

**MINUTES**  
(Subject to Approval by the Committee)  
**Funding Construction of Public Schools**  
**Thursday, December 08, 2022**  
**3:00 P.M.**  
**Room WW55**  
**Boise, Idaho**

Members in attendance: Cochair Senator Dave Lent and Senators Lori Den Hartog, Kevin Cook, Janie Ward-Engelking; Representatives Julie Yamamoto and Matthew Bundy; and former Senator Jeff Agenbroad and former Representative Sally Toone. Absent/excused: Cochair Representative Jason Monks and former Representative Paul Amador. Legislative Services Office (LSO) staff in attendance: Trevor Ahrens, Jared Tatro, and Grace King.

Note: Presentations and handouts provided by the presenters/speakers are posted to the Idaho Legislature's website <https://legislature.idaho.gov/sessioninfo/2022/interim> and copies of those items are on file at the Legislative Services Office in the State Capitol. Recordings of the meeting may be available under the committee's listing on the website.

Cochair Lent called the meeting to order at 3:02 p.m.; a silent roll call was taken.

### **Opening Remarks**

Cochair Lent requested a motion for the minutes. **Representative Bundy moved to approve the November 22, 2022, minutes. Senator Ward-Engelking seconded the motion and the minutes were approved by voice vote.**

### **Facilities Funding Proposals from TOADS Group**

Cochair Lent invited Robert Huntley and Kathy Dawes from the Totally Optimistic Advocates Dedicated to Students (TOADS) group to present two bill proposals. Mr. Huntley detailed the Sales Tax Education Funding Act of 2022 and the Education Enhanced Funding Act of 2023, bill proposals that he and TOADS drafted to address funding for education. Mr. Huntley provided information on the background of TOADS, the process of drafting the two proposals, and the stakeholders involved in the process. Ms. Dawes read a statement from the League of Women Voters of Idaho in support of the proposals.

- Representative Yamamoto asked whether TOADS had discussed the Sales Tax Education Funding Act of 2022 proposal with the Associated Taxpayers of Idaho. Mr. Huntley responded that the group had not reached out to the Associated Taxpayers of Idaho but were willing to discuss the proposal with them.
- Senator Den Hartog asked how much sales tax revenue the state would collect under the Sales Tax Education Funding Act of 2022 proposal. Mr. Huntley responded that the state would collect an additional \$1.2 billion in sales tax revenue.
- Cochair Lent asked if Mr. Huntley had considered utilizing the current surplus. Mr. Huntley explained that the Education Enhanced Funding Act of 2023 proposal would place \$1.2 billion of the current surplus into a dedicated fund for educational funding.
- Senator Ward-Engelking asked how the Education Enhanced Funding Act of 2023 proposal would allocate the \$1.2 billion from the dedicated fund to school facilities. Mr. Huntley responded that the \$1.2 billion would be used to pay off existing supplemental levies. He recommended using

the remainder of the funds to pay at least 25% of all future supplemental levies and bonds. Senator Ward-Engelking asked if the proposed funding would be used to pay off current bonds as well as the supplemental levies. Mr. Huntley stated that the details could be addressed by the Legislature. Senator Ward-Engelking asked if the TOADS group had contacted stakeholders about the two proposals. Mr. Huntley responded that the TOADS group had sent the proposals to top elected officials and school superintendents across the state but had not met with any associations or businesses.

### **Use of ESSER Funds for Facilities**

Cochair Lent invited Marilyn Whitney, Deputy Superintendent, and Lisa English, Coordinator from the Idaho State Board of Education, to present on the use of Elementary and Secondary School Emergency Relief (ESSER) funds for school facilities. Ms. Whitney provided a background on ESSER funds and Ms. English detailed the allowable uses of ESSER funds, how ESSER funds could be used for facilities, and how Idaho had spent ESSER funds so far.

