

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 568

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO PUBLIC SCHOOLS; AMENDING SECTION 33-507, IDAHO CODE, TO PROVIDE
2 AN EXCEPTION, TO REVISE AUTHORITY OF TRUSTEES OF SCHOOL DISTRICTS AND
3 CERTAIN SCHOOLS REGARDING THE EMPLOYMENT OF A SPOUSE AND TO MAKE TECHNICAL
4 CORRECTIONS; AMENDING SECTION 33-514A, IDAHO CODE, TO PROVIDE WHEN
5 A CATEGORY 1 LIMITED CONTRACT MAY BE ISSUED; AMENDING SECTION 33-5204,
6 IDAHO CODE, TO PROVIDE AN EXCEPTION, TO REVISE AUTHORITY OF THE BOARD
7 OF DIRECTORS OF A PUBLIC CHARTER SCHOOL REGARDING THE EMPLOYMENT OF A
8 SPOUSE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 33-507,
9 IDAHO CODE, RELATING TO LIMITATIONS UPON THE AUTHORITY OF TRUSTEES;
10 REPEALING SECTION 33-514A, IDAHO CODE, RELATING TO ISSUANCE OF LIMITED
11 CONTRACTS AND CATEGORY 1 CONTRACTS; REPEALING SECTION 33-5204, IDAHO
12 CODE, RELATING TO PUBLIC CHARTER SCHOOLS ORGANIZED UNDER THE NONPROFIT
13 CORPORATION ACT AND RELATING TO LIABILITY AND INSURANCE; AMENDING CHAPTER
14 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-507,
15 IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO LIMITATIONS UPON THE
16 AUTHORITY OF TRUSTEES; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE
17 ADDITION OF A NEW SECTION 33-514A, IDAHO CODE, TO ESTABLISH PROVISIONS
18 RELATING TO THE ISSUANCE OF LIMITED CONTRACTS AND CATEGORY 1 CONTRACTS;
19 AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
20 33-5204, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO PUBLIC
21 CHARTER SCHOOLS ORGANIZED UNDER THE NONPROFIT CORPORATIONS ACT AND TO
22 ESTABLISH PROVISIONS RELATING TO LIABILITY AND INSURANCE; AND PROVIDING
23 EFFECTIVE DATES.
24

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

26 SECTION 1. That Section 33-507, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 33-507. LIMITATION UPON AUTHORITY OF TRUSTEES. (1) It shall be unlaw-
29 ful for any trustee to have pecuniary interest, directly or indirectly, in
30 any contract or other transaction pertaining to the maintenance or conduct
31 of the school district, ~~or to accept any reward or compensation for services~~
32 rendered as a trustee except as may be otherwise provided in this section.
33 The board of trustees of a school district may accept and award contracts in-
34 volving the school district to businesses in which a trustee or a person re-
35 lated to him by blood or marriage within the second degree has a direct or
36 indirect interest provided that the procedures set forth in section 18-1361
37 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or accep-
38 tance of moneys of a school district for deposit in any bank or trust company,
39 or the lending of money by any bank or trust company to any school district,
40 shall not be deemed to be a contract pertaining to the maintenance or conduct
41 of a school district within the meaning of this section; nor shall the pay-
42 ment by any school district board of trustees of compensation to any bank or

1 trust company, for services rendered in the transaction of any banking busi-
2 ness with such district board of trustees, be deemed the payment of any re-
3 ward or compensation to any officer or director of any such bank or trust com-
4 pany within the meaning of this section.

5 (2) It shall be unlawful for the board of trustees of any class of school
6 district to enter into or execute any contract with the spouse of any member
7 of such board, the terms of which said contract requires, or will require,
8 the payment or delivery of any school district funds, money or property to
9 such spouse, except as provided in subsection (3) of this section or in sec-
10 tion 18-1361 or 18-1361A, Idaho Code.

