

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 458

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-1613, IDAHO CODE, TO REVISE PRO-
2 VISIONS REGARDING THE REQUIREMENT OF SAFE PUBLIC SCHOOL FACILITIES, TO
3 PROVIDE FOR FINES FOR VIOLATIONS, TO PROVIDE PROTECTION FOR REPORTING
4 VIOLATIONS, AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMER-
5 GENCY AND PROVIDING AN EFFECTIVE DATE.
6

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

8 SECTION 1. That Section 33-1613, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 33-1613. SAFE PUBLIC SCHOOL FACILITIES REQUIRED. (1) Definition. As
11 used in this section, "public school facilities" means the physical plant of
12 improved or unimproved real property owned or operated by a school district,
13 a charter school, or a school for children in any grades kindergarten through
14 ~~twelve (12)~~ that is operated by the state of Idaho, including school build-
15 ings, administration buildings, playgrounds, athletic fields, etc., used by
16 schoolchildren or school personnel in the normal course of providing a gen-
17 eral, uniform and thorough system of public, free common schools, but does
18 not include areas, buildings or parts of buildings closed from or not used
19 in the normal course of providing a general, uniform and thorough system of
20 public, free common schools. The aspects of a safe environment conducive
21 to learning as provided by section 33-1612, Idaho Code, that pertain to the
22 physical plant used to provide a general, uniform and thorough system of pub-
23 lic, free common schools are hereby defined as those necessary to comply with
24 the safety and health requirements set forth in this section.

25 (2) Inspection. It is the duty of the board of trustees of every school
26 district and the governing body for other public schools described in sub-
27 section (1) of this section at least once in every school year to require an
28 independent inspection of the school district's or other entity's school fa-
29 cilities to determine whether those school facilities comply with codes ad-
30 dressing safety and health standards for facilities, including electrical,
31 plumbing, mechanical, elevator, fire safety, boiler safety, life safety,
32 structural, snow loading, and sanitary codes, adopted by or pursuant to the
33 Idaho uniform school building safety act, chapter 80, title 39, Idaho Code,
34 adopted by the state fire marshal, adopted by generally applicable local
35 ordinances, or adopted by rule of the state board of education and applicable
36 to school facilities. If not provided for under existing codes, such inspec-
37 tion shall include testing for radon, mold, and lead, as provided for in this
38 subsection or as necessary under the circumstances. Radon testing shall be
39 required for those public school facilities with basements that are regu-
40 larly occupied by students, including for classroom instruction or other
41 school-related activities, or if a facility's substratum has been identi-
42 fied as being in a radon-prone area, if the construction of the facility did

1 not include radon-resistant features or techniques, or if such information
2 is unknown. Radon testing shall be conducted when a building is operational.
3 Mold testing shall be required if mold may reasonably be suspected of devel-
4 oping or existing due to factors that include but are not limited to excess
5 moisture, water leaks, improperly maintained air conditioning or heating
6 systems, warping of walls or ceilings, or visible spots of mold or mildew.
7 Lead testing shall be required if a public school facility was constructed
8 before 1978 or if it has lead pipes. The testing provided for in this subsec-
9 tion and any related subsequent abatement pursuant to the provisions of this
10 section shall align with any relevant rules, health standards, and maximum
11 contaminant level goals established or officially recognized by the Idaho
12 department of environmental quality and the Idaho department of health and
13 welfare. Retesting for mold or lead shall be conducted one (1) year after
14 the conclusion of any necessary abatement of identified mold or lead. The
15 inspection shall be done pursuant to chapter 80, title 39, Idaho Code, or by
16 an independent inspector professionally qualified to conduct inspections
17 under the applicable code. The results of the inspection shall be presented
18 to the administrator of the division of occupational and professional li-
19 censes and the board of trustees or other governing body for its review and
20 consideration.

21 (3) Abatement required -- Reporting. The board of trustees or other
22 governing body shall require that the unsafe or unhealthy conditions be
23 abated and shall instruct the school district's or other entity's personnel
24 to take necessary steps to abate unsafe or unhealthy conditions. Abatement
25 of unsafe or unhealthy conditions in public school facilities shall also
26 include mitigation of unsafe levels of radon. The board of trustees or other
27 governing body ~~must~~ shall issue a report in the same school year in which the
28 inspections are made declaring whether any unsafe or unhealthy conditions
29 identified have not been abated. The state board of education shall, by
30 rule, provide for uniform reporting of unsafe and unhealthy conditions and
31 for uniform reporting of abatement or absence of abatement of unsafe and
32 unhealthy conditions. Copies of such reports shall be provided to the admin-
33 istrator of the division of occupational and professional licenses and the
34 board of trustees of the school district. Additionally, the school district
35 board of trustees or the governing body for other public schools shall issue
36 a report to the parents and legal guardians of affected students and to any
37 affected staff regarding any violation of the codes provided for in sub-
38 section (2) of this section or any serious safety hazard or imminent safety
39 hazard as those terms are defined in section 39-8004, Idaho Code. Any school
40 district board of trustees or public charter school governing board that is
41 determined to have violated the provisions of this subsection regarding re-
42 porting requirements may be assessed a fine by the division of occupational
43 and professional licenses of not more than five thousand dollars (\$5,000)
44 for each violation and not more than one thousand dollars (\$1,000) for each
45 day of continuing violation. The moneys collected from fines pursuant to
46 this subsection shall be deposited in the school district facilities fund
47 established in section 33-911, Idaho Code.

