

IN THE SENATE

SENATE BILL NO. 1040, As Amended

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-514, IDAHO CODE, TO REVISE A DATE
2 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-515, IDAHO CODE,
3 TO REVISE PROVISIONS RELATING TO THE ISSUANCE OF RENEWABLE CONTRACTS,
4 TO REMOVE LANGUAGE RELATING TO NOTICE, TO REVISE PROVISIONS RELATING
5 TO THE LENGTH OF A CERTAIN CONTRACT, TO ESTABLISH PROVISIONS RELATING
6 TO RENEWALS FOR VARIOUS TERMS AND SALARIES OF CERTAIN CONTRACTS, TO
7 PROVIDE THAT CERTAIN CONTRACTS SHALL BE ISSUED ON OR BEFORE A CERTAIN
8 DATE, TO PROVIDE FOR LETTERS OF INTENT FOR EMPLOYMENT, TO ESTABLISH
9 PROVISIONS RELATING TO CERTAIN CONTRACTS RENEWED FOR A TERM SHORTER IN
10 LENGTH THAN STATED IN THE CURRENT STANDARD CONTRACT AND TO REMOVE LAN-
11 GUAGE RELATING TO RENEWAL OF A CONTRACT AT A REDUCED SALARY; REPEALING
12 SECTION 33-514, IDAHO CODE, RELATING TO ISSUANCE OF ANNUAL CONTRACTS,
13 CATEGORIES OF CONTRACTS, OPTIONAL PLACEMENT AND WRITTEN EVALUATIONS;
14 REPEALING SECTION 33-515, IDAHO CODE, RELATING TO ISSUANCE OF RENEWABLE
15 CONTRACTS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION
16 OF A NEW SECTION 33-514, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING
17 TO THE ISSUANCE OF ANNUAL CONTRACTS, CATEGORIES OF CONTRACTS, OPTIONAL
18 PLACEMENT AND WRITTEN EVALUATIONS; AMENDING CHAPTER 5, TITLE 33, IDAHO
19 CODE, BY THE ADDITION OF A NEW SECTION 33-515, IDAHO CODE, TO ESTABLISH
20 PROVISIONS RELATING TO THE ISSUANCE OF RENEWABLE CONTRACTS; PROVIDING
21 SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.
22

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

24 SECTION 1. That Section 33-514, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATE-
27 GORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall
28 establish criteria and procedures for the supervision and evaluation of
29 certificated employees who are not employed on a renewable contract, as pro-
30 vided for in section 33-515, Idaho Code.

31 (2) There shall be three (3) categories of annual contracts available
32 to local school districts under which to employ certificated personnel:

33 (a) A category 1 contract is a limited one-year contract as provided in
34 section 33-514A, Idaho Code.

35 (b) A category 2 contract is for certificated personnel in the first and
36 second years of continuous employment with the same school district.
37 Upon the decision by a local school board not to reemploy the person
38 for the following year, the certificated employee shall be provided a
39 written statement of reasons for non-reemployment by no later than ~~May~~
40 25 the first day of July. No property rights shall attach to a category 2
41 contract and therefore the employee shall not be entitled to a review by
42 the local board of the reasons or decision not to reemploy.

