

IN THE SENATE

SENATE BILL NO. 1319

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; AMENDING SECTION 33-515, IDAHO CODE, TO REMOVE REF-  
2 ERENCES TO THE 2013-2014 SCHOOL YEAR, TO REVISE PROVISIONS RELATING  
3 TO CERTAIN SALARY-BASED APPORTIONMENT ESTIMATES AND TO MAKE TECHNICAL  
4 CORRECTIONS; AMENDING SECTION 7, CHAPTER 353, LAWS OF 2013, TO REVISE A  
5 SUNSET DATE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICA-  
6 TION.  
7

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

9 SECTION 1. That Section 33-515, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full  
12 year of continuous employment by the same school district, including any  
13 specially chartered district, each certificated employee named in subsec-  
14 tion (16) of section 33-1001, Idaho Code, and each school nurse and school  
15 librarian shall be evaluated for a renewable contract and shall, upon hav-  
16 ing been offered a contract for the next ensuing year, and upon signing and  
17 timely returning a contract for a fourth full year, be placed on a renewable  
18 contract status with said school district entitling such individual to the  
19 right to automatic renewal of contract, subject to the provisions included  
20 in this chapter.

21 (2) At least once annually, the performance of each renewable contract  
22 certificated employee, school nurse, or school librarian shall be evaluated  
23 according to criteria and procedures established by the board of trustees in  
24 accordance with general guidelines approved by the state board of education.  
25 Such an evaluation shall be completed no later than May 1 of each year. The  
26 evaluation shall include a minimum of two (2) documented observations, one  
27 (1) of which shall be completed prior to January 1 of each year.

28 (3) Any contract automatically renewed under the provisions of this  
29 section may be renewed for a shorter term, longer term or the same length  
30 of term as stated in the current contract and at a greater, lesser or equal  
31 salary as that stated in the current contract. Absent the board's applica-  
32 tion of a formal reduction in force, renewals of standard teacher ~~contracts~~  
33 contracts may be for a shorter term, longer term or the same length of term  
34 as stated in the current standard teacher contract and at a greater, lesser  
35 or equal salary, and shall be uniformly applied to all employees based upon  
36 the district's adopted salary schedule to the extent allowable in section  
37 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-

1           ter of intent shall not state a specific duration of the contract or  
2 salary/benefits term for the next ensuing school year.

3           (c) Unless otherwise negotiated and ratified by both parties pursuant  
4 to sections 33-1271, et seq., Idaho Code, ~~for the 2013-2014 school year,~~  
5 standard teacher renewals for terms shorter in length than that stated  
6 in the current standard contract of renewable certificated employees,  
7 should be considered and implemented only after the district has deter-  
8 mined that the salary-based apportionment reimbursement that it esti-  
9 mates it will receive for the ~~2013-2014~~ ensuing school year is less than  
10 the sum the district would otherwise be paying for salaries for certifi-  
11 cated professional employees.

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

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

36           (6) If the board of trustees takes action to immediately discharge  
37 or discharge upon termination of the current contract a certificated per-  
38 son whose contract would otherwise be automatically renewed, the action  
39 of the board shall be consistent with the procedures specified in section  
40 33-513(5), Idaho Code, and furthermore, the board shall notify the employee  
41 in writing whether there is just and reasonable cause not to renew the con-  
42 tract or to reduce the salary of the affected employee, and if so, what  
43 reasons it relied 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 shall not be required if  
49 the board of trustees and the local education association reach an agreement  
50 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 (9) If the board of trustees, for reasons other than unsatisfactory  
7 service, for the ensuing contract year, determines to change the length  
8 of the term stated in the current contract or reduce the salary of a cer-  
9 tificated person whose contract would otherwise be automatically renewed,  
10 nothing herein shall require any individualized due process proceeding. In  
11 such circumstance, the board shall hold a single informal review for all im-  
12 pacted employees. The process and procedure for the single informal review  
13 shall be determined by the local board of trustees.

14 SECTION 2. That Section 7, Chapter 353, Laws of 2013, be, and the same is  
15 hereby amended to read as follows:

16 SECTION 7. An emergency existing therefor, which emergency is hereby  
17 declared to exist, Sections 1, 2 and 6 of this act shall be in full force and  
18 effect on and after passage and approval. Sections 3, 4 and 5 of this act  
19 shall be in full force and effect on and after July 1, 2014<sup>5</sup>.

20 SECTION 3. An emergency existing therefor, which emergency is hereby  
21 declared to exist, Section 1 of this act shall be in full force and effect on  
22 and after passage and approval, and retroactively to April 16, 2013.