

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 293

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION
2 33-1001, IDAHO CODE, TO DEFINE TERMS AND TO REVISE TERMINOLOGY; AMEND-
3 ING SECTION 33-1002C, IDAHO CODE, TO PROVIDE FOR NIGHT SCHOOL PROGRAMS
4 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 10, TITLE 33, IDAHO
5 CODE, BY THE ADDITION OF A NEW SECTION 33-1026, IDAHO CODE, TO PROVIDE
6 FOR PERIODIC REVIEWS OF THE STATE'S PUBLIC SCHOOL FUNDING FORMULA;
7 AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
8 TION 33-1027, IDAHO CODE, TO PROVIDE FOR STUDENT ENROLLMENT COUNTS AND
9 RULEMAKING; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION
10 OF A NEW SECTION 33-1028, IDAHO CODE, TO PROVIDE FOR CERTAIN REPORTS;
11 AMENDING SECTION 33-515, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-
12 ENCE; PROVIDING A SUNSET DATE; AND DECLARING AN EMERGENCY.
13

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

15 SECTION 1. LEGISLATIVE INTENT. (1) It is the intent of the Legislature
16 that the enrollment counts determined pursuant to Section 33-1027, Idaho
17 Code, as enacted by Section 5 of this act, and the reports made pursuant to
18 Section 33-1028, Idaho Code, as enacted by Section 6 of this act, be used by
19 the Legislature to evaluate and test a new student-based formula for public
20 school funding consistent with the recommendations made in the 2018 final
21 report issued by the Public School Funding Formula Committee.

22 (2) It is further the intent of the Legislature that the reports sub-
23 mitted by school districts and public charter schools pursuant to Section
24 33-1028, Idaho Code, be used by the Superintendent of Public Instruction in
25 formulating a budget request pursuant to Section 67-3502, Idaho Code.

26 SECTION 2. That Section 33-1001, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 33-1001. DEFINITIONS. ~~The following words and phrases~~ As used in this
29 chapter ~~are defined as follows:~~

30 (1) "Administrative schools" means and applies to all elementary
31 schools and kindergartens within a district that are situated ten (10) miles
32 or less from both the other elementary schools and the principal administra-
33 tive office of the district and all secondary schools within a district that
34 are situated fifteen (15) miles or less from other secondary schools of the
35 district.

36 (2) "Administrative staff" means those who hold an administrator cer-
37 tificate and are employed as a superintendent, an elementary or secondary
38 school principal, or are assigned administrative duties over and above those
39 commonly assigned to teachers.

40 (3) "At-risk student" means a student in grades 6 through 12 who:

41 (a) Meets at least three (3) of the following criteria:

- 1 (i) Has repeated at least one (1) grade;
- 2 (ii) Has absenteeism greater than ten percent (10%) during the
- 3 preceding semester;
- 4 (iii) Has an overall grade point average less than 1.5 on a 4.0
- 5 scale prior to enrolling in an alternative secondary program;
- 6 (iv) Has failed one (1) or more academic subjects in the past year;
- 7 (v) Is below proficient, based on local criteria, standardized
- 8 tests, or both;
- 9 (vi) Is two (2) or more credits per year behind the rate required
- 10 to graduate or for grade promotion; or
- 11 (vii) Has attended three (3) or more schools within the previous
- 12 two (2) years, not including dual enrollment; or

13 (b) Meets any of the following criteria:

- 14 (i) Has documented substance abuse or a pattern of substance
- 15 abuse;
- 16 (ii) Is pregnant or a parent;
- 17 (iii) Is an emancipated youth or unaccompanied youth;
- 18 (iv) Is a previous dropout;
- 19 (v) Has a serious personal, emotional, or medical issue or is-
- 20 sues;
- 21 (vi) Has a court or agency referral; or
- 22 (vii) Demonstrates behavior detrimental to the student's academic
- 23 progress.

24 (4) "Average daily attendance" or "pupils in average daily attendance"
 25 means the aggregate number of days enrolled students are present, divided by
 26 the number of days of school in the reporting period; provided, however, that
 27 students for whom no Idaho school district is a home district shall not be
 28 considered in such computation.

29 (45) "Career ladder" means the compensation table used for determining
 30 the allocations districts receive for instructional staff and pupil service
 31 staff based on specific performance criteria and is made up of a residency
 32 compensation rung and a professional compensation rung.

