruction course
45 shall be a one-time requirement for renewal of certification for those currently employed in an

1 Idaho school district and shall be included within current requirements for continuing education
 2 for renewal. The department shall provide a waiver of this requirement if the applicant
 3 successfully completes the reading assessment measure developed for preservice purposes as
 4 provided in subsection (1) of this section. The department shall establish a procedure to allow
 5 a waiver of this requirement if the applicant teaches in a secondary grade subject which does
 6 not directly involve teaching reading or writing.

7 The board of trustees of every school district shall include in its plan for in-service
 8 training, coursework covering reading skills development, including diagnostic tools to review
 9 and adjust instruction continuously, and the ability to identify students who need special help in
 10 reading. The district plan for in-service training in reading skills shall be submitted to the state
 11 department of education for review and approval, in a format specified by the department.

12 SECTION 7. That Section 33-1225, Idaho Code, be, and the same is hereby amended to
 13 read as follows:

14 33-1225. THREATS OF VIOLENCE – LIMITATION ON LIABILITY. (1) A
 15 communication by any person to a school principal, or designee, or a communication by a
 16 student attending the school to the student's teacher, school counselor or school nurse, and any
 17 report of that communication to the school principal stating that a specific person has made a
 18 threat to commit violence on school grounds by use of a firearm, explosive, or deadly weapon
 19 defined in chapter 33, title 18, Idaho Code, is a communication on a matter of public concern.
 20 Such communication or report shall only be subject to liability in defamation by clear and
 21 convincing evidence that the communication or report was made with knowledge of its falsity
 22 or with reckless disregard for the truth or falsity of the communication or report. This section
 23 shall not be interpreted to change or eliminate other elements of defamation required by law.

24 (2) As used in this section, "school" means any public or private school providing
 25 instruction in prekindergarten or kindergarten or any grades from grade one (1) through grade
 26 twelve (12) which is the subject of a threat.

27 SECTION 8. That Section 33-1302, Idaho Code, be, and the same is hereby amended to
 28 read as follows:

29 33-1302. LEGISLATIVE FINDINGS. The legislature hereby finds that interpreting
 30 services in Idaho public schools, prekindergarten and kindergarten through grade twelve (12),
 31 for students who are deaf, hard of hearing or deaf-blind need to be improved. The absence of
 32 state standards for evaluating educational interpreters allows for inconsistencies in the delivery
 33 of educational information to students who are in need of such services. The legislature
 34 recognizes that educational interpreters in Idaho public schools must not only interpret the
 35 spoken word but must also convey concepts and facilitate the student's understanding of the
 36 educational material. The legislature also finds, that among the many factors that influence
 37 student success, there is a correlation between the academic achievements of deaf, hard of
 38 hearing and deaf-blind students and the competency of their interpreters. Therefore, the
 39 legislature finds that Idaho educational public policy is served by establishing standards for
 40 persons employed in the Idaho public schools as educational interpreters.

41 SECTION 9. That Section 33-1303, Idaho Code, be, and the same is hereby amended to
 42 read as follows:

1 33-1303. DEFINITIONS. The following words and phrases used in this chapter are
2 defined as follows:

3 (1) "Board" means the state board of education.

4 (2) "Deaf" means a person who is not able to process information aurally and whose
5 primary means of communication is visual.

6 (3) "Deaf-blind" means a person who is deaf or hard of hearing and who also has
7 significant visual impairment or is legally blind.

8 (4) "Educational interpreter" means a person employed in the Idaho public schools,
9 prekindergarten and kindergarten through grade twelve (12), to provide interpreting services
10 to students who are deaf, hard of hearing or deaf-blind.

11 (5) "Educational interpreter performance assessment" means a statistically valid and
12 reliable assessment tool administered by the boys town national research hospital or its
13 successor organization.

14 (6) "Hard of hearing" means a person who has a hearing deficit, who is able to process
15 information aurally with or without the use of a hearing aid or other device that enhances the
16 ability of the person to hear, and whose primary means of communication may be visual.

17 (7) "Interpreter education program" means a postsecondary degree program of at least
18 two (2) years in duration that is accredited by the state board of education or an equivalent
19 program accredited by another state, district or territory or by a professional accreditation body.