11 (3) No spouse of any trustee may be employed by a school district with
12 a fall student enrollment population of greater than one thousand two hun-
13 dred (1,200) in the prior school year. For school districts with a fall stu-
14 dent enrollment population of one thousand two hundred (1,200) or less in the
15 prior school year and for schools funded pursuant to the provisions of sec-
16 tion 33-1003(2), Idaho Code, such spouse may be employed in a nonadministra-
17 tive position for a school year if each of the following conditions has been
18 met:

19 (a) The position has been listed as open for application on the school
20 district website or in a local newspaper, whichever is consistent with
21 the district's current practice, and the position shall be listed for
22 at least sixty (60) days, unless the opening occurred during the school
23 year, in which case the position shall be so listed for at least fifteen
24 (15) days. If the position is listed in a newspaper, the listing shall
25 be made in a manner consistent with the provisions of section 60-106,
26 Idaho Code;

27 (b) No applications were received that met the minimum certification,
28 endorsement, education or experience requirements of the position
29 other than such spouse;

30 (c) The trustee abstained from voting in the employment of the spouse
31 and was absent from the meeting while such employment was being consid-
32 ered and determined.

33 The school district or school may employ such spouse for further school
34 years, provided that the conditions contained in this subsection are met for
35 each school year in which such spouse is employed. The trustee shall abstain
36 from voting in any decisions affecting the compensation, benefits, indi-
37 vidual performance evaluation or disciplinary action related to the spouse
38 and shall be absent from the meeting while such issues are being considered
39 and determined. Such limitation shall include, but not be limited to: any
40 matters relating to negotiations regarding compensation and benefits; dis-
41 cussion and negotiation with district benefits providers; and any matter
42 relating to the spouse and letters of reprimand, direction, probation or
43 termination. Such limitations shall not prohibit the trustee spouse from
44 participating in deliberation and voting upon the district's annual fiscal
45 budget or annual audit report. Any spouse of a trustee employed as a cer-
46 tificated employee pursuant to this subsection shall be employed under a
47 category 1 contract pursuant to section 33-514A, Idaho Code.

48 (4) When any relative of any trustee or relative of the spouse of a
49 trustee related by affinity or consanguinity within the second degree is
50 considered for employment in a school district, such trustee shall abstain

1 from voting in the election of such relative, and shall be absent from the
2 meeting while such employment is being considered and determined.

3 SECTION 2. That Section 33-514A, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 33-514A. ISSUANCE OF LIMITED CONTRACT -- CATEGORY 1 CONTRACT. After
6 August 1, or pursuant to section 33-507(3), Idaho Code, the board of trustees
7 may exercise the option of employing certified personnel on a one (1) year
8 limited contract, which may also be referred to as a category 1 contract con-
9 sistent with the provisions of section 33-514, Idaho Code. Such a contract
10 is specifically offered for the limited duration of the ensuing school year,
11 and no further notice is required by the district to terminate the contract
12 at the conclusion of the contract year.

13 SECTION 3. That Section 33-5204, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A pub-
16 lic charter school shall be organized and managed under the Idaho nonprofit
17 corporation act. The board of directors of a public charter school shall
18 be deemed public agents authorized by a public school district, the pub-
19 lic charter school commission, or the state board of education to control
20 the public charter school, but shall function independently of any school
21 board of trustees in any school district in which the public charter school
22 is located, or independently of the public charter school commission, ex-
23 cept as provided in the charter. For the purposes of section 59-1302(15),
24 Idaho Code, a public charter school created pursuant to this chapter shall
25 be deemed a governmental entity. Pursuant to the provisions of section
26 63-36220, Idaho Code, sales to or purchases by a public charter school are
27 exempt from payment of the sales and use tax. A public charter school and the
28 board of directors of a public charter school are subject to the provisions
29 of:

- 30 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and cor-
31 rupt influence, except as provided by section 33-5204A(2), Idaho Code;
32 (b) Chapter 2, title 59, Idaho Code, on prohibitions against contracts
33 with officers;
34 (c) Chapter 7, title 59, Idaho Code, on ethics in government;
35 (d) Chapter 23, title 67, Idaho Code, on open public meetings; and
36 (e) Chapter 3, title 9, Idaho Code, on disclosure of public records;

37 in the same manner that a traditional public school and the board of school
38 trustees of a school district are subject to those provisions.