1 (c) A category 3 contract is for certificated personnel during the
 2 third year of continuous employment by the same school district. Dis-
 3 trict procedures shall require at least one (1) evaluation prior to
 4 the beginning of the second semester of the school year and the re-
 5 sults of any such evaluation shall be made a matter of record in the
 6 employee's personnel file. When any such employee's work is found to
 7 be unsatisfactory, a defined period of probation shall be established
 8 by the board, but in no case shall a probationary period be less than
 9 eight (8) weeks. After the probationary period, action shall be taken
 10 by the board as to whether the employee is to be retained, immediately
 11 discharged, discharged upon termination of the current contract or
 12 reemployed at the end of the contract term under a continued probation-
 13 ary status. Notwithstanding the provisions of sections 67-2344 and
 14 67-2345, Idaho Code, a decision to place certificated personnel on pro-
 15 bationary status may be made in executive session and the employee shall
 16 not be named in the minutes of the meeting. A record of the decision
 17 shall be placed in the employee's personnel file. This procedure shall
 18 not preclude recognition of unsatisfactory work at a subsequent evalu-
 19 ation and the establishment of a reasonable period of probation. In all
 20 instances, the employee shall be duly notified in writing of the areas
 21 of work which are deficient, including the conditions of probation.
 22 Each such certificated employee on a category 3 contract shall be given
 23 notice, in writing, whether he or she will be reemployed for the next en-
 24 suing year. Such notice shall be given by the board of trustees no later
 25 than the ~~twenty-fifth day of May~~ first day of July of each such year.
 26 If the board of trustees has decided not to reemploy the certificated
 27 employee, then the notice must contain a statement of reasons for such
 28 decision and the employee shall, upon request, be given the opportunity
 29 for an informal review of such decision by the board of trustees. The
 30 parameters of an informal review shall be determined by the local board.

31 (3) School districts hiring an employee who has been on renewable con-
 32 tract status with another Idaho district, or has out-of-state experience
 33 which would otherwise qualify the certificated employee for renewable con-
 34 tract status in Idaho, shall have the option to immediately grant renewable
 35 contract status, or to place the employee on a category 3 annual contract.
 36 Such employment on a category 3 contract under the provisions of this subsec-
 37 tion may be for one (1), two (2) or three (3) years.

38 (4) There shall be a minimum of two (2) written evaluations in each of
 39 the annual contract years of employment, and at least one (1) evaluation
 40 shall be completed before January 1 of each year. The provisions of this
 41 subsection ~~(4)~~ shall not apply to employees on a category 1 contract.

42 SECTION 2. That Section 33-515, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full
 45 year of continuous employment by the same school district, including any
 46 specially chartered district, each certificated employee named in subsec-
 47 tion (16) of section 33-1001, Idaho Code, and each school nurse and school
 48 librarian shall be evaluated for a renewable contract and shall, upon having
 49 been offered a contract for the next ensuing year, ~~having given notice of~~

1 ~~acceptance of renewal~~ and upon signing and timely returning a contract for a
 2 fourth full year, be placed on a renewable contract status with said school
 3 district entitling such individual to the right to automatic renewal of con-
 4 tract, subject to the provisions included in this chapter.

5 ~~(2) After the third full year of employment and a~~At least once annually,
 6 the performance of each ~~such renewable contract~~ certificated employee,
 7 school nurse, or school librarian shall be evaluated according to crite-
 8 ria and procedures established by the board of trustees in accordance with
 9 general guidelines approved by the state board of education. ~~Except as oth-~~
 10 ~~erwise provided, that person shall have the right to automatic renewal of~~
 11 ~~contract by giving notice, in writing, of acceptance of renewal. Such notice~~
 12 ~~shall be given to the board of trustees of the school district then employing~~
 13 ~~such person not later than the first day of June preceding the expiration of~~
 14 ~~the term of the current contract. Except as otherwise provided by this para-~~
 15 ~~graph, the board of trustees shall notify each person entitled to be employed~~
 16 ~~on a renewable contract of the requirement that such person must give the~~
 17 ~~notice hereinabove and that failure to do so may be interpreted by the board~~
 18 ~~as a declination of the right to automatic renewal or the offer of another~~
 19 ~~contract. Such notification shall be made, in writing, not later than the~~
 20 ~~fifteenth day of May, in each year, except to those persons to whom the board,~~
 21 ~~prior to said date, has sent proposed contracts for the next ensuing year, or~~
 22 ~~to whom the board has given the notice required by this section.~~

