

IN THE SENATE

SENATE BILL NO. 1120

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO EDUCATION, SCHOOL DISTRICTS AND PUBLIC SCHOOL BUILDINGS;  
2 TO PROVIDE LEGISLATIVE INTENT; AMENDING CHAPTER 3, TITLE 33,  
3 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-356, IDAHO  
4 CODE, TO PROVIDE FOR SCHOOL BUILDING DESIGN AND ENERGY  
5 EFFICIENCY, TO PROVIDE THAT SCHOOL DISTRICTS MAY SEEK TO QUALIFY  
6 FOR REDUCTIONS IN BUILDING REPLACEMENT VALUE CALCULATIONS  
7 FOR CERTAIN BUILDINGS, TO PROVIDE FOR THE USE OF INTEGRATED  
8 DESIGN PRACTICES AND FUNDAMENTAL COMMISSIONING IN THE  
9 DESIGN AND CONSTRUCTION OF CERTAIN BUILDINGS, TO PROVIDE  
10 FOR AN OPTIMIZATION REVIEW OF QUALIFYING BUILDINGS, TO PROVIDE  
11 DEFINITIONS, TO DIRECT THE ADMINISTRATOR OF THE DIVISION OF  
12 BUILDING SAFETY TO PROVIDE CERTAIN ASSISTANCE, TO COMPILE  
13 AND MAKE AVAILABLE A LIST OF CERTAIN COMMISSIONING AGENTS  
14 AND TO ENSURE THAT SUCH AGENTS ARE CERTIFIED, TO PROVIDE  
15 FOR RULES, TO DIRECT THE STATE DEPARTMENT OF EDUCATION TO  
16 PROVIDE CERTAIN TRAINING AND ADVICE TO SCHOOL DISTRICTS AND  
17 TO DIRECT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY  
18 TO PROVIDE CERTAIN CERTIFICATIONS TO THE STATE DEPARTMENT OF  
19 EDUCATION; AMENDING SECTION 33-1019, IDAHO CODE, TO EXEMPT  
20 CERTAIN SQUARE FOOTAGE OF CERTAIN PUBLIC SCHOOL BUILDINGS FROM  
21 REPLACEMENT VALUE CALCULATION, TO PROVIDE THAT THE AMOUNT OF  
22 RELIEF PROVIDED TO ANY SCHOOL DISTRICT SHALL NOT EXCEED THE  
23 AMOUNT PROVIDED PURSUANT TO A CERTAIN VALUE INDEX, TO PROVIDE  
24 PROVISIONS RELATING TO FORGIVENESS OF CERTAIN REQUIREMENTS;  
25 TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL  
26 CORRECTIONS; AND TO PROVIDE FOR A REPORT.  
27

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

29 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature that:

30 (1) Every dollar spent on energy costs in an Idaho public school is a dollar that is  
31 not spent in the direct education of students in the classroom. As energy costs increase, the  
32 diversion of funding away from the classroom will accelerate. The state has a primary interest  
33 in minimizing K-12 public school building energy costs since funding for energy comes directly  
34 from the state General Fund.

35 (2) School districts recognize that funding will always be limited and that efficient use  
36 of every dollar is vital to providing the highest possible level of educational services. It is  
37 apparent that designing and constructing more energy efficient buildings accrue cumulative  
38 benefits to both the state and to the school district. This is because any energy efficiency  
39 built into a new school building will save money each and every year of operation for the life

1 of that school building. Small gains in energy efficiency result in large payoffs over the life of  
2 operations of a building.

3 (3) This act provides an incentive for school districts to use certain design and  
4 construction processes for constructing high quality school buildings. Using two processes,  
5 integrated design and fundamental commissioning, will result in efficient design and  
6 construction implementation of higher performance new public school buildings. Using this  
7 design and construction process, it is the intent of this act to make energy efficiency a priority  
8 for our school districts in the design and construction of new public school buildings.

9 SECTION 2. That Chapter 3, Title 33, Idaho Code, be, and the same is hereby amended  
10 by the addition thereto of a NEW SECTION, to be known and designated as Section 33-356,  
11 Idaho Code, and to read as follows:

12 33-356. SCHOOL BUILDING DESIGN AND ENERGY EFFICIENCY.

13 (1) (a) School districts may seek to qualify for a reduction in building replacement value  
14 calculation for qualified, newly constructed public school buildings pursuant to section  
15 33-1019(4), Idaho Code.

16 (b) Each school district that seeks to qualify a newly constructed building for the  
17 building replacement value calculation provided for in section 33-1019(4), Idaho Code,  
18 shall use integrated design practices and fundamental commissioning in the design and  
19 construction of such building.