39 (2) A public charter school may sue or be sued, purchase, receive, hold
40 and convey real and personal property for school purposes, and borrow money
41 for such purposes, to the same extent and on the same conditions as a tra-
42 ditional public school district, and its employees, directors and officers
43 shall enjoy the same immunities as employees, directors and officers of tra-
44 ditional public school districts and other public schools, including those
45 provided by chapter 9, title 6, Idaho Code. The authorized chartering entity
46 that approves a public school charter shall have no liability for the acts,
47 omissions, debts or other obligations of a public charter school, except as

1 may be provided in the charter. A local public school district shall have
2 no liability for the acts, omissions, debts or other obligations of a public
3 charter school located in its district that has been approved by an autho-
4 rized chartering entity other than the board of trustees of the local school
5 district.

6 (3) Nothing in this chapter shall prevent the board of directors of a
7 public charter school, operating as a nonprofit corporation, from borrow-
8 ing money to finance the purchase or lease of school building facilities,
9 equipment and furnishings of those school building facilities. Subject to
10 the terms of a contractual agreement between the board and a lender, noth-
11 ing herein shall prevent the board from using the facility, its equipment and
12 furnishings, as collateral for the loan.

13 (4) Public charter schools shall secure insurance for liability and
14 property loss.

15 (5) It shall be unlawful for:

16 (a) Any director to have pecuniary interest, directly or indirectly,
17 in any contract or other transaction pertaining to the maintenance or
18 conduct of the authorized chartering entity and charter, or to accept
19 any reward or compensation for services rendered as a director except as
20 may be otherwise provided in this subsection ~~(5)~~. The board of direc-
21 tors of a public charter school may accept and award contracts involving
22 the public charter school to businesses in which the director or a per-
23 son related to him by blood or marriage within the second degree has a
24 direct or indirect interest, provided that the procedures set forth in
25 section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving,
26 soliciting or acceptance of moneys of a public charter school for de-
27 posit in any bank or trust company, or the lending of moneys by any bank
28 or trust company to any public charter school, shall not be deemed to be
29 a contract pertaining to the maintenance or conduct of a public char-
30 ter school and authorized chartering entity within the meaning of this
31 section; nor shall the payment by any public charter school board of di-
32 rectors of compensation to any bank or trust company for services ren-
33 dered in the transaction of any banking business with such public char-
34 ter school board of directors be deemed the payment of any reward or com-
35 pensation to any officer or director of any such bank or trust company
36 within the meaning of this section.

37 (b) The board of directors of any public charter school to enter into
38 or execute any contract with the spouse of any member of such board, the
39 terms of which said contract require, or will require, the payment or
40 delivery of any public charter school funds, moneys or property to such
41 spouse, except as provided in paragraph (c) of this subsection or in
42 section 18-1361 or 18-1361A, Idaho Code.

43 (c) No spouse of any director may be employed by a public charter school
44 physically located within the boundaries of a school district with a
45 fall student enrollment population of greater than one thousand two
46 hundred (1,200) in the prior school year. For public charter schools
47 physically located within the boundaries of a school district with a
48 fall student enrollment population of one thousand two hundred (1,200)
49 or less in the prior school year, such spouse may be employed in a non-

1 administrative position for a school year if each of the following
 2 conditions has been met:

3 (i) The position has been listed as open for application on the
 4 public charter school website or in a local newspaper, whichever
 5 is consistent with the school's current practice, and the position
 6 shall be listed for at least sixty (60) days, unless the opening
 7 occurred during the school year, in which case the position shall
 8 be so listed for at least fifteen (15) days. If the position is
 9 listed in a newspaper, the listing shall be made in a manner con-
 10 sistent with the provisions of section 60-106, Idaho Code;

11 (ii) No applications were received that met the minimum certifi-
 12 cation, endorsement, education or experience requirements of the
 13 position other than such spouse;

14 (iii) The director abstained from voting in the employment of the
 15 spouse and was absent from the meeting while such employment was
 16 being considered and determined.