23 (3) Any contract automatically renewed under the provisions of this
 24 section shall be for the same length as the term stated in the current con-
 25 tract and at a salary no lower than that specified therein, to which shall
 26 be added such increments as may be determined by the statutory or regulatory
 27 rights of such employee by reason of training, service, or performance, ex-
 28 cept where a board of trustees has declared a financial emergency pursuant
 29 to section 33-522, Idaho Code may be renewed for a shorter term, longer term
 30 or the same length of term as stated in the current contract and at a greater,
 31 lesser or equal salary as that stated in the current contract. Absent the
 32 board's application of a formal reduction in force, renewals of standard
 33 teacher contracts may be for a shorter term, longer term or the same length
 34 of term as stated in the current standard teacher contract and at a greater,
 35 lesser or equal salary, and shall be uniformly applied to all employees based
 36 upon the district's adopted salary schedule to the extent allowable in sec-
 37 tion 33-1004E, Idaho Code.

38 (a) Contracts issued pursuant to this section shall be issued on or be-
 39 fore the first day of July each year.

40 (b) At the discretion of the board, the district may issue letters of
 41 intent for employment for the next ensuing school year, to renewable
 42 contract status employees during May of each school year. Such let-
 43 ter of intent shall not state a specific duration of the contract or
 44 salary/benefits term for the next ensuing school year.

45 (c) Unless otherwise negotiated and ratified by both parties pursuant
 46 to sections 33-1271, et seq., Idaho Code, for the 2013-2014 school year,
 47 standard teacher renewals for terms shorter in length than that stated
 48 in the current standard contract of renewable certificated employ-
 49 ees, should be considered and implemented only after the district has
 50 determined that the salary-based apportionment reimbursement that it

1 estimates it will receive for the 2013-2014 school year is less than the
2 sum the district would otherwise be paying for salaries for certifi-
3 cated professional employees.

4 (4) Nothing in this section shall prevent the board of trustees from of-
5 fering a renewed contract increasing the salary of any certificated person,
6 or from reassigning an administrative employee to a nonadministrative posi-
7 tion with appropriate reduction of salary from the preexisting salary level.
8 In the event the board of trustees reassigns an administrative employee to a
9 nonadministrative position, the board shall give written notice to the em-
10 ployee which contains a statement of the reasons for the reassignment. The
11 employee, upon written request to the board, shall be entitled to an informal
12 review of that decision. The process and procedure for the informal review
13 shall be determined by the local board of trustees.

14 (5) Before a board of trustees can determine not to renew for reasons of
15 an unsatisfactory report of the performance of any certificated person whose
16 contract would otherwise be automatically renewed, ~~or to renew the contract~~
17 ~~of any such person at a reduced salary,~~ such person shall be entitled to a
18 reasonable period of probation. This period of probation shall be preceded
19 by a written notice from the board of trustees with reasons for such pro-
20 bationary period and with provisions for adequate supervision and evalua-
21 tion of the person's performance during the probationary period. Such pe-
22 riod of probation shall not affect the person's renewable contract status.
23 Consideration of probationary status for certificated personnel is consid-
24 eration of the status of an employee within the meaning of section 67-2345,
25 Idaho Code, and may be held in executive session. If the consideration re-
26 sults in probationary status, the individual on probation shall not be named
27 in the minutes of the meeting. A record of the decision shall be placed in the
28 teacher's personnel file.

29 (6) If the board of trustees takes action to immediately discharge or
30 discharge upon termination of the current contract a certificated person
31 whose contract would otherwise be automatically renewed, ~~or to renew the~~
32 ~~contract of any such person at a reduced salary,~~ the action of the board
33 shall be consistent with the procedures specified in section 33-513(5),
34 Idaho Code, and furthermore, the board shall notify the employee in writing
35 whether there is just and reasonable cause not to renew the contract or to
36 reduce the salary of the affected employee, and if so, what reasons it relied
37 upon in that determination.

