

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 602

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO SCHOOL DISTRICTS; AMENDING SECTION 74-402, IDAHO CODE, TO PRO-
2 VIDE FOR A CERTAIN POLICY; AMENDING SECTION 74-403, IDAHO CODE, TO DE-
3 FINE TERMS; AMENDING SECTION 74-406, IDAHO CODE, TO PROVIDE FOR CERTAIN
4 CIVIL PENALTIES; AMENDING CHAPTER 4, TITLE 74, IDAHO CODE, BY THE ADDI-
5 TION OF A NEW SECTION 74-408, IDAHO CODE, TO ESTABLISH CERTAIN RESTRIC-
6 TIONS REGARDING THE USE OF TAXPAYER FUNDS; AMENDING SECTION 33-513,
7 IDAHO CODE, TO REMOVE A PROVISION EXEMPTING CERTAIN TIME SPENT IN STATE
8 TEACHERS ASSOCIATION MEETINGS; AMENDING SECTION 33-1271, IDAHO CODE,
9 TO PROVIDE A CERTAIN EXEMPTION FROM NEGOTIATION FOR TERMS OF AGREE-
10 MENTS; AMENDING SECTION 33-1272, IDAHO CODE, TO REVISE DEFINITIONS;
11 AMENDING SECTION 33-1275, IDAHO CODE, TO PROHIBIT THE USE OF TAXPAYER
12 FUNDING TO PROMOTE A TEACHERS UNION OR ITS AFFILIATE; PROVIDING SEVER-
13 ABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
14

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

16 SECTION 1. That Section 74-402, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 74-402. POLICY AND PURPOSE. It is hereby declared that the position of
19 a public official at all levels of government is a public trust and it is in
20 the public interest to:

21 (1) Protect the integrity of government throughout the state of Idaho
22 while at the same time facilitating recruitment and retention of personnel
23 needed within government;

24 (2) Assure independence, impartiality and honesty of public officials
25 in governmental functions;

26 (3) Inform citizens of the existence of personal interests which may
27 present a conflict of interest between an official's public trust and pri-
28 vate concerns;

29 (4) Prevent public office from being used for personal gain contrary to
30 the public interest;

31 (5) Prevent special interests from unduly influencing governmental ac-
32 tion; and

33 (6) Assure that governmental functions and policies reflect, to the
34 maximum extent possible, the public interest; and

35 (7) Ensure that taxpayer funds are not used to support teachers unions.

36 SECTION 2. That Section 74-403, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 74-403. DEFINITIONS. For purposes of this chapter:

39 (1) ~~"Official action" means any decision on, or proposal, considera-~~
40 ~~tion, enactment, defeat, or making of any rule, regulation, rate-making pro-~~

1 ~~ceeding or policy action or nonaction by a governmental body or any other~~
 2 ~~policy matter which is within the official jurisdiction of the governmen-~~
 3 ~~tal body. "Affiliate" means any membership organization affiliated with a~~
 4 ~~teachers union or with which a teachers union is affiliated.~~

5 (2) "Business" means any undertaking operated for economic gain, in-
 6 cluding, but not limited to, a corporation, partnership, trust, proprietor-
 7 ship, firm, association or joint venture.

8 (3) "Business with which a public official is associated" means any
 9 business of which the public official or member of his household is a direc-
 10 tor, officer, owner, partner, employee or holder of stock over five thousand
 11 dollars (\$5,000) or more at fair market value.

12 (4) "Conflict of interest" means any official action or any decision or
 13 recommendation by a person acting in a capacity as a public official, the ef-
 14 fect of which would be to the private pecuniary benefit of the person or a
 15 member of the person's household, or a business with which the person or a
 16 member of the person's household is associated, unless the pecuniary benefit
 17 arises out of the following:

18 (a) An interest or membership in a particular business, industry, occu-
 19 pation or class required by law as a prerequisite to the holding by the
 20 person of the office or position;

21 (b) Any action in the person's official capacity which would affect to
 22 the same degree a class consisting of an industry or occupation group in
 23 which the person, or a member of the person's household or business with
 24 which the person is associated, is a member or is engaged;

25 (c) Any interest which the person has by virtue of his profession, trade
 26 or occupation where his interest would be affected to the same degree as
 27 that of a substantial group or class of others similarly engaged in the
 28 profession, trade or occupation;

29 (d) Any action by a public official upon any revenue measure, any appro-
 30 priation measure or any measure imposing a tax, when similarly situated
 31 members of the general public are affected by the outcome of the action
 32 in a substantially similar manner and degree.

