

LEGISLATURE OF THE STATE OF IDAHO
Sixty-eighth Legislature First Regular Session - 2025

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 405

BY EDUCATION COMMITTEE

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1613, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE REQUIREMENT OF SAFE PUBLIC SCHOOL FACILITIES, TO PROVIDE FOR FINES FOR VIOLATIONS, TO PROVIDE PROTECTION FOR REPORTING VIOLATIONS, AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

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

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

(2) Inspection. It is the duty of the board of trustees of every school district and the governing body for other public schools described in subsection (1) of this section at least once in every school year to require an independent inspection of the school district's or other entity's school facilities to determine whether those school facilities comply with codes addressing safety and health standards for facilities, including electrical, plumbing, mechanical, elevator, fire safety, boiler safety, life safety, structural, snow loading, and sanitary codes, adopted by or pursuant to the Idaho uniform school building safety act, chapter 80, title 39, Idaho Code, adopted by the state fire marshal, adopted by generally applicable local ordinances, or adopted by rule of the state board of education and applicable to school facilities. If not provided for under existing codes, such inspection shall include testing for radon, mold, and lead, as provided for in this subsection or as necessary under the circumstances. Radon testing shall be required for those public school facilities with basements that are regularly occupied by students, including for classroom instruction or other school-related activities, or if a facility's substratum has been identified as being in a radon-prone area, if the construction of the

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

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

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~~
 24 unsafe and unhealthy conditions identified are abated, provided, if the
 25 school district has obtained a loan from the school safety and health
 26 revolving loan and grant fund, then the provisions of section 33-1017,
 27 Idaho Code, and the conditions of the loan shall determine the use of the
 28 school district'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 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-

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

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

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

(6) Reporting violations. Any employee or person authorized to act on behalf of an employee who communicates in good faith a violation or suspected violation of any provision of this section shall be protected under the provisions of section 6-2104, Idaho Code, regarding protection of public employees.

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