38 (7) If the board of trustees takes action after the declaration of a fi-
39 nancial emergency pursuant to section 33-522, Idaho Code, and such action is
40 directed at more than one (1) certificated employee and, if mutually agreed
41 to by both parties, a single informal review shall be conducted. Without
42 mutual consent of both parties, the board of trustees shall use the follow-
43 ing procedure to conduct a single due process hearing within sixty-seven
44 (67) days of the declaration of financial emergency pursuant to section
45 33-522(2), Idaho Code, or on or before June 22, whichever shall occur first:

46 (a) The superintendent or any other duly authorized administrative of-
47 ficer of the school district may recommend the change in the length of
48 the term stated in the current contract or reduce the salary of any cer-
49 tificated employee by filing with the board of trustees written notice
50 specifying the purported reasons for such changes.

1 (b) Upon receipt of such notice, the board of trustees, acting through
2 its duly authorized administrative official, shall give the affected
3 employees written notice of the reductions and the recommendation of
4 the change in the length of the term stated in the current contract or
5 the reduction of salary, along with written notice of a hearing be-
6 fore the board of trustees prior to any determination by the board of
7 trustees.

8 (c) The hearing shall be scheduled to take place not less than six (6)
9 days nor more than fourteen (14) days after receipt of the notice by the
10 employees. The date provided for the hearing may be changed by mutual
11 consent.

12 (d) The hearing shall be open to the public.

13 (e) All testimony at the hearing shall be given under oath or affirma-
14 tion. Any member of the board, or the clerk of the board of trustees, may
15 administer oaths to witnesses or affirmations by witnesses.

16 (f) The employees may be represented by legal counsel and/or by a repre-
17 sentative of a local or state education association.

18 (g) The chairman of the board of trustees or the designee of the chair-
19 man shall conduct the hearing.

20 (h) The board of trustees shall cause an electronic record of the hear-
21 ing to be made or shall employ a competent reporter to take stenographic
22 or stenotype notes of all the testimony at the hearing. A transcript of
23 the hearing shall be provided at cost by the board of trustees upon re-
24 quest of the employee.

25 (i) At the hearing, the superintendent or other duly authorized admin-
26 istrative officer shall present evidence to substantiate the reduction
27 contained in such notice.

28 (j) The employees may produce evidence to refute the reduction. Any
29 witness presented by the superintendent or by the employees shall be
30 subject to cross-examination. The board of trustees may also examine
31 witnesses and be represented by counsel.

32 (k) The affected employees may file written briefs and arguments with
33 the board of trustees within three (3) days after the close of the hear-
34 ing or such other time as may be agreed upon by the affected employees
35 and the board of trustees.

36 (l) Within seven (7) days following the close of the hearing, the board
37 of trustees shall determine and, acting through its duly authorized ad-
38 ministrative official, shall notify the employees in writing whether
39 the evidence presented at the hearing established the need for the ac-
40 tion taken.

41 The due process hearing pursuant to this subsection ~~(7)~~ shall not be required
42 if the board of trustees and the local education association reach an agree-
43 ment on issues agreed upon pursuant to section 33-522(3), Idaho Code.

44 (8) If the board of trustees, for reasons other than unsatisfactory
45 service, for the ensuing contract year, determines to change the length of
46 the term stated in the current contract, reduce the salary or not renew the
47 contract of a certificated person whose contract would otherwise be automat-
48 ically renewed, nothing herein shall require a probationary period.

49 (9) If the board of trustees, for reasons other than unsatisfactory
50 service, for the ensuing contract year, determines to change the length

1 of the term stated in the current contract or reduce the salary of a cer-
2 tificated person whose contract would otherwise be automatically renewed,
3 nothing herein shall require any individualized due process proceeding. In
4 such circumstance, the board shall hold a single informal review for all im-
5 acted employees. The process and procedure for the single informal review
6 shall be determined by the local board of trustees.

