

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 504

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE UNIFORM SCHOOL BUILDING SAFETY ACT; AMENDING SECTION
2 39-8005, IDAHO CODE, TO REVISE MEMBERSHIP OF THE IDAHO UNIFORM SCHOOL
3 BUILDING SAFETY CODE COMMITTEE; AMENDING SECTION 39-8007, IDAHO
4 CODE, TO REVISE PROVISIONS RELATING TO CERTAIN POWERS AND DUTIES;
5 AMENDING SECTION 39-8008, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
6 DESIGNATING A LICENSED PROFESSIONAL, TO REVISE PROVISIONS RELATING TO
7 AN EVALUATION, TO REVISE LANGUAGE RELATING TO A WRITTEN ORDER OR NOTICE,
8 TO REMOVE LANGUAGE RELATING TO THE DEPARTMENT OF ADMINISTRATION AND TO
9 REVISE LANGUAGE RELATING TO AN IMMINENT SAFETY HAZARD; AND AMENDING
10 SECTION 39-8010, IDAHO CODE, TO REMOVE A REQUIREMENT TO NOTIFY THE
11 DEPARTMENT OF ADMINISTRATION.
12

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

14 SECTION 1. That Section 39-8005, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 39-8005. IDAHO UNIFORM SCHOOL BUILDING SAFETY CODE COMMITTEE CREATED
17 -- APPOINTMENT -- TERMS -- QUORUM -- MEETINGS -- COMPENSATION. There is
18 hereby created within the office of the superintendent of public instruction
19 the Idaho uniform school building safety code committee, hereafter referred
20 to as the committee. The committee shall consist of ~~nine~~ eight (8) members
21 and shall include one (1) representative from each of the following: the
22 office of the superintendent of public instruction; the division of building
23 safety; ~~the department of administration;~~ and the insurance industry,
24 appointed by the department of insurance. The governor shall appoint three
25 (3) members as follows: one (1) representative of local school boards;
26 one (1) representative of school superintendents and a chairman, all of
27 whom shall serve at his pleasure. The committee shall also include two
28 (2) members of the Idaho legislature, one (1) appointed by the president
29 pro tempore of the senate and one (1) appointed by the speaker of the house
30 of representatives. A majority of the membership of the committee is a
31 quorum. Upon completion of development of the Idaho uniform school safety
32 code provided for in section 39-8006, Idaho Code, the committee shall meet
33 at least annually to review and make any necessary revisions to the Idaho
34 uniform school safety code. Each member of the committee shall be reimbursed
35 for expenses as provided by section 59-509(b), Idaho Code, for each day spent
36 in attendance at meetings of the committee.

37 SECTION 2. That Section 39-8007, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 39-8007. POWERS AND DUTIES OF THE ADMINISTRATOR. (1) The
40 administrator shall enforce the provisions of this chapter in cooperation

1 with the superintendent of public instruction, ~~the department of~~
2 ~~administration~~, and the building code advisory board.

3 (2) The administrator shall promulgate rules necessary to carry out the
4 provisions of this chapter. Such rules shall be promulgated pursuant to the
5 provisions of chapter 52, title 67, Idaho Code.

6 (3) The administrator shall establish a program for the timely review
7 of public school construction plans as required by section 39-4113(4) (e),
8 Idaho Code.

9 (4) Upon request, the administrator shall provide training to school
10 districts on the Idaho uniform school building safety code.

11 SECTION 3. That Section 39-8008, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 39-8008. ADDITIONAL DUTIES OF ADMINISTRATOR -- RIGHT OF INSPECTION
14 -- POSTING. (1) The administrator shall have authority under this section
15 to enter all public school facilities covered by this chapter at reasonable
16 times to inspect, on an annual basis, such facilities for compliance with
17 the Idaho uniform school building safety code; provided however, that
18 inspections shall take into account the age of the school facilities and
19 the appropriate codes that would have been in effect at the time of the
20 construction of such facilities; provided further, that regardless of the
21 codes in effect at the time of construction, imminent safety hazards found
22 in public school facilities shall be identified and the provisions of this
23 chapter relating to such imminent safety hazards shall apply.

24 (2) If the administrator finds a violation of the Idaho uniform school
25 building safety code that he concludes does not constitute an imminent
26 safety hazard or serious safety hazard, he shall notify in writing the
27 school district superintendent, principal, board member, or other person in
28 charge. Such notification shall state, in bold print, that the citations for
29 violations or nonconformances constitute recommendations only.

30 (3) If the administrator finds a violation of the Idaho uniform school
31 building safety code that he concludes constitutes a serious safety hazard,
32 he shall immediately issue a written order or notice requiring the school
33 superintendent, principal, board of trustees or other person in charge to
34 eliminate the condition without delay and within the time specified by the
35 administrator in the notice or order, but not exceeding one (1) year. The
36 administrator may also designate a licensed professional to independently
37 evaluate the identified condition prior to issuing a written order to
38 eliminate the condition.