33 (56) "Child with a disability" means a child evaluated as having an in-
 34 tellectual disability, a hearing impairment including deafness, a speech or
 35 language impairment, a visual impairment including blindness, an emotional
 36 behavioral disorder, an orthopedic impairment, autism, a traumatic brain
 37 injury, another health impairment, a specific learning disability, deaf-
 38 blindness, or multiple disabilities, and who, by reason thereof, needs spe-
 39 cial education and related services.

40 (7) "Compensation rung" means the rung on the career ladder that corre-
 41 sponds with the compensation level performance criteria.

42 (8) "Economically disadvantaged student" means a student who:

- 43 (a) Is eligible for a free or reduced-price lunch under the Richard B.
- 44 Russell national school lunch act, 42 U.S.C. 1751 et seq., excluding
- 45 students who are only eligible through a school's community eligibility
- 46 program;
- 47 (b) Resides with a family receiving assistance under the program of
- 48 block grants to states for temporary assistance for needy families
- 49 (TANF) established under part A of title IV of the social security act,
- 50 42 U.S.C. 601 et seq.;

1 (c) Is eligible to receive medical assistance under the medicaid pro-
 2 gram under title XIX of the social security act, 42 U.S.C. 1396 et seq.;

3 or

4 (d) Is considered homeless for purposes of the federal McKinney-Vento
 5 homeless assistance act, 42 U.S.C. 11301 et seq.

6 ~~(69)~~ "Elementary grades" or "elementary average daily attendance"
 7 means and applies to students enrolled in grades 1 through 6 inclusive, or
 8 any combination thereof.

9 ~~(710)~~ "Elementary schools" are schools that serve grades 1 through 6 in-
 10 clusive, or any combination thereof.

11 ~~(811)~~ "Elementary/secondary schools" are schools that serve grades 1
 12 through 12 inclusive, or any combination thereof.

13 (12) "English language learner" or "ELL" means a student who does not
 14 score proficient on the English language development assessment established
 15 by rule of the state board of education.

16 (13) "Gifted and talented" shall have the same meaning as provided in
 17 section 33-2001(4), Idaho Code.

18 ~~(914)~~ "Homebound student" means any student who would normally and reg-
 19 ularly attend school, but is confined to home or hospital because of an ill-
 20 ness or accident for a period of ten (10) or more consecutive days.

21 ~~(105)~~ "Instructional staff" means those who hold an Idaho certificate
 22 issued under section 33-1201, Idaho Code, and who are either involved in the
 23 direct instruction of a student or group of students or who serve in a mentor
 24 or teacher leader position for individuals who hold an Idaho certificate is-
 25 sued under section 33-1201, Idaho Code.

26 ~~(146)~~ "Kindergarten" or "kindergarten average daily attendance" means
 27 and applies to all students enrolled in a school year, less than a school
 28 year, or summer kindergarten program.

29 (17) "Local salary schedule" means a compensation table adopted by a
 30 school district or public charter school, which table is used for determin-
 31 ing moneys to be distributed for instructional staff and pupil service staff
 32 salaries. Minimum compensation provided under a local salary schedule shall
 33 be at least equal to thirty-eight thousand five hundred dollars (\$38,500)
 34 or, for staff holding a professional endorsement, forty-two thousand five
 35 hundred dollars (\$42,500).

36 ~~(128)~~ "Measurable student achievement" means the measurement of stu-
 37 dent academic achievement or growth within a given interval of instruction
 38 for those students who have been enrolled in and attended eighty percent
 39 (80%) of the interval of instruction. Measures and targets shall be chosen
 40 at the district level or school level in collaboration with the staff member
 41 impacted by the measures and applicable district staff. Assessment tools
 42 that may be used for measuring student achievement and growth include:

- 43 (a) Idaho standards achievement test;
- 44 (b) Student learning objectives;
- 45 (c) Formative assessments;
- 46 (d) Teacher-constructed assessments of student growth;
- 47 (e) Pre- and post-tests;
- 48 (f) Performance-based assessments;
- 49 (g) Idaho reading indicator;

1 (h) College entrance exams or preliminary college entrance exams such
2 as PSAT, SAT and ACT;

3 (i) District-adopted assessment;

4 (j) End-of-course exams;

5 (k) Advanced placement exams; and

6 (l) Career technical exams.

7 (~~139~~) "Performance criteria" means the standards specified for
8 instructional staff and pupil service staff to demonstrate teaching pro-
9 ficiency for a given compensation rung. Each element of the performance
10 criteria, as identified in subsection (14) of this section, shall be re-
11 ported for determining movement on the career ladder.