7 SECTION 3. That Sections [33-514](#) and [33-515](#), Idaho Code, be, and the same
8 are hereby repealed.

9 SECTION 4. That Chapter 5, Title 33, Idaho Code, be, and the same is
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
11 ignated as Section 33-514, Idaho Code, and to read as follows:

12 33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATE-
13 GORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall
14 establish criteria and procedures for the supervision and evaluation of
15 certificated employees who are not employed on a renewable contract, as pro-
16 vided for in section 33-515, Idaho Code.

17 (2) There shall be three (3) categories of annual contracts available
18 to local school districts under which to employ certificated personnel:

19 (a) A category 1 contract is a limited one-year contract as provided in
20 section 33-514A, Idaho Code.

21 (b) A category 2 contract is for certificated personnel in the first and
22 second years of continuous employment with the same school district.
23 Upon the decision by a local school board not to reemploy the person for
24 the following year, the certificated employee shall be provided a writ-
25 ten statement of reasons for non-reemployment by no later than May 25.
26 No property rights shall attach to a category 2 contract and therefore
27 the employee shall not be entitled to a review by the local board of the
28 reasons or decision not to reemploy.

29 (c) A category 3 contract is for certificated personnel during the
30 third year of continuous employment by the same school district. Dis-
31 trict procedures shall require at least one (1) evaluation prior to the
32 beginning of the second semester of the school year and the results of
33 any such evaluation shall be made a matter of record in the employee's
34 personnel file. When any such employee's work is found to be unsatis-
35 factory a defined period of probation shall be established by the board,
36 but in no case shall a probationary period be less than eight (8) weeks.
37 After the probationary period, action shall be taken by the board as
38 to whether the employee is to be retained, immediately discharged,
39 discharged upon termination of the current contract or reemployed at
40 the end of the contract term under a continued probationary status.
41 Notwithstanding the provisions of sections 67-2344 and 67-2345, Idaho
42 Code, a decision to place certificated personnel on probationary status
43 may be made in executive session and the employee shall not be named in
44 the minutes of the meeting. A record of the decision shall be placed
45 in the employee's personnel file. This procedure shall not preclude
46 recognition of unsatisfactory work at a subsequent evaluation and the
47 establishment of a reasonable period of probation. In all instances,
48 the employee shall be duly notified in writing of the areas of work which

1 are deficient, including the conditions of probation. Each such cer-
2 tificated employee on a category 3 contract shall be given notice, in
3 writing, whether he or she will be reemployed for the next ensuing year.
4 Such notice shall be given by the board of trustees no later than the
5 twenty-fifth day of May of each such year. If the board of trustees has
6 decided not to reemploy the certificated employee, then the notice must
7 contain a statement of reasons for such decision and the employee shall,
8 upon request, be given the opportunity for an informal review of such
9 decision by the board of trustees. The parameters of an informal review
10 shall be determined by the local board.

11 (3) School districts hiring an employee who has been on renewable con-
12 tract status with another Idaho district or has out-of-state experience
13 which would otherwise qualify the certificated employee for renewable con-
14 tract status in Idaho, shall have the option to immediately grant renewable
15 contract status, or to place the employee on a category 3 annual contract.
16 Such employment on a category 3 contract under the provisions of this subsec-
17 tion may be for one (1), two (2) or three (3) years.

18 (4) There shall be a minimum of two (2) written evaluations in each of
19 the annual contract years of employment, and at least one (1) evaluation
20 shall be completed before January 1 of each year. The provisions of this
21 subsection (4) shall not apply to employees on a category 1 contract.

22 SECTION 5. That Chapter 5, Title 33, Idaho Code, be, and the same is
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
24 ignated as Section 33-515, Idaho Code, and to read as follows:

25 33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full
26 year of continuous employment by the same school district, including any
27 specially chartered district, each certificated employee named in subsec-
28 tion (16) of section 33-1001, Idaho Code, and each school nurse and school
29 librarian shall be evaluated for a renewable contract and shall, upon having
30 been offered a contract for the next ensuing year, having given notice of
31 acceptance of renewal and upon signing a contract for a fourth full year, be
32 placed on a renewable contract status with said school district subject to
33 the provisions included in this chapter.