20 (8) "Interpreting" means the process of providing accessible communication between and
21 among persons who are deaf, hard of hearing or deaf-blind, and those who are hearing. The
22 process includes, but is not limited to, communication between American sign language or
23 other form of manual communication and English. The process may also involve various other
24 modalities that involve visual, gestural and tactile methods.

25 SECTION 10. That Section 33-1613, Idaho Code, be, and the same is hereby amended to
26 read as follows:

27 33-1613. SAFE PUBLIC SCHOOL FACILITIES REQUIRED. (1) Definition. As used
28 in this section, "public school facilities" means the physical plant of improved or unimproved
29 real property owned or operated by a school district, a charter school, or a school for children
30 in prekindergarten or in any grades kindergarten through twelve (12) that is operated by the
31 state of Idaho, including school buildings, administration buildings, playgrounds, athletic fields,
32 etc., used by schoolchildren or school personnel in the normal course of providing a general,
33 uniform and thorough system of public, free common schools, but does not include areas,
34 buildings or parts of buildings closed from or not used in the normal course of providing a
35 general, uniform and thorough system of public, free common schools. The aspects of a safe
36 environment conducive to learning as provided by section 33-1612, Idaho Code, that pertain
37 to the physical plant used to provide a general, uniform and thorough system of public, free
38 common schools are hereby defined as those necessary to comply with the safety and health
39 requirements set forth in this section.

40 (2) Inspection. It is the duty of the board of trustees of every school district and the
41 governing body for other schools described in subsection (1) of this section at least once in
42 every school year to require an independent inspection of the school district's or other entity's
43 school facilities to determine whether those school facilities comply with codes addressing
44 safety and health standards for facilities, including electrical, plumbing, mechanical, elevator,
45 fire safety, boiler safety, life safety, structural, snow loading, and sanitary codes, adopted by

1 or pursuant to the Idaho uniform school building safety act, chapter 80, title 39, Idaho Code,
2 adopted by the state fire marshal, adopted by generally applicable local ordinances, or adopted
3 by rule of the state board of education and applicable to school facilities. The inspection
4 shall be done pursuant to chapter 80, title 39, Idaho Code, or by an independent inspector
5 professionally qualified to conduct inspections under the applicable code. The results of the
6 inspection shall be presented to the administrator of the division of building safety and the
7 board of trustees or other governing body for its review and consideration.

8 (3) Abatement required – Reporting. The board of trustees or other governing body shall
9 require that the unsafe or unhealthy conditions be abated and shall instruct the school district’s
10 or other entity’s personnel to take necessary steps to abate unsafe or unhealthy conditions. The
11 board of trustees or other governing body must issue a report in the same school year in which
12 the inspections are made declaring whether any unsafe or unhealthy conditions identified have
13 not been abated. The state board of education shall, by rule, provide for uniform reporting
14 of unsafe and unhealthy conditions and for uniform reporting of abatement or absence of
15 abatement of unsafe and unhealthy conditions. Copies of such reports shall be provided to the
16 administrator of the division of building safety and the board of trustees of the school district.

17 (4) Costs of and plan of abatement. If the school district or other entity described in
18 subsection (1) of this section can abate all unsafe or unhealthy conditions identified with the
19 funds available to the school district or other entity, it shall do so, and it need not separately
20 account for the costs of abatement nor segregate funds expended for abatement. If the school
21 district or other entity cannot abate all unsafe or unhealthy conditions identified with the
22 funds available to it, the board of trustees or other governing body shall direct that a plan of
23 abatement be prepared. The plan of abatement shall provide a timetable that shall begin no
24 later than the following school year and that shall provide for abatement with all deliberate
25 speed of unsafe and unhealthy conditions identified. The abatement plan shall be submitted
26 to the administrator of the division of building safety. The school district or other entity shall
27 immediately begin to implement its plan of abatement and must separately account for its
28 costs of abatement of unsafe and unhealthy conditions and separately segregate funds for the
29 abatement of unsafe and unhealthy conditions as required by subsection (5) of this section.

30 (5) Special provisions for implementation of plan of abatement.