12 (~~1420~~) "Professional compensation rung performance criteria" means:

13 (a) An overall rating of proficient, and no components rated as unsat-
14 isfactory on the state framework for teaching evaluation; and

15 (b) Demonstrating the majority of their students have met their measur-
16 able student achievement targets or student success indicator targets.

17 (~~1521~~) "Public school district" or "school district" or "district"
18 means any public school district organized under the laws of this state,
19 including specially chartered school districts.

20 (~~1622~~) "Pupil service staff" means those who provide services to stu-
21 dents but are not involved in direct instruction of those students, and hold
22 a pupil personnel services certificate.

23 (~~1723~~) "Secondary grades" or "secondary average daily attendance"
24 means and applies to students enrolled in grades 7 through 12 inclusive, or
25 any combination thereof.

26 (~~1824~~) "Secondary schools" are schools that serve grades 7 through 12
27 inclusive, or any combination thereof.

28 (~~1925~~) "Separate elementary school" means an elementary school located
29 more than ten (10) miles on an all-weather road from both the nearest elemen-
30 tary school and elementary/secondary school serving like grades within the
31 same school district and from the location of the office of the superinten-
32 dent of schools of such district, or from the office of the chief administra-
33 tive officer of such district if the district employs no superintendent of
34 schools.

35 (~~206~~) "Separate kindergarten" means a kindergarten located more than
36 ten (10) miles on an all-weather road from both the nearest kindergarten
37 school within the same school district and from the location of the office
38 of the superintendent of schools of such district, or from the office of the
39 chief administrative officer of such district if the district employs no
40 superintendent of schools.

41 (~~217~~) "Separate secondary school" means any secondary school located
42 more than fifteen (15) miles on an all-weather road from any other secondary
43 school and elementary/secondary school serving like grades operated by the
44 district.

45 (~~28~~) "Special education" means specially designed instruction or
46 speech/language therapy at no cost to the parent to meet the unique needs
47 of a student who is a child with a disability, including instruction in the
48 classroom, the home, hospitals, institutions, and other settings; instruc-
49 tion in physical education; speech therapy and language therapy; transition

1 services; travel training; assistive technology services; and vocational
2 education.

3 (229) "Student success indicators" means measurable indicators of stu-
4 dent achievement or growth, other than academic, within a predefined inter-
5 val of time for a specified group of students. Measures and targets shall be
6 chosen at the district or school level in collaboration with the pupil ser-
7 vice staff member impacted by the measures and applicable district staff.
8 Student success indicators include:

9 (a) Quantifiable goals stated in a student's 504 plan or individualized
10 education plan.

11 (b) Quantifiable goals stated in a student's behavior improvement
12 plan.

13 (c) School or district identified measurable student objectives for a
14 specified student group or population.

15 (230) "Support program" means the educational support program as de-
16 scribed in section 33-1002, Idaho Code, the transportation support program
17 described in section 33-1006, Idaho Code, and the exceptional education
18 support program as described in section 33-1007, Idaho Code.

19 (2431) "Support unit" means a function of average daily attendance used
20 in the calculations to determine financial support provided to the public
21 school districts.

22 (2532) "Teacher" means any person employed in a teaching, instruc-
23 tional, supervisory, educational administrative or educational and scien-
24 tific capacity in any school district. In case of doubt, the state board of
25 education shall determine whether any person employed requires certifica-
26 tion as a teacher.

27 SECTION 3. That Section 33-1002C, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 33-1002C. SUMMER AND NIGHT SCHOOL PROGRAM SUPPORT UNITS -- ALTERNA-
30 TIVE SCHOOL -- JUVENILE DETENTION FACILITY. (1) Alternative summer or night
31 school programs of not less than two hundred twenty-five (225) hours of in-
32 struction, which shall be included in the educational support units calcu-
33 lated as provided in section 33-1002, Idaho Code, may be established as ap-
34 proved by the state board of education. The average daily attendance divided
35 by forty (40) shall determine the number of allowable support units which
36 shall be included in the alternative school support units calculated for the
37 school district for the succeeding school term.

38 (2) For any alternative school designated pursuant to section 46-805,
39 Idaho Code, full-term average daily attendance shall be used to calculate
40 support units for each cohort of students that meets the minimum instruc-
41 tional hours requirement provided for in section 33-512, Idaho Code. The
42 support units so calculated shall be used for all state funding formulas in
43 which support units are used.