39 (4) If the administrator finds a violation of the Idaho uniform school
40 building safety code that he concludes constitutes an imminent safety
41 hazard, he shall, ~~immediately notify the department of administration~~
42 ~~and request that the department of administration~~ within two (2) working
43 days, designate a licensed professional to independently evaluate the
44 identified condition prior to issuing any report under this chapter. ~~The~~
45 ~~department of administration shall, within two (2) working days, designate~~
46 ~~a licensed professional to independently evaluate the condition identified.~~
47 That licensed professional shall, within fourteen (14) days, complete its
48 independent evaluation of the condition identified by the administrator
49 and notify the ~~director of the department of administration~~ administrator

1 of its conclusions. If the administrator determines that the condition
2 constituting an imminent safety hazard could reasonably be expected to
3 cause death or serious physical harm before the evaluation of the ~~department~~
4 ~~of administration~~ designated licensed professional can be completed and
5 before the condition can be eliminated, he shall determine the extent of
6 the area where such condition exists and thereupon shall issue a written
7 order or notice requiring the school district superintendent, principal,
8 board of trustees or other person in charge to cause all persons, except
9 those necessary to eliminate the condition, to be withdrawn from, and to be
10 restrained from entering, such area pending the evaluation of the ~~department~~
11 ~~of administration~~ designated licensed professional. This order shall be
12 withdrawn if the evaluation of the ~~department of administration~~ designated
13 licensed professional does not concur with the administrator that the
14 condition constitutes an imminent safety hazard as could reasonably be
15 expected to cause death or serious physical harm before the condition can be
16 eliminated.

17 (5) ~~If the department of administration agrees with the determination~~
18 ~~of the administrator that a condition identified constitutes an imminent~~
19 ~~safety hazard, the department of administration shall, within three (3)~~
20 ~~working days, so notify the administrator in writing.~~

21 ~~(6) If u~~Upon receipt of such notification in writing the findings of
22 the designated licensed professional, the administrator concludes that any
23 condition identified by such licensed professional constitutes an imminent
24 safety hazard, the administrator shall immediately serve, or cause to be
25 served, written notice or order upon the school district superintendent,
26 principal, board of trustees or other person in charge describing the
27 imminent safety hazard. The administrator shall also notify in writing
28 the state superintendent of public instruction of such imminent safety
29 hazard. Upon receipt of such written notice or order, the school district
30 superintendent, principal, board of trustees, or other person in charge
31 shall require all changes necessary to eliminate the imminent safety hazard
32 be made, without delay and within the time specified by the administrator
33 in the notice or order. If the condition presenting an imminent safety
34 hazard is not corrected within the specified time, or if the administrator
35 determines that the condition constituting such imminent safety hazard
36 could reasonably be expected to cause death or serious physical harm before
37 the condition can be eliminated, if he has not previously done so he shall
38 determine the extent of the area where such condition exists and thereupon
39 shall issue an order or notice requiring the school district superintendent,
40 principal, board member, or other person in charge to cause all persons,
41 except those necessary to eliminate the condition, to be withdrawn from,
42 and to be restrained from entering, such area. The school district
43 superintendent, principal, board member, or other person in charge shall
44 assist the administrator as necessary to post such areas to prevent injury.

45 (76) If the administrator finds a violation of the Idaho uniform
46 school building safety code that he concludes constitutes a serious safety
47 hazard and issues a written order or notice requiring the conditions to be
48 eliminated in not more than one (1) year, and the school superintendent,
49 principal, board of trustees, or other person in charge contests the
50 administrator's finding that the condition is a serious safety hazard, then

1 the school superintendent, principal, board of trustees, or other person
 2 in charge shall have fourteen (14) days from the date of the issuance of the
 3 administrator's written order or notice to request a hearing to initiate
 4 a contested case under chapter 52, title 67, Idaho Code. If a hearing is
 5 requested, the superintendent of public instruction shall appoint a hearing
 6 officer to consider the contested case. All administrative proceedings
 7 under this subsection shall be expedited as necessary to assure that
 8 serious safety hazards are eliminated as required by this section if the
 9 administrator's initial determination that there was a serious safety
 10 hazard is confirmed in the contested case proceedings.

11 (~~87~~) The administrator shall monitor the school district's progress in
 12 addressing any identified imminent safety hazard or serious safety hazard to
 13 ensure that appropriate corrective action was taken. The administrator may
 14 extend the time for completing corrective action if he deems necessary.

15 (~~98~~) Upon completion of corrective action and verification of such
 16 completion by the division of building safety and the department of
 17 administration, the administrator shall provide a report to the state
 18 superintendent of public instruction, the local superintendent of schools
 19 and the chair of the local school board.

20 (~~109~~) Annual inspections of public school facilities conducted by the
 21 administrator under the provisions of this section shall be funded pursuant
 22 to legislative appropriation.

23 SECTION 4. That Section 39-8010, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 39-8010. APPEAL TO BUILDING CODE ADVISORY BOARD. (1) The Idaho
 26 building code advisory board shall, within ten (10) days after receipt
 27 of notice for an appeal, hear such appeal brought before it by a school
 28 district affected by any finding pursuant to this chapter that there exists
 29 in a school building a violation of the uniform school building safety
 30 code, provided however, that an appeal brought pursuant to this section
 31 shall not affect the ability of the administrator to obtain an injunction
 32 pursuant to section 39-8009, Idaho Code. Such hearing shall be governed by
 33 the provisions of chapter 52, title 67, Idaho Code. Final decisions of the
 34 board, other than code interpretations, are subject to judicial review in
 35 accordance with the provisions of chapter 52, title 67, Idaho Code.

36 (2) The board shall provide reasonable interpretations of the codes
 37 enumerated in this chapter.

38 (3) Within ten (10) days of the conclusion of the hearing, the
 39 board shall render its findings and decisions in writing to the state
 40 superintendent of public instruction, ~~the director of the department of~~
 41 ~~administration,~~ the administrator of the division of building safety and the
 42 appealing district.