17 The public charter school may employ such spouse for further school
 18 years, provided that the conditions contained in this paragraph are
 19 met for each school year in which such spouse is employed. The director
 20 shall abstain from voting in any decisions affecting the compensation,
 21 benefits, individual performance evaluation or disciplinary action
 22 related to the spouse and shall be absent from the meeting while such
 23 issues are being considered and determined. Such limitation shall
 24 include, but not be limited to: any matters relating to negotiations
 25 regarding compensation and benefits; discussion and negotiation with
 26 district benefits providers; and any matter relating to the spouse and
 27 letters of reprimand, direction, probation or termination. Such lim-
 28 itations shall not prohibit the trustee spouse from participating in
 29 deliberation and voting upon the district's annual fiscal budget or an-
 30 ual audit report. Any spouse of a director employed as a certificated
 31 employee pursuant to this paragraph shall be employed under a category 1
 32 contract pursuant to section 33-514A, Idaho Code.

33 (6) When any relative of any director or relative of the spouse of a di-
 34 rector related by affinity or consanguinity within the second degree is to
 35 be considered for employment in a public charter school, such director shall
 36 abstain from voting in the election of such relative, and shall be absent
 37 from the meeting while such employment is being considered and determined.

38 SECTION 4. That Section [33-507](#), Idaho Code, be, and the same is hereby
 39 repealed.

40 SECTION 5. That Section [33-514A](#), Idaho Code, be, and the same is hereby
 41 repealed.

42 SECTION 6. That Section [33-5204](#), Idaho Code, be, and the same is hereby
 43 repealed.

44 SECTION 7. That Chapter 5, Title 33, Idaho Code, be, and the same is
 45 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 46 ignated as Section 33-507, Idaho Code, and to read as follows:

1 33-507. LIMITATION UPON AUTHORITY OF TRUSTEES. It shall be unlawful
 2 for any trustee to have pecuniary interest, directly or indirectly, in any
 3 contract or other transaction pertaining to the maintenance or conduct of
 4 the school district or to accept any reward or compensation for services ren-
 5 dered as a trustee except as may be otherwise provided in this section. The
 6 board of trustees of a school district may accept and award contracts involv-
 7 ing the school district to businesses in which a trustee or a person related
 8 to him by blood or marriage within the second degree has a direct or indi-
 9 rect interest provided that the procedures set forth in section 18-1361 or
 10 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance
 11 of moneys of a school district for deposit in any bank or trust company, or
 12 the lending of money by any bank or trust company to any school district,
 13 shall not be deemed to be a contract pertaining to the maintenance or conduct
 14 of a school district within the meaning of this section; nor shall the pay-
 15 ment by any school district board of trustees of compensation to any bank or
 16 trust company, for services rendered in the transaction of any banking busi-
 17 ness with such district board of trustees, be deemed the payment of any re-
 18 ward or compensation to any officer or director of any such bank or trust com-
 19 pany within the meaning of this section.

20 It shall be unlawful for the board of trustees of any class of school
 21 district to enter into or execute any contract with the spouse of any member
 22 of such board, the terms of which said contract requires, or will require,
 23 the payment or delivery of any school district funds, money or property to
 24 such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

25 When any relative of any trustee or relative of the spouse of a trustee
 26 related by affinity or consanguinity within the second degree is considered
 27 for employment in a school district, such trustee shall abstain from voting
 28 in the election of such relative and shall be absent from the meeting while
 29 such employment is being considered and determined.

30 SECTION 8. That Chapter 5, Title 33, Idaho Code, be, and the same is
 31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 32 ignated as Section 33-514A, Idaho Code, and to read as follows:

33 33-514A. ISSUANCE OF LIMITED CONTRACT -- CATEGORY 1 CONTRACT. After
 34 August 1, the board of trustees may exercise the option of employing certi-
 35 fied personnel on a one (1) year limited contract, which may also be referred
 36 to as a category 1 contract consistent with the provisions of section 33-514,
 37 Idaho Code. Such a contract is specifically offered for the limited duration
 38 of the ensuing school year, and no further notice is required by the district
 39 to terminate the contract at the conclusion of the contract year.