33 (5) "Economic gain" means increase in pecuniary value from sources
 34 other than lawful compensation as a public official.

35 (6) "Governmental entity" means:

36 (a) The state of Idaho and all agencies, commissions and other govern-
 37 mental bodies of the state; and

38 (b) Counties and municipalities of the state of Idaho, school dis-
 39 tricts, and all other political subdivisions including, but not limited
 40 to, highway districts, planning and zoning commissions or governmental
 41 bodies not specifically mentioned in this chapter.

42 (7) "Members of a household" means the spouse and dependent children of
 43 the public official and/or persons whom the public official is legally obli-
 44 gated to support.

45 (8) "Negotiations" has the same meaning as provided by section 33-1272,
 46 Idaho Code.

47 (9) "Official action" means any decision on, or proposal, considera-
 48 tion, enactment, defeat, or making of any rule, regulation, rate-making pro-
 49 ceeding, or policy action or nonaction by a governmental body or any other

1 policy matter that is within the official jurisdiction of the governmental
 2 body.

3 ~~(8)~~ (10) "Person" means an individual, proprietorship, partnership,
 4 association, trust, estate, business trust, group or corporation, whether
 5 operated for profit or not, and any other legal entity, or agent or servant
 6 thereof, or a governmental entity.

7 (11) "Professional employee" has the same meaning as provided by sec-
 8 tion 33-1272, Idaho Code.

9 ~~(9)~~ (12) "Public office" means any position in which the normal and
 10 usual duties are conducted on behalf of a governmental entity.

11 ~~(10)~~ (13) "Public official" means any person holding public office in
 12 the following capacity:

13 (a) As an elected public official meaning any person holding public of-
 14 fice of a governmental entity by virtue of an elected process, including
 15 persons appointed to a vacant elected office of a governmental entity,
 16 excluding members of the judiciary; or

17 (b) As an elected legislative public official meaning any person hold-
 18 ing public office as a legislator; or

19 (c) As an appointed public official meaning any person holding public
 20 office of a governmental entity by virtue of formal appointment as re-
 21 quired by law; or

22 (d) As an employed public official meaning any person holding public
 23 office of a governmental entity by virtue of employment, or a person em-
 24 ployed by a governmental entity on a consultive basis.

25 (14) "Representational teachers union activities" means those activi-
 26 ties specified in paragraphs (i) through (m) of subsection (16) of this sec-
 27 tion.

28 (15) "Teachers union" has the same meaning as provided by section
 29 33-1272, Idaho Code.

30 (16) "Teachers union activities" means activities undertaken at the di-
 31 rection of, on behalf of, or to advance the purposes of a teachers union or
 32 its affiliate by, including but not limited to:

33 (a) Supporting or opposing any candidate for federal, state, or local
 34 public office;

35 (b) Influencing the passage or defeat of any federal or state legisla-
 36 tion, federal or state regulation, local ordinance, or any ballot mea-
 37 sure;

38 (c) Promoting or soliciting membership or participation in, or finan-
 39 cial support of, a teachers union or its affiliate;

40 (d) Seeking to become the exclusive representative of all professional
 41 employees in a school district;

42 (e) Participating in the administration, business, or internal gover-
 43 nance of a teachers union or its affiliate;

44 (f) Preparing, conducting, or attending teachers union or affiliate
 45 events, conferences, conventions, meetings, or trainings, unless such
 46 training is directly related to the performance of professional employ-
 47 ees' job duties;

48 (g) Distributing teachers union or affiliate communications;

- 1 (h) Representing or speaking on behalf of a teachers union or its affil-
 2 iate in any setting, venue, or procedure in which the school district is
 3 not a participant;
 4 (i) Preparing, filing, or pursuing grievances;
 5 (j) Representing professional employees in investigatory interviews,
 6 disciplinary proceedings, or appeals, up to and including termination,
 7 or other administrative or legal proceedings;
 8 (k) Engaging in negotiations and any related mediation;
 9 (l) Administering a negotiation agreement; or
 10 (m) Participating in labor-management committees.