44 (3) Districts ~~which~~ that educate pupils placed by court order in a juve-
45 nile detention facility may establish a summer or night school program ~~which~~
46 that shall be included in the educational support units calculated as pro-
47 vided in section 33-1002, Idaho Code. The average daily attendance divided
48 by forty (40) shall determine the number of allowable support units ~~which~~

1 that shall be included in the exceptional education school support units
2 calculated for the school district for the succeeding school term.

3 (4) Average daily attendance and the support units ~~se~~ generated by this
4 section shall not be included in or subject to the provisions of section
5 33-1003, Idaho Code, and shall be included as an addition to any other sup-
6 port units generated pursuant to Idaho Code.

7 SECTION 4. That Chapter 10, Title 33, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 33-1026, Idaho Code, and to read as follows:

10 33-1026. MANDATORY PUBLIC SCHOOL FUNDING FORMULA REVIEW. The senate
11 and house of representatives education committees shall conduct a compre-
12 hensive review of the public school funding formula at least once every five
13 (5) years, with the first such review to occur by July 1, 2024.

14 SECTION 5. That Chapter 10, Title 33, Idaho Code, be, and the same is
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
16 ignated as Section 33-1027, Idaho Code, and to read as follows:

17 33-1027. STUDENT ENROLLMENT COUNTS AND RULEMAKING. The state board of
18 education shall promulgate rules that set forth the procedures for determin-
19 ing student enrollment counts by school, school district, and statewide, and
20 the process for reporting such counts. Such rules shall be consistent with
21 the following:

22 (1) Full-time enrollment (FTE) shall be based on enrollment in any
23 school district or public charter school;

24 (2) A student shall not exceed a total of one (1.0) unweighted FTE in a
25 single school year, except as provided in subsection (4) of this section;

26 (3) A kindergarten student shall not exceed a total of one-half (0.5)
27 unweighted enrollment in a single school year;

28 (4) A student attending a summer school or night school program shall
29 not exceed a total of one-fourth (0.25) unweighted enrollment. Such student
30 may be counted pursuant to both this subsection and subsection (2) of this
31 section;

32 (5) A fractional enrollment count schedule shall be specified for any
33 student enrolled less than one (1.0) FTE in a given school district or public
34 charter school;

35 (6) FTE is based on the courses a student is enrolled in at the time of
36 the official count, as specified in board rule, except that a student may be
37 counted as enrolled if the term for which such student is enrolled begins af-
38 ter the time of the official count;

39 (7) Each school district or public charter school shall conduct an of-
40 ficial count of enrolled students in the district or school on the first day
41 of October, the first day of December, the first day of February, and the
42 first day of April, or the previous school day if those dates do not fall on
43 a school day; and

44 (8) A school district or public charter school may not count as enrolled
45 any student who has unexcused absences totaling eleven (11) or more consecu-
46 tive school days immediately prior to and including the official count date.

1 SECTION 6. That Chapter 10, Title 33, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 33-1028, Idaho Code, and to read as follows:

4 33-1028. REPORTS TO STATE BOARD -- REPORT TO LEGISLATURE. (1) By De-
5 cember 15 each year, each school district and public charter school shall re-
6 port to the state board of education or to the board's designee the following
7 information:

8 (a) Total student enrollment as of October 1 and December 1 in the year
9 the report is made, or the previous school day if those dates do not fall
10 on a school day;

11 (b) The number of at-risk students in the school district or at the pub-
12 lic charter school as of October 1 and December 1 in the year the report
13 is made, or the previous school day if those dates do not fall on a school
14 day, and the number of at-risk students:

15 (i) By grade; and

16 (ii) Enrolled in an alternative school;

17 (c) The number of economically disadvantaged students in the school
18 district or at the public charter school as of October 1 and December 1
19 in the year the report is made, or the previous school day if those dates
20 do not fall on a school day, and the number of students who qualify as
21 economically disadvantaged by grade;

22 (d) The number of English language learners in the school district or at
23 the public charter school as of October 1 and December 1 in the year the
24 report is made, or the previous school day if those dates do not fall on a
25 school day, and the number of English language learners per grade;

26 (e) The number of gifted and talented students in the school district
27 or at the public charter school as of October 1 and December 1 in the
28 year the report is made, or the previous school day if those dates do not
29 fall on a school day, and the number of gifted and talented students per
30 grade; and

31 (f) The local salary schedule for the school district or public char-
32 ter school in effect for the school year prior to the year the report is
33 made.