48 (4) Costs of and plan of abatement. If the school district or other en-
49 tity described in subsection (1) of this section can abate all unsafe or un-
50 healthy conditions identified with the funds available to the school dis-

1 trict or other entity, it shall do so, and it need not separately account for
 2 the costs of abatement nor segregate funds expended for abatement . If the
 3 school district or other entity cannot abate all unsafe or unhealthy con-
 4 ditions identified with the funds available to it, the board of trustees or
 5 other governing body shall direct that a plan of abatement be prepared. The
 6 plan of abatement shall provide a timetable that shall begin no later than
 7 the following school year and that shall provide for abatement with all de-
 8 liberate speed of unsafe and unhealthy conditions identified. The abatement
 9 plan shall be submitted to the administrator of the division of occupational
 10 and professional licenses. The school district or other entity shall imme-
 11 diately begin to implement its plan of abatement and ~~must~~ shall separately
 12 account for its costs of abatement of unsafe and unhealthy conditions and
 13 separately segregate funds for the abatement of unsafe and unhealthy condi-
 14 tions as required by subsection (5) of this section.

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

16 (a) Notwithstanding any other provisions of law concerning expenditure
 17 of lottery moneys distributed to the school district or other entity,
 18 all lottery moneys provided to the school district or other entity for
 19 a school year in which the school district cannot abate unsafe or un-
 20 healthy conditions identified and not legally encumbered to other uses
 21 at the time and all lottery moneys for following school years shall be
 22 segregated and expended exclusively for abatement of unsafe and un-
 23 healthy conditions identified until all of the ~~unhealthy and unsafe and~~
 24 unhealthy conditions identified are abated, provided, if the school
 25 district has obtained a loan from the school safety and health revolving
 26 loan and grant fund, then the provisions of section 33-1017, Idaho Code,
 27 and the conditions of the loan shall determine the use of the school dis-
 28 trict's lottery moneys during the term of the loan.

29 (b) If the lottery moneys referred to in paragraph (a) of this subsec-
 30 tion will, in the board of trustees' or other governing bodies' esti-
 31 mation, be insufficient to abate the unsafe and unhealthy conditions
 32 identified, the plan of abatement shall identify additional sources of
 33 funds to complete the abatement of the unsafe and unhealthy conditions.
 34 The board of trustees may choose from among the following sources, or
 35 from other sources of its own identification, but the plan of abatement
 36 ~~must~~ shall identify sufficient sources of funds for abatement.

37 (i) If the school district is not levying under chapter 8, ti-
 38 tle 33, Idaho Code, at the maximum levies allowed by law for levies
 39 that may be imposed by a board of trustees without an election, the
 40 board of trustees may increase any of those levies as allowed by
 41 law for the school year following the school year in which it was
 42 unable to abate unsafe or unhealthy conditions identified.

43 (ii) If the school district is levying under chapter 8, title 33,
 44 Idaho Code, at the maximum levies allowed by law for levies that
 45 may be imposed by the board of trustees without an election, ~~or,~~ if
 46 after increasing those levies to the maximum levies allowed by law
 47 for levies that may be imposed by the board of trustees without an
 48 election, ~~there~~ there will still be insufficient funds to abate unsafe
 49 or unhealthy conditions identified, then the school district, af-
 50 ter giving notice and conducting a hearing, may declare a finan-

1 cial emergency and/or may apply for a loan or, if eligible, an in-
2 terest grant from the school safety and health revolving loan and
3 grant fund as provided in section 33-1017, Idaho Code, to obtain
4 funds to abate the unsafe or unhealthy conditions identified.

5 (iii) Upon the declaration of a financial emergency, the board of
6 trustees shall have the power to impose a reduction in force, to
7 freeze some or all salaries in the school district, and/or to sus-
8 pend some or all contracts that may be legally suspended upon the
9 declaration of a financial emergency; provided, that when a board
10 of trustees declares a financial emergency, or when a declaration
11 of a financial emergency is imposed by the state treasurer pur-
12 suant to section 33-1017, Idaho Code, and there is a reduction in
13 force, some or all salaries are frozen, or some contracts are sus-
14 pended, the payments to the school district under the foundation
15 program of chapter 10, title 33, Idaho Code, and in particular the
16 staff allowances under that chapter, shall not be reduced during
17 the duration of the financial emergency as a result of a reduction
18 in force, frozen salaries, or suspended salaries from what the
19 staff allowance would be without the reduction in force, frozen
20 salaries or suspended contracts.

21 (c) All costs of abatement for a program implementing plans of abate-
22 ment under this subsection ~~(5) of this section must~~ shall be separately
23 accounted for and documented with regard to abatement of each unsafe or
24 unhealthy condition identified. Funds obtained under section 33-1017,
25 Idaho Code, ~~must~~ shall be used exclusively to abate unsafe or unhealthy
26 conditions identified. Funds obtained pursuant to section 33-1017,
27 Idaho Code, in excess of funds necessary to abate unsafe or unhealthy
28 conditions identified ~~must~~ shall be returned as provided in section
29 33-1017, Idaho Code. Return of these funds shall be judicially enforce-
30 able as provided in section 33-1017, Idaho Code.

31 (6) Reporting violations. Any employee or person authorized to act on
32 behalf of an employee who communicates in good faith a violation or suspected
33 violation of any provision of this section shall be protected under the pro-
34 visions of section 6-2104, Idaho Code, regarding protection of public em-
35 ployees.

36 SECTION 2. An emergency existing therefor, which emergency is hereby
37 declared to exist, this act shall be in full force and effect on and after
38 July 1, 2025.