31 (a) Notwithstanding any other provisions of law concerning expenditure of lottery
32 moneys distributed to the school district or other entity, all lottery moneys provided to the
33 school district or other entity for a school year in which the school district cannot abate
34 unsafe or unhealthy conditions identified and not legally encumbered to other uses at the
35 time and all lottery moneys for following school years shall be segregated and expended
36 exclusively for abatement of unsafe and unhealthy conditions identified until all of the
37 unhealthy and unsafe conditions identified are abated, provided, if the school district has
38 obtained a loan from the school safety and health revolving loan and grant fund, the
39 provisions of section 33-1017, Idaho Code, and the conditions of the loan shall determine
40 the use of the school district’s lottery moneys during the term of the loan.

41 (b) If the lottery moneys referred to in paragraph (a) of this subsection will, in the board
42 of trustees’ or other governing bodies’ estimation, be insufficient to abate the unsafe and
43 unhealthy conditions identified, the plan of abatement shall identify additional sources
44 of funds to complete the abatement of the unsafe and unhealthy conditions. The board
45 of trustees may choose from among the following sources, or from other sources of its

1 own identification, but the plan of abatement must identify sufficient sources of funds for
2 abatement.

3 (i) If the school district is not levying under chapter 8, title 33, Idaho Code, at
4 the maximum levies allowed by law for levies that may be imposed by a board of
5 trustees without an election, the board of trustees may increase any of those levies
6 as allowed by law for the school year following the school year in which it was
7 unable to abate unsafe or unhealthy conditions identified.

8 (ii) If the school district is levying under chapter 8, title 33, Idaho Code, at
9 the maximum levies allowed by law for levies that may be imposed by the
10 board of trustees without an election; or, if after increasing those levies to the
11 maximum levies allowed by law for levies that may be imposed by the board of
12 trustees without an election, there will still be insufficient funds to abate unsafe
13 or unhealthy conditions identified, the school district, after giving notice and
14 conducting a hearing, may declare a financial emergency and/or may apply for a
15 loan or, if eligible, an interest grant from the school safety and health revolving
16 loan and grant fund as provided in section 33-1017, Idaho Code, to obtain funds to
17 abate the unsafe or unhealthy conditions identified.

18 (iii) Upon the declaration of a financial emergency, the board of trustees shall
19 have the power to impose a reduction in force, to freeze some or all salaries in
20 the school district, and/or to suspend some or all contracts that may be legally
21 suspended upon the declaration of a financial emergency; provided, that when
22 a board of trustees declares a financial emergency, or when a declaration of a
23 financial emergency is imposed by the state treasurer pursuant to section 33-1017,
24 Idaho Code, and there is a reduction in force, some or all salaries are frozen,
25 or some contracts are suspended, the payments to the school district under the
26 foundation program of chapter 10, title 33, Idaho Code, and in particular the
27 staff allowances under that chapter, shall not be reduced during the duration of
28 the financial emergency as a result of a reduction in force, frozen salaries, or
29 suspended salaries from what the staff allowance would be without the reduction
30 in force, frozen salaries or suspended contracts.

31 (c) All costs of abatement for a program implementing plans of abatement under
32 subsection (5) of this section must be separately accounted for and documented with
33 regard to abatement of each unsafe or unhealthy condition identified. Funds obtained
34 under section 33-1017, Idaho Code, must be used exclusively to abate unsafe or unhealthy
35 conditions identified. Funds obtained pursuant to section 33-1017, Idaho Code, in excess
36 of funds necessary to abate unsafe or unhealthy conditions identified must be returned
37 as provided in section 33-1017, Idaho Code. Return of these funds shall be judicially
38 enforceable as provided in section 33-1017, Idaho Code.

39 SECTION 11. That Section 39-8003, Idaho Code, be, and the same is hereby amended to
40 read as follows:

41 39-8003. SCOPE. This act shall apply to all facilities, existing now or constructed in
42 the future, that are owned, leased or used for educational purposes by public school districts,
43 charter schools, or a school for children in prekindergarten or in any grades kindergarten
44 through twelve (12) that is operated by the state of Idaho receiving state funding. The authority

1 granted under this act shall not prohibit local governments from acting to enforce applicable
2 building and fire codes.