- Cochair Lent referred to a spreadsheet regarding ESSER funds and asked for clarification on a certain figure. Ms. English stated that the figure in question represented the amount allocated to a Local Educational Agency (LEA) but had not been spent yet. Cochair Lent wondered if there was any amount of the ESSER funds received by the state that was not currently dedicated to a certain use. Ms. English responded that there was not. Cochair Lent asked if LEAs could redirect funds to construction projects. Ms. English stated that LEAs have the ability to request funds for facility updates until 2024. Cochair Lent asked if there was a limit on the amount of money an LEA could request based on its size. Ms. English explained that the only restrictions would be that an LEA could only request the amount it had been allocated and could not use the 20% of funds dedicated to learning loss.
- Senator Cook asked if a school district that had used ESSER funds to construct a building but later chose to sell the building would have to return the money to the federal government. Ms. English stated that was correct, that a school district would have to pay back the awarding federal agency the percentage of ESSER funds used to construct the building. Senator Cook asked if that would be applicable 20 to 30 years from now. Ms. English responded that he was correct. Senator Cook asked if the awarding federal agency would have any say in how or to whom the building was sold to. Ms. English stated that she wasn't sure but would find that information for the committee.
- Senator Agenbroad asked whether schools built with state funds were subject to Davis-Bacon wage requirements that were required under the ESSER fund program. Ms. English stated that schools built with state funds were not subject to Davis-Bacon wage requirements, only schools built with federal funds. Senator Agenbroad commented that there were too many hurdles to using ESSER funds for school facilities and it may be economically unfeasible.

### **Budget Line Items for School Facilities**

Cochair Lent invited Jared Tatro, Deputy Division Manager of the Legislative Services Office's Budget and Policy Analysis Division, to give a presentation regarding budget line items for school facilities. Mr. Tatro gave an overview of the Bond Levy Equalization Support Program (BLESP), charter school facilities funding, and the 2% facilities match. He also provided an example of the facilities maintenance formula for three school districts.

- Cochair Lent asked if the 2% facilities match process was meeting schools' needs. Mr. Tatro responded that such a determination would be for the committee to make, but based on current inflation rates, 2% may not be enough to meet current needs.
- Senator Den Hartog asked if calculations were redone every year and if the school districts received a consistent payment from the BLESP each year. Mr. Tatro responded that the calculations were redone each year but there was a provision of code that stated that the lottery

distributions were not to go below \$17 million and that any difference would come out of the bond levy portion. Mr. Tatro added that, although the calculations were redone each year, there may be a base number a district could work from.

- Senator Ward-Engelking asked about the current average cost of construction per square foot for school facilities. Mr. Tatro referred to a presentation given to the committee in a previous meeting by Paul Headlee, Deputy Director of the Legislative Services Office, which stated that the current cost was between \$300 and \$350 per square foot.

### **Committee Discussion**

Cochair Lent invited the committee to discuss what to include in the committee's final report.

- Senator Cook shared details of his meeting with a religious organization's architectural committee and an architectural firm to discuss standardized building plans.
- Senator Agenbroad provided an overview of the idea of using the Endowment Fund for school facility funding as was discussed in the previous meeting.
- Senator Ward-Engelking expressed appreciation for the Endowment Fund idea but suggested also utilizing the budget surplus to help cover the current needs for facilities. Cochair Lent stated that he liked the combination of both the Endowment Fund idea and utilizing the budget surplus so that the state can leverage onetime funds into long-term returns.
- Representative Yamamoto stated that it was a good idea to combine the Endowment Fund with a sizable onetime contribution. She also suggested that the committee revisit the report received from the Joint Legislative Oversight Committee to get an idea of the state of disrepair some school facilities were in.
- Representative Bundy suggested including project-based allocations in the Endowment Fund distribution formula. He added that there were good ideas in the Education Enhanced Funding Act of 2023 proposal to consider. Cochair Lent suggested a sliding scale based on a district's ability to pay.
- Representative Toone suggested looking into the bond threshold, citing the Montana legislation mentioned by the committee in a previous meeting. Cochair Lent commented that, upon further review of the Montana legislation, he found that a similar change in Idaho could only be made by a constitutional amendment.

After closing comments, the meeting was adjourned at 4:26 p.m.