11 SECTION 3. That Section 74-406, Idaho Code, be, and the same is hereby
 12 amended to read as follows:

13 74-406. CIVIL PENALTY. (1) Any public official who intentionally
 14 fails to disclose a conflict of interest as provided for in section 74-404,
 15 Idaho Code, shall be guilty of a civil offense, the penalty for which may be a
 16 fine not to exceed five hundred dollars (\$500), provided that the provisions
 17 of this subsection shall not apply to any public official where the govern-
 18 mental entity on which said official serves has put into operation an ethics
 19 commission or board described in section 74-404(6), Idaho Code.

20 (2) The penalty prescribed in subsection (1) of this section does not
 21 limit the power of either house of the legislature to discipline its own mem-
 22 bers, nor limit the power of governmental entities, including occupational
 23 or professional licensing bodies, to discipline their members or personnel.
 24 A violation of the provisions of this chapter shall not preclude prosecution
 25 and conviction for any criminal violation that may have been committed.

26 (3) Any public official who:

27 (a) Violates the provisions of section 74-408, Idaho Code, shall be
 28 subject to a civil penalty not to exceed two hundred and fifty dollars
 29 (\$250);

30 (b) Knowingly violates the provisions of section 74-408, Idaho Code,
 31 shall be subject to a civil penalty not to exceed one thousand five hun-
 32 dred dollars (\$1,500); or

33 (c) Knowingly violates the provisions of section 74-408, Idaho Code,
 34 and who has previously admitted to committing or has been previously de-
 35 termined to have committed a violation pursuant to paragraph (b) of this
 36 subsection shall be subject to a civil penalty not to exceed two thou-
 37 sand five hundred dollars (\$2,500).

38 (4) It shall be the duty of the prosecuting attorneys of each county and
 39 of the attorney general of this state to investigate complaints of violation
 40 or threatened violation of section 74-408, Idaho Code, and to take all means
 41 at their command to ensure its effective enforcement.

42 SECTION 4. That Chapter 4, Title 74, Idaho Code, be, and the same is
 43 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 44 ignated as Section 74-408, Idaho Code, and to read as follows:

45 74-408. TAXPAYER FUNDING OF TEACHERS UNIONS PROHIBITED. No public of-
 46 ficial in a position of authority over a professional employee may use, or
 47 authorize the use of, taxpayer funds to promote teachers unions by:

1 (1) Increasing a professional employee's compensation with the intent
2 that the additional compensation, or a part of it, be used to pay teachers
3 union or affiliate dues, fees, assessments, fines, or contributions;

4 (2) Providing more personal or contact information of a professional
5 employee to a teachers union or its affiliate than the public official is
6 required to disclose pursuant to chapter 1, title 74, Idaho Code, unless
7 the public official receives written authorization from the professional
8 employee to disclose additional information;

9 (3) Requiring or coercing a professional employee to meet, communi-
10 cate, listen to, or otherwise interact with a teachers union or its affili-
11 ate;

12 (4) Distributing communications or membership solicitations on behalf
13 of a teachers union or its affiliate;

14 (5) Permitting a teachers union or its affiliate access to a school dis-
15 trict's meetings, events, or facilities, or use of its communications sys-
16 tems, computer systems, equipment, supplies, or other resources on terms
17 more favorable than extended to any other teachers union or corporation or-
18 ganized or existing under chapter 30, title 30, Idaho Code, or an equivalent
19 provision of the law of another state, seeking such access or use;

20 (6) Contributing public funds to, or expending public funds on behalf
21 of, a teachers union or its affiliate; or

22 (7) Except as provided by sections 33-1216 and 33-1279, Idaho Code,
23 providing any form of compensation or paid leave to a professional employee,
24 directly or indirectly, for time spent engaged in teachers union activities.
25 Provided, however, that the following exceptions shall apply:

26 (a) A professional employee may be granted time off without pay or ben-
27 efits to engage in teachers union activities and a teachers union may
28 compensate a professional employee for engaging in teachers union ac-
29 tivities;

30 (b) A professional employee may use compensated personal leave,
31 whether their own or pooled, to engage in teachers union activities if:

32 (i) The leave is accrued at the same rate by similarly situated
33 professional employees of the school district without regard to
34 membership or participation in a teachers union; and

35 (ii) The professional employee may freely choose how to use the
36 leave; and

37 (c) A professional employee may engage in representational teachers
38 union activities during working hours without loss of pay or benefits
39 if:

