

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 399

BY EDUCATION COMMITTEE

AN ACT

RELATING TO BRIBERY AND CORRUPTION; AMENDING SECTION 18-1359, IDAHO CODE, TO REVISE EXCEPTIONS.

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

SECTION 1. That Section 18-1359, Idaho Code, be, and the same is hereby amended to read as follows:

18-1359. USING PUBLIC POSITION FOR PERSONAL GAIN. (1) No public servant shall:

(a) Without the specific authorization of the governmental entity for which he serves, use public funds or property to obtain a pecuniary benefit for himself.

(b) Solicit, accept or receive a pecuniary benefit as payment for services, advice, assistance or conduct customarily exercised in the course of his official duties. This prohibition shall not include trivial benefits not to exceed a value of fifty dollars (\$50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

(c) Use or disclose confidential information gained in the course of or by reason of his official position or activities in any manner with the intent to obtain a pecuniary benefit for himself or any other person or entity in whose welfare he is interested or with the intent to harm the governmental entity for which he serves.

(d) Be interested in any contract made by him in his official capacity, or by any body or board of which he is a member, except as provided in section 18-1361, Idaho Code.

(e) Appoint or vote for the appointment of any person related to him by blood or marriage within the second degree, to any clerkship, office, position, employment or duty, when the salary, wages, pay or compensation of such appointee is to be paid out of public funds or fees of office, or appoint or furnish employment to any person whose salary, wages, pay or compensation is to be paid out of public funds or fees of office, and who is related by either blood or marriage within the second degree to any other public servant when such appointment is made on the agreement or promise of such other public servant or any other public servant to appoint or furnish employment to anyone so related to the public servant making or voting for such appointment. Any public servant who pays out of any public funds under his control or who draws or authorizes the drawing of any warrant or authority for the payment out of any public fund of the salary, wages, pay, or compensation of any such ineligible person, knowing him to be ineligible, is guilty of a misdemeanor and shall be punished as provided in this chapter.

1 (f) Unless specifically authorized by another provision of law, commit  
2 any act prohibited of members of the legislature or any officer or  
3 employee of any branch of the state government by section 67-5726,  
4 Idaho Code, violations of which are subject to penalties as provided in  
5 section 67-5734, Idaho Code, which prohibition and penalties shall be  
6 deemed to extend to all public servants pursuant to the provisions of  
7 this section.

8 (2) No person related to any member of the legislature by blood or  
9 marriage within the second degree shall be appointed to any clerkship,  
10 office, position, employment or duty within the legislative branch of  
11 government or otherwise be employed by the legislative branch of government  
12 when the salary, wages, pay or compensation of such appointee or employee is  
13 to be paid out of public funds.

14 (3) No person related to a mayor or member of a city council by blood  
15 or marriage within the second degree shall be appointed to any clerkship,  
16 office, position, employment or duty with the mayor's or city council's city  
17 when the salary, wages, pay or compensation of such appointee or employee is  
18 to be paid out of public funds.

19 (4) No person related to a county commissioner by blood or marriage  
20 within the second degree shall be appointed to any clerkship, office,  
21 position, employment or duty with the commissioner's county when the salary,  
22 wages, pay or compensation of such appointee or employee is to be paid out of  
23 public funds.

24 (5) (a) An employee of a governmental entity holding a position prior  
25 to the election of a local government official, who is related within  
26 the second degree, shall be entitled to retain his or her position  
27 and receive general pay increases, step increases, cost of living  
28 increases, and/or other across the board increases in salary or merit  
29 increases, benefits and bonuses or promotions.

30 (b) Nothing in this section shall be construed as creating any property  
31 rights in the position held by an employee subject to this section, and  
32 all authority in regard to disciplinary action, transfer, dismissal,  
33 demotion or termination shall continue to apply to the employee.

34 (6) The prohibitions contained within this section shall not include  
35 conduct defined by the provisions of section 59-703(4), Idaho Code.

36 (7) The prohibitions within this section and section 18-1356, Idaho  
37 Code, as it applies to part-time public servants, do not include those  
38 actions or conduct involving the public servant's business, profession  
39 or occupation and unrelated to the public servant's official conduct,  
40 and do not apply to a pecuniary benefit received in the normal course of a  
41 legislator's business, profession or occupation and unrelated to any bill,  
42 legislation, proceeding or official transaction.

43 (8) The prohibitions provided for in subsections (1) (d) and (1) (e) of  
44 this section shall not apply to prohibit the employment, by an Idaho public  
45 institution of higher education, of the spouse of the president of such  
46 institution.