20 (c) Following the first year of operations of a building that was certified in accordance  
21 with the provisions of subsection (6)(a) of this section, the germane school district  
22 shall perform or cause to be performed an annual optimization review of the qualifying  
23 building. Such annual optimization review shall be performed in a manner that is  
24 consistent with rules promulgated pursuant to this section. Such school district shall  
25 thereafter perform or cause to be performed an annual optimization review each year it  
26 seeks to qualify such building for the building replacement value calculation provided in  
27 section 33-1019(4), Idaho Code.

28 (2) For purposes of this section, the following terms shall have the following meanings:

29 (a) "Fundamental commissioning" means the use of a third party to review building  
30 design, building system specifications and to specify and monitor preoccupancy system  
31 testing to ensure functional integration of specified systems and functional operation of  
32 systems at the completion of a project.

33 (b) "Integrated design" means a process to develop consensus among the project team  
34 and owner as to the energy savings and building performance goals of the project and to  
35 identify design strategies to achieve those goals, including documentation strategies for  
36 design decisions to ensure accurate implementation of design through construction.

37 (3) It shall be the duty and responsibility of the administrator of the division of  
38 building safety to provide assistance to school districts to ensure school districts can access the  
39 technical and educational support needed to implement the processes of integrated design and  
40 fundamental commissioning. It shall further be the duty and responsibility of the administrator  
41 of the division of building safety to compile and cause to be made available to school districts  
42 a list of all third party building commissioning agents in Idaho and contiguous states. The  
43 administrator shall ensure that all commissioning agents that appear on such list are certified  
44 by the building commissioning association or other similar certifying entity. The administrator  
45 shall ensure that such list is updated annually.

1 (4) The administrator of the division of building safety is hereby authorized and  
 2 directed to promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho  
 3 Code, that provide the guidance, education and technical information necessary for school  
 4 districts to implement the processes of integrated design and fundamental commissioning. The  
 5 administrator is authorized to expand upon the terms defined in subsection (2) of this section,  
 6 and to provide additional definitions as needed. In addition, the administrator shall promulgate  
 7 rules governing annual optimization review and evaluation of germane building systems to  
 8 ensure optimal performance of such systems and maximum energy savings and building  
 9 performance. Such rules shall include, but not be limited to, a definition for the minimum  
 10 scope of work required for annual optimization.

11 (5) The state department of education shall provide annual training to school districts  
 12 regarding building construction practices related to energy efficient buildings. The department  
 13 shall also advise school districts of potential financial incentives that may be available, from  
 14 both public and private entities, that school districts may qualify for in regard to energy  
 15 efficient building construction.

16 (6) (a) The administrator of the division of building safety shall certify to the state  
 17 department of education when a building has qualified for school building replacement  
 18 value calculation exclusions as provided for in section 33-1019(4), Idaho Code. As part  
 19 of such certification, the administrator shall state specifically the school building(s) and  
 20 the square footage thereof that shall be excluded from the school building replacement  
 21 value calculations.

22 (b) Following the first year of operations of a building that was certified in accordance  
 23 with the provisions of subsection (6)(a) of this section, the administrator of the division  
 24 of building safety shall certify to the state department of education when such building  
 25 has undergone an annual optimization review as provided in subsection (1)(c) of this  
 26 section. Such certification shall ensure that the qualifying building meets or exceeds the  
 27 requirements of annual optimization review rules promulgated pursuant to subsection (4)  
 28 of this section.

29 SECTION 3. That Section 33-1019, Idaho Code, be, and the same is hereby amended to  
 30 read as follows:

31 33-1019. ALLOCATION FOR SCHOOL BUILDING MAINTENANCE  
 32 REQUIRED. (1) School districts shall annually allocate moneys for school building  
 33 maintenance from any source available to the district equal to at least two percent (2%) of the  
 34 replacement value of school buildings, less the receipt of state funds as provided in this section.  
 35 Any school district expending more than four percent (4%) of the replacement value of  
 36 school buildings for school building maintenance in any single fiscal year, beginning with the  
 37 expenditures of fiscal year 2005, may apply the excess as a credit against the two percent (2%)  
 38 requirement of this section until such credit is depleted or fifteen (15) years have expired. The  
 39 state shall annually provide funds to be allocated for school building maintenance as follows:

40 (a) Divide one (1) by the school district's value index for the fiscal year, as calculated  
 41 pursuant to section 33-906B, Idaho Code; and

42 (b) Multiply the result by one-half of one percent (0.5%) of the replacement value of  
 43 school buildings.

44 (c) For purposes of the calculation in this subsection (1), public charter schools shall be  
 45 assigned a value index of one (1).