40 (i) The school district and teachers union execute a negotiation
41 agreement allowing the professional employee to engage in such ac-
42 tivities;

43 (ii) The teachers union reports to the school district no less
44 than twice per calendar year the amount of time, in increments of
45 no less than one quarter of an hour, spent on such activities each
46 day by each professional employee engaged in such activities and,
47 upon receipt of the invoice, remits full payment to the school dis-
48 trict within thirty (30) days; and

49 (iii) The school district calculates the pro rata value of compen-
50 sation, including wages and benefits, paid or accruing to a pro-

1 professional employee for time spent engaged in such activities and
2 provides an invoice to the teachers union not less than twice per
3 calendar year for such amounts calculated.

4 SECTION 5. That Section 33-513, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school
7 district, including any specially chartered district, shall have the fol-
8 lowing powers and duties:

9 1. To employ professional personnel, on written contract in form ap-
10 proved by the state superintendent of public instruction, conditioned upon
11 a valid certificate being held by such professional personnel at the time of
12 entering upon the duties thereunder. Should the board of trustees fail to
13 enter into written contract for the employment of any such person, the state
14 superintendent of public instruction shall withhold ensuing apportionments
15 until such written contract be entered into. When the board of trustees has
16 delivered a proposed contract for the next ensuing year to any such per-
17 son, such person shall have a period of time to be determined by the board
18 of trustees in its discretion, but in no event less than ten (10) calendar
19 days from the date the contract is delivered, in which to sign the contract
20 and return it to the board. If the board of trustees does not make a deter-
21 mination as to how long the person has to sign and return the contract, the
22 default time limit shall be twenty-one (21) calendar days after the contract
23 is delivered to the person. Delivery of a contract may be made only in person
24 or by certified mail, return receipt requested or electronically, return
25 receipt requested. When delivery is made in person, delivery of the contract
26 must be acknowledged by a signed receipt. When delivery is made by certified
27 mail or electronically, delivery must be acknowledged by the return of the
28 certified mail receipt or return electronic receipt from the person to whom
29 the contract was sent. If the delivery is made electronically, with return
30 electronic receipt, and the district has not received a return of a signed
31 contract and has not received an electronic read receipt from the employee,
32 the district shall then resend the original electronically delivered con-
33 tract to the employee via certified mail, return receipt requested, and
34 provide such individual with a new date for contract return. Should the per-
35 son willfully refuse to acknowledge receipt of the contract or the contract
36 is not signed and returned to the board in the designated period of time or if
37 no designated period of time is set by the board, the default time, the board
38 or its designee may declare the position vacant.

39 The board of trustees shall withhold the salary of any teacher who does
40 not hold a teaching certificate valid in this state. It shall not contract
41 to require any teacher to make up time spent in attending any meeting called
42 by the state board of education or by the state superintendent of public in-
43 struction; ~~nor while attending regularly scheduled official meetings of the~~
44 ~~state teachers association.~~

45 No contract shall be issued for the next ensuing year until such time as
46 the employee's formal written performance evaluation has been completed.

47 If applicable student data relating to Idaho's standards achievement
48 test has not been received by the district within thirty (30) days of the
49 deadline to complete the formal written performance evaluation for district

1 employees, the school district or charter school shall utilize one (1) of
2 the other objective measures of growth in student achievement as determined
3 by the board of trustees or governing board, not including Idaho's standards
4 achievement test, in order to complete the required student achievement com-
5 ponent of performance evaluations.

6 2. In the case of school districts other than elementary school dis-
7 tricts, to employ a superintendent of schools for a term not to exceed three
8 (3) years, who shall be the executive officer of the board of trustees with
9 such powers and duties as the board may prescribe. The superintendent shall
10 also act as the authorized representative of the district whenever such is
11 required, unless some other person shall be named by the board of trustees to
12 act as its authorized representative. The board of trustees shall conduct an
13 annual, written formal evaluation of the work of the superintendent of the
14 district to be completed no later than June 1. The evaluation shall indicate
15 the strengths and weaknesses of the superintendent's job performance in the
16 year immediately preceding the evaluation and areas where improvement in the
17 superintendent's job performance, in the view of the board of trustees, is
18 called for.

19 3. To employ through written contract principals who shall hold a valid
20 certificate appropriate to the position for which they are employed, who
21 shall supervise the operation and management of the school in accordance
22 with the policies established by the board of trustees and who shall be under
23 the supervision of the superintendent.

