

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 373

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-521, IDAHO CODE, TO REVISE
 2 PROVISIONS RELATING TO CERTAIN SEVERANCE PAYMENTS; AMENDING
 3 SECTION 33-1004G, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
 4 AN EARLY RETIREMENT INCENTIVE; REPEALING SECTION 33-1004G, IDAHO
 5 CODE, RELATING TO AN EARLY RETIREMENT INCENTIVE; AMENDING
 6 SECTION 33-1004H, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
 7 EMPLOYING RETIRED TEACHERS AND ADMINISTRATORS; AMENDING
 8 SECTION 33-1004, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
 9 INSTRUCTIONAL STAFF ALLOWANCE; TO PROVIDE FOR ALTERNATIVE
 10 USES OF CERTAIN SCHOOL BUILDING MAINTENANCE FUNDS; AMENDING
 11 CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
 12 33-1619, IDAHO CODE, TO PROVIDE THAT SCHOOL DISTRICTS MAY OFFER
 13 VIRTUAL SCHOOL INSTRUCTION, TO PROVIDE THAT SCHOOL DISTRICTS
 14 MAY OFFER A BLEND OF VIRTUAL AND TRADITIONAL INSTRUCTION AND
 15 TO PROVIDE FOR THE COUNTING AND REPORTING OF AVERAGE DAILY
 16 ATTENDANCE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE
 17 APPLICATION.
 18

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

20 SECTION 1. That Section 33-521, Idaho Code, be, and the same is hereby amended to
 21 read as follows:

22 33-521. EMPLOYEE SEVERANCE IN CONSOLIDATED DISTRICT. The board of
 23 trustees of any school district newly formed within the last twelve (12) months through the
 24 consolidation of two (2) or more school districts may offer a one (1) time severance payment
 25 to a maximum of ten percent (10%) of the employees that were previously employed by the
 26 separate school districts. Such severance offers shall be made entirely at the discretion of
 27 the board of trustees, and shall not be bound by custom, seniority or contractual commitment.
 28 Employees are under no obligation to accept a severance offer. Any employee accepting a
 29 severance payment shall not be eligible for reemployment by the school district for a one (1)
 30 year period thereafter.

31 The severance payment shall consist of fifty-five percent (55%) of the salary-based
 32 apportionment funds allocated for the employee in the last year, plus any applicable state paid
 33 employee benefits. ~~Such severance shall be reduced by one half (1/2) for any employee who is~~
 34 ~~simultaneously receiving a disbursement of early retirement incentive funds, pursuant to section~~
 35 ~~33-1004G, Idaho Code.~~ The state department of education shall reimburse eligible school
 36 districts for one hundred percent (100%) of such costs, upon application by the school district.

37 SECTION 2. That Section 33-1004G, Idaho Code, be, and the same is hereby amended
 38 to read as follows:

1 33-1004G. EARLY RETIREMENT INCENTIVE – ADMINISTRATIVE STAFF
 2 EXCLUDED. (1) Except as provided in subsection (8) of this section, each certificated
 3 employee of an Idaho public school district as defined in section 33-1001(16), Idaho Code, is
 4 eligible for an early retirement incentive, provided they meet the following criteria:

5 (a) The employee has completed a minimum of ten (10) years of continuous full-time
 6 certified employment, which may include time spent on a sabbatical leave, in Idaho public
 7 school districts at the time of application.

8 (b) The employee is not eligible for unreduced service, early or disability retirement from
 9 the public employee retirement system of Idaho at the time of application.

10 (c) The employee is fifty-five (55) years old before September 1 of the year the
 11 application is made; provided that persons turning fifty-six (56) years old or greater
 12 between August 15 and 31, 2000, will be eligible to receive the retirement incentive
 13 option percentage provided in this section that reflects their age on August 15, 2000.

14 (d) The employee submits his/her application to the state superintendent of public
 15 instruction on or before April 1 of the year of application.

16 (e) The employee is contracted with an Idaho public school district for the entire school
 17 year during the year of application and has not been terminated or on a leave of absence
 18 for the current or upcoming school year.

19 (2) (a) Full-time qualifying applicants shall receive as a one (1) time incentive one-half
 20 of the following amount of the employee's qualifying salary allocation as provided in
 21 section 33-1004E, Idaho Code:

22 at 55 years of age	55% of allocation
23 at 56 years of age	50% of allocation
24 at 57 years of age	45% of allocation
25 at 58 years of age	40% of allocation
26 at 59 years of age	30% of allocation
27 at 60 years of age	30% of allocation
28 at 61 years of age	20% of allocation
29 at 62 years of age	20% of allocation
30 at 63 years of age and over	0% of allocation

31 (b) Certified employees working less than full-time in the application year will have the
 32 incentive payment prorated according to their full-time equivalent (FTE) percentage.