34 (2) Beginning in 2020, a school district or public charter school shall
35 include, in the report made pursuant to subsection (1) of this section, the
36 following information for the fiscal year prior to the fiscal year in which
37 the report is made:

38 (a) The amounts received by the school district or public charter
39 school for each statutory program line item distribution, other program
40 line item distribution, and discretionary funds distribution specified
41 in the state appropriation for public school support; and

42 (b) The actual expenditures by the school district or public charter
43 school for each such line item distribution and discretionary funds
44 distribution, unless information on the actual expenditures by dis-
45 trict or school for a distribution is submitted to the state pursuant to
46 another law or rule.

47 (3) By January 15 each year, the state board of education shall report
48 to the senate and house of representatives education committees and the
49 joint finance-appropriations committee on the information received pur-

1 suant to subsection (1) of this section. The state board's report shall
2 include such information for each individual school district and pub-
3 lic charter school and shall also summarize the information in aggregate
4 statewide. The state board's report shall further include allocations made
5 for each cell of the career ladder pursuant to section 33-1004B, Idaho Code.

6 SECTION 7. That Section 33-515, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full
9 year of continuous employment by the same school district, including any
10 specially chartered district, each certificated employee named in subsec-
11 tion (~~2532~~) of section 33-1001, Idaho Code, and each school nurse and school
12 librarian shall be evaluated for a renewable contract and shall, upon hav-
13 ing been offered a contract for the next ensuing year, and upon signing and
14 timely returning a contract for a fourth full year, be placed on a renewable
15 contract status with said school district entitling such individual to the
16 right to automatic renewal of contract, subject to the provisions included
17 in this chapter, provided that instructional staff who have not obtained
18 a professional endorsement under section 33-1201A, Idaho Code, may not
19 be placed on a renewable contract status, provided however, if the career
20 ladder pursuant to section 33-1004B, Idaho Code, is not funded, then a pro-
21 fessional endorsement shall not be required.

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

29 (3) Any contract automatically renewed under the provisions of this
30 section may be renewed for a shorter term, longer term or the same length
31 of term as stated in the current contract and at a greater, lesser or equal
32 salary as that stated in the current contract. Absent the board's applica-
33 tion of a formal reduction in force, renewals of standard teacher contracts
34 may be for a shorter term, longer term or the same length of term as stated
35 in the current standard teacher contract and at a greater, lesser or equal
36 salary, and shall be uniformly applied to all employees based upon the dis-
37 trict's adopted salary schedule to the extent allowable in section 33-1004E,
38 Idaho Code.

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

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

46 (c) Unless otherwise negotiated and ratified by both parties pursuant
47 to sections 33-1271, et seq., Idaho Code, standard teacher renewals for
48 terms shorter in length than that stated in the current standard con-
49 tract of renewable certificated employees, should be considered and im-

1 plemented only after the district has determined that the salary-based
2 apportionment reimbursement that it estimates it will receive for the
3 ensuing school year is less than the sum the district would otherwise be
4 paying for salaries for certificated professional employees.

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

15 (5) Before a board of trustees can determine not to renew for reasons of
16 an unsatisfactory report of the performance of any certificated person whose
17 contract would otherwise be automatically renewed, such person shall be en-
18 titled to a reasonable period of probation. This period of probation shall
19 be preceded by a written notice from the board of trustees with reasons for
20 such probationary period and with provisions for adequate supervision and
21 evaluation of the person's performance during the probationary period. Such
22 period 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 74-206,
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
30 or discharge upon termination of the current contract a certificated per-
31 son whose contract would otherwise be automatically renewed, the action
32 of the board shall be consistent with the procedures specified in section
33 33-513(5), Idaho Code, and furthermore, the board shall notify the employee
34 in writing whether there is just and reasonable cause not to renew the con-
35 tract or to reduce the salary of the affected employee, and if so, what
36 reasons it relied upon in that determination.

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

45 (a) The superintendent or any other duly authorized administrative of-
46 ficer of the school district may recommend the change in the length of
47 the term stated in the current contract or reduce the salary of any cer-
48 tificated employee by filing with the board of trustees written notice
49 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 shall not be required if
42 the board of trustees and the local education association reach an agreement
43 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 pacted employees. The process and procedure for the single informal review
6 shall be determined by the local board of trustees.

7 SECTION 8. The provisions of Section 6 of this act shall be null, void,
8 and of no force and effect on and after July 1, 2022.

9 SECTION 9. An emergency existing therefor, which emergency is hereby
10 declared to exist, Section 5 of this act shall be in full force and effect on
11 and after passage and approval.