24 4. To employ assistant superintendents and principals for a term not
25 to exceed two (2) years. Service performed under such contract shall be in-
26 cluded in meeting the provisions of section 33-515, Idaho Code, as a teacher
27 and persons eligible for a renewable contract as a teacher shall retain
28 such eligibility. The superintendent, the superintendent's designee, or
29 in a school district that does not employ a superintendent, the board of
30 trustees, shall conduct an annual, written evaluation of each such em-
31 ployee's performance to be completed no later than June 1.

32 5. To suspend, grant leave of absence, place on probation or discharge
33 certificated professional personnel for a material violation of any lawful
34 rules or regulations of the board of trustees or of the state board of edu-
35 cation, or for any conduct which could constitute grounds for revocation of
36 a teaching certificate. Any certificated professional employee, except the
37 superintendent, may be discharged during a contract term under the following
38 procedures:

39 (a) The superintendent or any other duly authorized administrative of-
40 ficer of the school district may recommend the discharge of any certifi-
41 cated employee by filing with the board of trustees written notice spec-
42 ifying the alleged reasons for discharge.

43 (b) Upon receipt of such notice, the board, acting through its duly
44 authorized administrative official, shall give the affected employee
45 written notice of the allegations and the recommendation of discharge,
46 along with written notice of a hearing before the board prior to any de-
47 termination by the board of the truth of the allegations.

48 (c) The hearing shall be scheduled to take place not less than six (6)
49 days nor more than twenty-one (21) days after receipt of the notice by

1 the employee. The date provided for the hearing may be changed by mutual
2 consent.

3 (d) The hearing shall be public unless the employee requests in writing
4 that it be in executive session.

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

8 (f) The employee may be represented by legal counsel and/or by a repre-
9 sentative of a local or state teachers association.

10 (g) The chairman of the board or the designee of the chairman shall con-
11 duct the hearing.

12 (h) The board shall cause an electronic record of the hearing to be made
13 or shall employ a competent reporter to take stenographic or steno-
14 type notes of all the testimony at the hearing. A transcript of the hearing
15 shall be provided at cost by the board upon request of the employee.

16 (i) At the hearing, the superintendent or other duly authorized admin-
17 istrative officer shall present evidence to substantiate the allega-
18 tions contained in such notice.

19 (j) The employee may produce evidence to refute the allegations. Any
20 witness presented by the superintendent or by the employee shall be sub-
21 ject to cross-examination. The board may also examine witnesses and be
22 represented by counsel.

23 (k) The affected employee may file written briefs and arguments with
24 the board within three (3) days after the close of the hearing or such
25 other time as may be agreed upon by the affected employee and the board.

26 (l) Within fifteen (15) days following the close of the hearing, the
27 board shall determine and, acting through its duly authorized adminis-
28 trative official, shall notify the employee in writing whether the evi-
29 dence presented at the hearing established the truth of the allegations
30 and whether the employee is to be retained, immediately discharged, or
31 discharged upon termination of the current contract.

32 (m) If the employee appeals the decision of the board of trustees to the
33 district court, the district court may affirm the board's decision or
34 set it aside and remand the matter to the board of trustees upon the fol-
35 lowing grounds and shall not set the same aside for any other grounds:

36 (i) That the findings of fact are not based upon any substantial,
37 competent evidence;

38 (ii) That the board of trustees has acted without jurisdiction or
39 in excess of its authority; or

40 (iii) That the findings by the board of trustees as a matter of law
41 do not support the decision.

42 (n) The determination of the board of trustees shall be affirmed unless
43 the court finds that the action of the board of trustees was:

44 (i) In violation of constitutional or statutory provisions;

45 (ii) In excess of the statutory authority of the board;

46 (iii) Made upon unlawful procedure; or

47 (iv) Arbitrary, capricious or an abuse of discretion.

48 (o) Record augmentation on appeal:

49 (i) If, before the date set for any hearing at the district court,
50 application is made to the court for leave to present additional

1 evidence and it is shown to the satisfaction of the court that the
2 additional evidence is material, relates to the validity of the
3 board action and that there was good cause for failure to present
4 it in the proceeding before the board, then the court may remand
5 the matter to the board with direction that the board receive addi-
6 tional evidence and conduct additional fact-finding;

7 (ii) Any party desiring to augment the transcript or record may
8 file a motion in the same manner and pursuant to the same procedure
9 for augmentation of the record in appeals to the supreme court; and

10 (iii) The board may modify its action by reason of the additional
11 evidence and shall file any modifications, new findings or deci-
12 sions with the reviewing court.