34 (2) After the third full year of employment and at least once annu-
35 ally, the performance of each such certificated employee, school nurse, or
36 school librarian shall be evaluated according to criteria and procedures
37 established by the board of trustees in accordance with general guidelines
38 approved by the state board of education. Except as otherwise provided, that
39 person shall have the right to automatic renewal of contract by giving no-
40 tice, in writing, of acceptance of renewal. Such notice shall be given to the
41 board of trustees of the school district then employing such person not later
42 than the first day of June preceding the expiration of the term of the cur-
43 rent contract. Except as otherwise provided by this paragraph, the board of
44 trustees shall notify each person entitled to be employed on a renewable con-
45 tract of the requirement that such person must give the notice hereinabove
46 and that failure to do so may be interpreted by the board as a declination of
47 the right to automatic renewal or the offer of another contract. Such noti-
48 fication shall be made, in writing, not later than the fifteenth day of May,
49 in each year, except to those persons to whom the board, prior to said date,

1 has sent proposed contracts for the next ensuing year, or to whom the board
2 has given the notice required by this section.

3 (3) Any contract automatically renewed under the provisions of this
4 section shall be for the same length as the term stated in the current con-
5 tract and at a salary no lower than that specified therein, to which shall
6 be added such increments as may be determined by the statutory or regulatory
7 rights of such employee by reason of training, service, or performance, ex-
8 cept where a board of trustees has declared a financial emergency pursuant
9 to section 33-522, Idaho Code.

10 (4) Nothing in this section shall prevent the board of trustees from of-
11 fering a renewed contract increasing the salary of any certificated person,
12 or from reassigning an administrative employee to a nonadministrative posi-
13 tion with appropriate reduction of salary from the preexisting salary level.
14 In the event the board of trustees reassigns an administrative employee to a
15 nonadministrative position, the board shall give written notice to the em-
16 ployee which contains a statement of the reasons for the reassignment. The
17 employee, upon written request to the board, shall be entitled to an informal
18 review of that decision. The process and procedure for the informal review
19 shall be determined by the local board of trustees.

20 (5) Before a board of trustees can determine not to renew for reasons of
21 an unsatisfactory report of the performance of any certificated person whose
22 contract would otherwise be automatically renewed, or to renew the contract
23 of any such person at a reduced salary, such person shall be entitled to a
24 reasonable period of probation. This period of probation shall be preceded
25 by a written notice from the board of trustees with reasons for such pro-
26 bationary period and with provisions for adequate supervision and evalua-
27 tion of the person's performance during the probationary period. Such pe-
28 riod of probation shall not affect the person's renewable contract status.
29 Consideration of probationary status for certificated personnel is consid-
30 eration of the status of an employee within the meaning of section 67-2345,
31 Idaho Code, and may be held in executive session. If the consideration re-
32 sults in probationary status, the individual on probation shall not be named
33 in the minutes of the meeting. A record of the decision shall be placed in the
34 teacher's personnel file.

35 (6) If the board of trustees takes action to immediately discharge or
36 discharge upon termination of the current contract a certificated person
37 whose contract would otherwise be automatically renewed, or to renew the
38 contract of any such person at a reduced salary, the action of the board
39 shall be consistent with the procedures specified in section 33-513 5.,
40 Idaho Code, and furthermore, the board shall notify the employee in writing
41 whether there is just and reasonable cause not to renew the contract or to
42 reduce the salary of the affected employee, and if so, what reasons it relied
43 upon in that determination.