33 (c) Incentive payments for certified employees not placed on the experience and
 34 education multiplier table as provided in section 33-1004A, Idaho Code, will be
 35 calculated using the BA column of the table.

36 (3) Incentives and the employer's share of FICA benefits shall be paid by the state
 37 department of education to the Idaho public school district with which the applicant was last
 38 contracted on or before July 31 of the year of application and acceptance.

39 (4) Incentives shall be considered additional compensation flowing from the employment
 40 relationship and subject to federal and state tax laws. Incentives shall not be considered salary
 41 for purposes of the public employee retirement system.

42 (5) Any employee receiving an early retirement incentive as provided in this section shall
 43 not be eligible for future employment with an Idaho school district where such employment
 44 would again qualify him/her for participation in the state retirement system.

1 (6) Any applicant choosing to withdraw their application must notify the state
2 superintendent of public instruction in writing no later than June 20 in the year of application.

3 (7) A special application of the early retirement incentive shall supersede the limitations
4 of this section to the extent necessary to comply with this subsection. An otherwise qualified
5 certificated employee who becomes medically unable to work prior to July 1 of any year shall
6 be eligible to apply for the early retirement incentive for which the employee would have been
7 eligible retroactive to April 1.

8 (8) Administrative staff shall not be allowed to participate in the early retirement
9 incentive program as provided in this section and such staff are hereby excluded from
10 participation in the program.

11 SECTION 3. That Section [33-1004G](#), Idaho Code, be, and the same is hereby repealed.

12 SECTION 4. That Section 33-1004H, Idaho Code, be, and the same is hereby amended
13 to read as follows:

14 33-1004H. EMPLOYING RETIRED TEACHERS AND ADMINISTRATORS. (1)
15 Notwithstanding the provisions of section 33-514, 33-1271 or 33-1273, Idaho Code, school
16 districts may employ certificated school teachers and administrators who are receiving
17 retirement benefits from the public employee retirement system of Idaho, except those who
18 received benefits under the early retirement program previously provided in section 33-1004G,
19 ~~Idaho Code, by the state~~ in positions requiring such certification, as at-will employees. Any
20 employment contract between the retiree and the school district shall be separate and apart from
21 the collective bargaining agreement of the school district.

22 (2) Retirees employed under this section shall accrue one (1) day per month of sick
23 leave, with no annual sick leave accumulation unless additional sick leave is negotiated
24 between the candidate and the school district at the time of employment. No sick leave accrued
25 under this section qualifies for unused sick leave benefits under section 33-1228, Idaho Code.

26 (3) School districts are not required to provide health insurance or life insurance benefits
27 to persons employed under this section. Post-termination benefits may be negotiated between
28 the school district and the certificated employee at the time of rehiring but in no event can
29 the parties affect or attempt to affect the provisions governing the public employee retirement
30 system.

31 SECTION 5. That Section 33-1004, Idaho Code, be, and the same is hereby amended to
32 read as follows:

33 33-1004. STAFF ALLOWANCE. For each school district, a staff allowance shall be
34 determined as follows:

35 (1) Using the daily attendance reports that have been submitted for computing
36 the February 15 apportionment of state funds as provided in section 33-1009, Idaho
37 Code, determine the total support units for the district in the manner provided in section
38 33-1002(6)(a), Idaho Code;

39 (2) Determine the instructional staff allowance by multiplying the support units by 1.1.
40 A district must demonstrate that it actually employs the number of certificated instructional
41 staff allowed, except as provided in subsection (5)(f) and (g) of this section. If the district

1 does not employ the number allowed, the staff allowance shall be reduced to the actual number
 2 employed, except as provided in subsection (5)(f) and (g) of this section;

3 (3) Determine the administrative staff allowance by multiplying the support units by
 4 .075;

5 (4) Determine the classified staff allowance by multiplying the support units by .375;

6 (5) Additional conditions governing staff allowance:

7 (a) In determining the number of staff in subsections (2), (3) and (4) of this section,
 8 a district may contract separately for services to be rendered by nondistrict employees
 9 and such employees may be counted in the staff allowance. A "nondistrict employee"
 10 means a person for whom the school district does not pay the employer's obligations for
 11 employee benefits. When a district contracts for the services of a nondistrict employee,
 12 only the salary portion of the contract shall be allowable for computations.

13 (b) If there are circumstances preventing eligible use of staff allowance to which a
 14 district is entitled as provided in subsections (2) and (3) of this section, an appeal may be
 15 filed with the state department of education outlining the reasons and proposed alternative
 16 use of these funds, and a waiver may be granted.