13 6. To grant an employee's request for voluntary leave of absence. The
14 board of trustees may delegate ongoing authority to grant an employee's
15 request for voluntary leave of absence to the district's superintendent or
16 other designee. Upon the superintendent or designee's granting of an em-
17 ployee's request for voluntary leave of absence, the board shall ratify or
18 nullify the action at the next regularly scheduled board meeting.

19 7. To delegate to the superintendent or other designee the ongoing au-
20 thority to place any employee on a period of involuntary leave of absence
21 should the superintendent or designee believe that such action is in the best
22 interest of the district. Upon the superintendent or designee's action to
23 place a certificated employee on a period of involuntary leave of absence,
24 the board shall ratify or nullify the action of the superintendent or de-
25 signee at the next regularly scheduled meeting of the board or at a special
26 meeting of the board should the next regularly scheduled meeting of the board
27 not be within a period of twenty-one (21) days from the date of the action.

28 (a) Where there is a criminal court order preventing the certificated
29 employee from being in the presence of minors or students, preventing
30 the employee from being in the presence of any other adult individual
31 employed at the school or detaining the employee in prison or jail, the
32 certificated employee's involuntary leave of absence shall be without
33 pay due to the certificated employee's inability to perform the essen-
34 tial functions of the employee's position. Without such a condition or
35 situation, the involuntary leave of absence shall be with pay.

36 (i) During the period of involuntary leave of absence without
37 pay, the salary of the certificated employee will be maintained
38 in a district-managed account. Should the certificated employee
39 return to the district for active employment subsequent to the
40 removal or dismissal of the court order, acquittal or adjudication
41 of innocence, the district shall remit the salary funds, less the
42 cost incurred by the district for the substitute hired to replace
43 the certificated employee. Further, should the certificated em-
44 ployee return to the district under the provisions established
45 in this subsection, the district shall arrange to have the cer-
46 tificated employee credited with the public employee retirement
47 system of Idaho (PERSI) for the certificated employee's time away
48 from work during the period of leave of absence.

49 (ii) During the period of involuntary leave of absence, the dis-
50 trict shall continue to pay the district's portion of monthly

1 costs associated with the certificated employee's health insur-
2 ance benefits. The assumption of this payment by the district
3 shall not alter the certificated employee's financial obliga-
4 tions, if any, under the policy.

5 (b) Should there be dual court orders preventing more than one (1) em-
6 ployee from being in the presence of one (1) or more other employees, all
7 employees subject to the court order shall be excluded from the school
8 pursuant to subsection 7. (a) of this section.

9 (c) If the period of involuntary leave of absence is due to the dis-
10 trict's need to conduct an investigation into the conduct of the cer-
11 tificated employee, and there are no related criminal investigation(s)
12 and/or criminal charges of any nature pending, the administration shall
13 complete its investigation within a period of sixty (60) working days.
14 On or before the sixtieth working day, the administrative leave shall
15 either cease and the certificated employee shall be returned to his
16 position of employment or the administration shall advance a personnel
17 recommendation to the board of trustees. If a recommendation is ad-
18 vanced, the involuntary leave of absence shall continue until such time
19 as the district board has made its decision in regard to the personnel
20 recommendation with such decision effectively concluding the involun-
21 tary leave of absence. If a related criminal investigation is occurring
22 and/or criminal charges are pending, the district shall not be bound
23 to any limitation as to the duration of involuntary leave of absence.
24 The timelines established in this section may be waived or modified by
25 mutual agreement.

26 SECTION 6. That Section 33-1271, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 33-1271. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES -- NEGOTIATION
29 AGREEMENTS. The board of trustees of each school district, including spe-
30 cially chartered districts, or the designated representative(s) of such
31 district, is hereby empowered to and shall, upon its own initiative or upon
32 the request of a local education organization representing a majority of the
33 professional employees, enter into a negotiation agreement with the local
34 education organization or the designated representative(s) of such organ-
35 ization.

36 (1) The parties to such negotiations shall negotiate in good faith on
37 those matters specified in any such negotiation agreement between the lo-
38 cal board of trustees and the local education organization, unless otherwise
39 prohibited by section 33-1275, Idaho Code, or other applicable law.