44 (7) If the board of trustees takes action after the declaration of a fi-
45 nancial emergency pursuant to section 33-522, Idaho Code, and such action is
46 directed at more than one (1) certificated employee and, if mutually agreed
47 to by both parties, a single informal review shall be conducted. Without
48 mutual consent of both parties, the board of trustees shall use the follow-
49 ing procedure to conduct a single due process hearing within sixty-seven

1 (67) days of the declaration of financial emergency pursuant to section
2 33-522(2), Idaho Code, or on or before June 22, whichever shall occur first:

3 (a) The superintendent or any other duly authorized administrative of-
4 ficer of the school district may recommend the change in the length of
5 the term stated in the current contract or reduce the salary of any cer-
6 tificated employee by filing with the board of trustees written notice
7 specifying the purported reasons for such changes.

8 (b) Upon receipt of such notice, the board of trustees, acting through
9 its duly authorized administrative official, shall give the affected
10 employees written notice of the reductions and the recommendation of
11 the change in the length of the term stated in the current contract or
12 the reduction of salary, along with written notice of a hearing be-
13 fore the board of trustees prior to any determination by the board of
14 trustees.

15 (c) The hearing shall be scheduled to take place not less than six (6)
16 days nor more than fourteen (14) days after receipt of the notice by the
17 employees. The date provided for the hearing may be changed by mutual
18 consent.

19 (d) The hearing shall be open to the public.

20 (e) All testimony at the hearing shall be given under oath or affirma-
21 tion. Any member of the board, or the clerk of the board of trustees, may
22 administer oaths to witnesses or affirmations by witnesses.

23 (f) The employees may be represented by legal counsel and/or by a repre-
24 sentative of a local or state education association.

25 (g) The chairman of the board of trustees or the designee of the chair-
26 man shall conduct the hearing.

27 (h) The board of trustees shall cause an electronic record of the hear-
28 ing to be made or shall employ a competent reporter to take stenographic
29 or stenotype notes of all the testimony at the hearing. A transcript of
30 the hearing shall be provided at cost by the board of trustees upon re-
31 quest of the employee.

32 (i) At the hearing the superintendent or other duly authorized admin-
33 istrative officer shall present evidence to substantiate the reduction
34 contained in such notice.

35 (j) The employees may produce evidence to refute the reduction. Any
36 witness presented by the superintendent or by the employees shall be
37 subject to cross-examination. The board of trustees may also examine
38 witnesses and be represented by counsel.

39 (k) The affected employees may file written briefs and arguments with
40 the board of trustees within three (3) days after the close of the hear-
41 ing or such other time as may be agreed upon by the affected employees
42 and the board of trustees.

43 (l) Within seven (7) days following the close of the hearing, the board
44 of trustees shall determine and, acting through its duly authorized ad-
45 ministrative official, shall notify the employees in writing whether
46 the evidence presented at the hearing established the need for the ac-
47 tion taken.

48 The due process hearing pursuant to this subsection (7) shall not be required
49 if the board of trustees and the local education association reach an agree-
50 ment on issues agreed upon pursuant to section 33-522(3), Idaho Code.

1 (8) If the board of trustees, for reasons other than unsatisfactory
2 service, for the ensuing contract year, determines to change the length of
3 the term stated in the current contract, reduce the salary or not renew the
4 contract of a certificated person whose contract would otherwise be automat-
5 ically renewed, nothing herein shall require a probationary period.

6 SECTION 6. SEVERABILITY. The provisions of this act are hereby declared
7 to be severable and if any provision of this act or the application of such
8 provision to any person or circumstance is declared invalid for any reason,
9 such declaration shall not affect the validity of the remaining portions of
10 this act.

11 SECTION 7. An emergency existing therefor, which emergency is hereby
12 declared to exist, Sections 1, 2 and 6 of this act shall be in full force and
13 effect on and after passage and approval. Sections 3, 4 and 5 of this act
14 shall be in full force and effect on and after July 1, 2014.