17 (c) For any district with less than forty (40) support units:

18 (i) The instructional staff allowance shall be calculated applying the actual
 19 number of support units. If the actual instructional staff employed in the school
 20 year is greater than the instructional staff allowance, then the instructional staff
 21 allowance shall be increased by one-half (1/2) staff allowance; and

22 (ii) The administrative staff allowance shall be calculated applying the actual
 23 number of support units. If the actual administrative staff employed in the school
 24 year is greater than the administrative staff allowance, then the administrative staff
 25 allowance shall be increased by one-half (1/2) staff allowance.

26 (iii) Additionally, for any district with less than twenty (20) support units, the
 27 instructional staff allowance shall be calculated applying the actual number of
 28 support units. If the number of instructional staff employed in the school year is
 29 greater than the instructional staff allowance, the staff allowance shall be increased
 30 as provided in paragraphs (i) and (ii) of this subsection, and by an additional
 31 one-half (1/2) instructional staff allowance.

32 (d) For any school district with one (1) or more separate secondary schools serving
 33 grades nine (9) through twelve (12), the instructional staff allowance shall be increased by
 34 two (2) additional instructional staff allowances for each such separate secondary school.

35 (e) Only instructional, administrative and classified personnel compensated by the
 36 school district from the general maintenance and operation fund of the district shall be
 37 included in the calculation of staff allowance or in any other calculations based upon
 38 staff, including determination of the experience and education multiplier, the reporting
 39 requirements, or the district's salary-based apportionment calculation. No food service
 40 staff or transportation staff shall be included in the staff allowance.

41 (f) A district may utilize up to five percent (5%) of the moneys associated with positions
 42 funded pursuant to subsection (2) of this section to defray the cost of providing virtual
 43 education coursework, including virtual dual credit coursework, without a reduction in the
 44 number of funded positions being imposed.

45 (g) For the period July 1, 2009, through June 30, 2011, only, a district may shift up
 46 to two and sixty-three hundredths percent (2.63%) of the positions funded pursuant to

1 subsection (2) of this section to federal funds, without a reduction in the number of
2 funded positions being imposed.

3 (6) In the event that the staff allowance in any category is insufficient to meet
4 accreditation standards, a district may appeal to the state board of education, demonstrating the
5 insufficiency, and the state board may grant a waiver authorizing sufficient additional staff to
6 be included within the staff allowance to meet accreditation standards. Such a waiver shall be
7 limited to one (1) year, but may be renewed upon showing of continuing justification.

8 SECTION 6. The provisions of Section 33-1019, Idaho Code, notwithstanding, for the
9 period July 1, 2009, through June 30, 2010, only, an amount of local maintenance match
10 moneys normally required to be allocated for the maintenance and repair of student-occupied
11 buildings may be spent on other one (1) time, nonpersonnel costs, at the discretion of the
12 school district. Said amount shall be determined by the State Department of Education as
13 follows:

14 (a) Subtract from the local maintenance match requirement all plant facility levy funds
15 levied for tax year 2009.

16 (b) Subtract from the balance of any funds remaining after the subtraction provided
17 for in subsection (a) of this section, any additional funds necessary to fully remediate
18 all recommendations and code violations identified in the most recent inspection of each
19 student-occupied building conducted by the Division of Building Safety, excluding any
20 recommendations for which the least expensive remediation solution is the replacement of the
21 building.

22 (c) Divide the balance of any funds remaining after the calculation provided for in
23 subsection (b) of this section, by two (2).

24 School districts shall furnish information pursuant to the provisions of this section, as
25 may be required by the State Department of Education.

26 SECTION 7. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended
27 by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1619,
28 Idaho Code, and to read as follows:

29 33-1619. VIRTUAL EDUCATION PROGRAMS. School districts may offer instruction
30 in the manner described for a virtual school in section 33-5202A, Idaho Code. For programs
31 meeting such definition, the school district may count and report the average daily attendance
32 of the program's students in the manner prescribed in section 33-5208(8)(b), Idaho Code.
33 School districts may also offer instruction that is a blend of virtual and traditional instruction.
34 For such blended programs, the school district may count and report the average daily
35 attendance of the program's students in the manner prescribed in section 33-5208(8)(b), Idaho
36 Code. Alternatively, the school district may count and report the average daily attendance of
37 the blended program's students in the same manner as provided for traditional programs of
38 instruction, for the days or portions of days in which such students attend a physical public
39 school. For the balance of days or portions of days, average daily attendance may be counted
40 in the manner prescribed in section 33-5208(8)(b), Idaho Code.

41 SECTION 8. An emergency existing therefor, which emergency is hereby declared to
42 exist, Sections 1, 2 and 4 of this act shall be in full force and effect on and after passage and
43 approval, and retroactively to March 1, 2009. Section 3 of this act shall be in full force and

1 effect on and after January 1, 2010. The other sections of this act shall be in full force and
2 effect on and after July 1, 2009.