40 (2) A request for negotiations may be initiated by either party to such
41 negotiation agreement.

42 (3) Upon either party making a request for negotiations, the local
43 education organization, upon board request, shall provide to the district
44 written evidence establishing that the local education organization rep-
45 represents fifty percent (50%) plus one (1) of the professional employees for
46 negotiations. If requested by the board, the local education organization
47 shall establish this representative status on an annual basis, prior to
48 the commencement of negotiations. In order to establish a local education
49 organization's representative status, a local education organization must

1 show that within the last two (2) years, fifty percent (50%) plus one (1)
2 of the professional employees, as defined in section 33-1272, Idaho Code,
3 indicated agreement to be represented by the local education organization
4 for negotiation purposes. Evidence of fifty percent (50%) plus one (1) in-
5 consistent with this provision shall not be counted in the establishment of
6 representative status.

7 (4) Accurate records or minutes of the proceedings shall be kept and
8 shall be available for public inspection at the office of the affected school
9 district during normal business hours.

10 (5) Joint ratification of all final offers of settlement shall be made
11 in open meetings. Each party must provide written evidence confirming to the
12 other that majority ratification has occurred.

13 SECTION 7. That Section 33-1272, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 33-1272. DEFINITIONS. As used in this act:

16 (1) "Professional employee" means any certificated employee of a
17 school district, including charter districts; provided however, that admin-
18 istrative personnel including superintendents, supervisors or principals
19 are excluded from the professional employee group for the purposes of nego-
20 tiations.

21 (2) "Local education organization" or "teachers union" means any local
22 district organization duly chosen and selected by fifty percent (50%) plus
23 one (1) of the professional employees, excluding administrative personnel
24 as addressed in this section, as their representative organization for nego-
25 tiations under this act, as well as any organization seeking such status.

26 (3) "Negotiations" means publicly meeting and conferring in good faith
27 by a local board of trustees and the authorized local education organiza-
28 tion, or the respective designated representatives of both parties for the
29 purpose of reaching an agreement, upon matters and conditions subject to ne-
30 gotiations as specified in a negotiation agreement between said parties and
31 not otherwise prohibited by section 33-1275, Idaho Code, or other applicable
32 law.

33 For the purposes of this section, "good faith" means honesty, fairness and
34 lawfulness of purpose with the absence of any intent to defraud, act mali-
35 ciously or take unfair advantage or the observance of reasonable standards
36 of fair dealing.

37 SECTION 8. That Section 33-1275, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 33-1275. TERMS OF AGREEMENTS. (1) All agreements, by any name or ti-
40 tle, entered into pursuant to the provisions of this act, shall have a one
41 (1) year duration of July 1 through June 30 of the ensuing fiscal year. The
42 parties shall not have the authority to enter into any agreement negotiated
43 under the provisions of this act that has any term that allows for such agree-
44 ment or any provision of such agreement to be in any force or effect for mul-
45 tiple years or indefinitely, or otherwise does not expire on its own terms on
46 or before June 30 of the ensuing fiscal year.

1 (2) Notwithstanding the provisions of subsection (1) of this section,
2 upon mutual ratification, any item other than compensation and benefits as
3 defined in subsection (3) of this section of any agreement entered into pur-
4 suant to this act may have a nonrolling two (2) year duration with a desig-
5 nated start date and end date. A second year term for any item not defined in
6 subsection (3) of this section cannot be added, automatically or by mutual
7 consent, back into the agreement after the expiration of the first year but
8 rather may be addressed by the parties at the expiration of the end date of
9 the two (2) year term.

10 (3) For purposes of this section, "compensation" means salary and ben-
11 efits for professional employees. "Benefits" means employee insurance,
12 leave time and sick leave benefits.

13 (4) No agreement, by any name or title, entered into pursuant to the
14 provisions of this act or otherwise may require or permit a school district,
15 including chartered districts, to use taxpayer funding to promote a teachers
16 union or its affiliate in a manner prohibited by section 74-408, Idaho Code.
17 Any provision of any agreement in violation of this subsection is null and
18 void, contrary to public policy, and of no legal effect.

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

24 SECTION 10. An emergency existing therefor, which emergency is hereby
25 declared to exist, this act shall be in full force and effect on and after
26 July 1, 2024.