1 (2) State funds shall be appropriated through the educational support program/division of  
 2 facilities; and disbursed from the school district building account. The order of funding sources  
 3 used to meet the state funding requirements of this section shall be as follows:

4 (a) State lottery funds distributed pursuant to section 33-905(2), Idaho Code;

5 (b) If state lottery funds are insufficient to meet the state funding requirements of this  
 6 section, then other state funds available pursuant to section 33-905(3), Idaho Code, shall  
 7 be utilized; and

8 (c) If the funds in paragraphs (a) and (b) of this subsection (2) are insufficient to meet  
 9 the state funding requirements of this section, then funds available pursuant to section  
 10 33-1018B, Idaho Code, shall be utilized.

11 (3) Moneys allocated for school building maintenance shall be used exclusively for the  
 12 maintenance and repair of school buildings or any serious or imminent safety hazard on the  
 13 property of said school buildings as identified pursuant to chapter 80, title 39, Idaho Code, and  
 14 shall be utilized, first, to abate serious or imminent safety hazards, as identified pursuant to  
 15 chapter 80, title 39, Idaho Code. Unexpended moneys in a school district's school building  
 16 maintenance allocation shall be carried over from year to year; and shall remain allocated  
 17 for the purposes specified in this subsection (3). The replacement value of school buildings  
 18 shall be determined by multiplying the number of square feet of building floor space in school  
 19 buildings by eighty-one dollars and forty-five cents (\$81.45). Notwithstanding the definition  
 20 in subsection (48) of this section, school buildings that are less than one (1) year old on  
 21 the first day of school shall not be used in the replacement value calculation. The joint  
 22 finance-appropriations committee shall annually review the replacement value per square foot  
 23 when setting appropriations for the educational support program; and may make adjustments  
 24 to this figure as necessary.

25 (4) For school buildings first occupied between July 1, 2009, through September 30,  
 26 2019, regarding the replacement value calculation that school districts are directed to use to  
 27 determine the amount of moneys such districts shall allocate for school building maintenance  
 28 as directed by subsection (1) of this section, a portion of the square footage of school buildings  
 29 first occupied on or after July 1, 2009, and constructed pursuant to the provisions of section  
 30 33-356, Idaho Code, shall not be used in the replacement value calculation, based on the  
 31 following schedule:

32 (a) For school buildings at least one (1) year old but less than two (2) years old on the  
 33 first day of school, exclude one hundred percent (100%) of the square footage;

34 (b) For school buildings at least two (2) years old but less than three (3) years old on the  
 35 first day of school, exclude eighty percent (80%) of the square footage;

36 (c) For school buildings at least three (3) years old but less than four (4) years old on the  
 37 first day of school, exclude sixty percent (60%) of the square footage;

38 (d) For school buildings at least four (4) years old but less than five (5) years old on the  
 39 first day of school, exclude forty percent (40%) of the square footage; and

40 (e) For school buildings at least five (5) years old but less than six (6) years old on the  
 41 first day of school, exclude twenty percent (20%) of the square footage.

42 (5) The amount of relief provided to any school district pursuant to subsection (4) of this  
 43 section shall not exceed the amount that would be provided if the school district had a value  
 44 index of one (1).

45 (6) School districts shall submit the following to the state department of education by not  
 46 later than December 1:

- 1 (a) The number of square feet of school building floor space; and  
 2 (b) The funds and fund sources allocated for school building maintenance and any  
 3 unexpended allocations carried forward from prior fiscal years; and  
 4 (c) The projects on which moneys from the school district's school building maintenance  
 5 allocation were expended, and the amount and categories of expenditures; and  
 6 (d) The planned uses of the school district's school building maintenance allocation.

7 The state department of education shall transmit a summary of such reports to the legislature by  
 8 not later than January 15 of the following year.

9 (7) If a school district that is participating in the relief provided for in subsection (4)  
 10 of this section is forgiven the requirement to allocate the school district portion of the moneys  
 11 for the two percent (2%) of building replacement value for building maintenance provided in  
 12 subsection (1) of this section, then once the requirements of subsection (1) of this section are  
 13 reinstated, the provisions of subsection (4) of this section shall recommence from the time the  
 14 forgiveness took effect.

15 ~~(48)~~ For the purposes of this section:

16 (a) "Annually" means each fiscal year.

17 (b) "School building" means buildings that are owned by the school district or leased  
 18 by the school district through a lease-purchase agreement and are regularly occupied by  
 19 students.

20 ~~(bc)~~ "School district" means a school district or public charter school.

21 ~~(e) "Annually" means each fiscal year.~~

22 SECTION 4. STATE DEPARTMENT OF EDUCATION – REPORT. On or before  
 23 July 1, 2018, the State Department of Education shall submit a report to the State Board of  
 24 Education and the chairmen of the following legislative committees: Senate State Affairs;  
 25 House Environment, Energy and Technology; Senate and House Education; and the Energy,  
 26 Environment and Technology Interim Committee. Such report shall detail the extent to which  
 27 public school districts have participated, implemented and benefited from the provisions of this  
 28 act.