40 SECTION 9. That Chapter 52, Title 33, Idaho Code, be, and the same is
 41 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 42 ignated as Section 33-5204, Idaho Code, and to read as follows:

43 33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A pub-
 44 lic charter school shall be organized and managed under the Idaho nonprofit
 45 corporation act. The board of directors of a public charter school shall
 46 be deemed public agents authorized by a public school district, the pub-
 47 lic charter school commission, or the state board of education to control

1 the public charter school, but shall function independently of any school
2 board of trustees in any school district in which the public charter school
3 is located or independently of the public charter school commission, ex-
4 cept as provided in the charter. For the purposes of section 59-1302(15),
5 Idaho Code, a public charter school created pursuant to this chapter shall
6 be deemed a governmental entity. Pursuant to the provisions of section
7 63-36220, Idaho Code, sales to or purchases by a public charter school are
8 exempt from payment of the sales and use tax. A public charter school and the
9 board of directors of a public charter school are subject to the provisions
10 of:

- 11 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and cor-
12 rupt influence, except as provided by section 33-5204A(2), Idaho Code;
13 (b) Chapter 2, title 59, Idaho Code, on prohibitions against contracts
14 with officers;
15 (c) Chapter 7, title 59, Idaho Code, on ethics in government;
16 (d) Chapter 23, title 67, Idaho Code, on open public meetings; and
17 (e) Chapter 3, title 9, Idaho Code, on disclosure of public records;

18 in the same manner that a traditional public school and the board of school
19 trustees of a school district are subject to those provisions.

20 (2) A public charter school may sue or be sued, purchase, receive, hold
21 and convey real and personal property for school purposes, and borrow money
22 for such purposes, to the same extent and on the same conditions as a tra-
23 ditional public school district, and its employees, directors and officers
24 shall enjoy the same immunities as employees, directors and officers of tra-
25 ditional public school districts and other public schools, including those
26 provided by chapter 9, title 6, Idaho Code. The authorized chartering entity
27 that approves a public school charter shall have no liability for the acts,
28 omissions, debts or other obligations of a public charter school, except as
29 may be provided in the charter. A local public school district shall have
30 no liability for the acts, omissions, debts or other obligations of a public
31 charter school located in its district that has been approved by an autho-
32 rized chartering entity other than the board of trustees of the local school
33 district.

34 (3) Nothing in this chapter shall prevent the board of directors of a
35 public charter school, operating as a nonprofit corporation, from borrow-
36 ing money to finance the purchase or lease of school building facilities,
37 equipment and furnishings of those school building facilities. Subject to
38 the terms of a contractual agreement between the board and a lender, noth-
39 ing herein shall prevent the board from using the facility, its equipment and
40 furnishings as collateral for the loan.

41 (4) Public charter schools shall secure insurance for liability and
42 property loss.

43 (5) It shall be unlawful for:

- 44 (a) Any director to have pecuniary interest, directly or indirectly,
45 in any contract or other transaction pertaining to the maintenance or
46 conduct of the authorized chartering entity and charter or to accept
47 any reward or compensation for services rendered as a director except
48 as may be otherwise provided in this subsection. The board of directors
49 of a public charter school may accept and award contracts involving the
50 public charter school to businesses in which the director or a person

1 related to him by blood or marriage within the second degree has a direct
2 or indirect interest, provided that the procedures set forth in section
3 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, solicit-
4 ing or acceptance of moneys of a public charter school for deposit in any
5 bank or trust company, or the lending of moneys by any bank or trust com-
6 pany to any public charter school, shall not be deemed to be a contract
7 pertaining to the maintenance or conduct of a public charter school and
8 authorized chartering entity within the meaning of this section; nor
9 shall the payment by any public charter school board of directors of
10 compensation to any bank or trust company for services rendered in the
11 transaction of any banking business with such public charter school
12 board of directors be deemed the payment of any reward or compensation
13 to any officer or director of any such bank or trust company within the
14 meaning of this section.

15 (b) The board of directors of any public charter school to enter into
16 or execute any contract with the spouse of any member of such board, the
17 terms of which said contract require, or will require, the payment or
18 delivery of any public charter school funds, moneys or property to such
19 spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

20 (6) When any relative of any director or relative of the spouse of a di-
21 rector related by affinity or consanguinity within the second degree is to
22 be considered for employment in a public charter school, such director shall
23 abstain from voting in the election of such relative and shall be absent from
24 the meeting while such employment is being considered and determined.

25 SECTION 10. The provisions of Sections 4, 5, 6, 7, 8 and 9 of this act
26 shall be in full force and effect on and after July 1, 2018.