

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 694

BY EDUCATION COMMITTEE

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-524, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO A FINDING AND DECLARATION BY THE LEGISLATURE, TO ESTABLISH PROVISIONS RELATING TO SCHOOL DISTRICTS' LIABILITY ARISING OUT OF CERTAIN ACTS OF EMPLOYEES, TO ESTABLISH PROVISIONS RELATING TO PROVIDING A DEFENSE TO EMPLOYEES, TO ESTABLISH PROVISIONS RELATING TO A SCHOOL DISTRICT'S RESPONSIBILITY FOR THE PAYMENT OF CERTAIN JUDGMENTS, TO ESTABLISH PROVISIONS RELATING TO SCHOOL DISTRICTS NOT BEING ENTITLED TO CONTRIBUTION, INDEMNIFICATION OR REIMBURSEMENT FOR CERTAIN LEGAL FEES OR EXPENSES, TO PROVIDE THAT THIS SECTION SHALL NOT EXPAND THE TERMS OR PROVISIONS OF CERTAIN LAWS, TO ESTABLISH PROVISIONS RELATING TO THE CREATION OF A CERTAIN REGISTRY, TO REVISE PROVISIONS RELATING TO SCHOOL DISTRICTS PROVIDING EMPLOYEES WITH A CERTAIN LIST, TO REVISE PROVISIONS RELATING TO A CERTAIN FORM PROVIDED BY THE DEPARTMENT, TO REVISE PROVISIONS RELATING TO SCHOOL DISTRICTS HAVING A CURRENT LIST AVAILABLE AND TO REVISE DEFINITIONS; AND PROVIDING A CONTINGENT SUNSET DATE.

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

SECTION 1. That Section 33-524, Idaho Code, be, and the same is hereby amended to read as follows:

33-524. LIABILITY INSURANCE. ~~The legislature finds and declares:~~
(1) ~~Educators make decisions everyday that may affect their families' financial future and therefore finds a need for educators to have accessible information about providers of professional liability insurance for educators. As provided in the Idaho tort claims act, except for narrow, limited circumstances, school districts:~~

(a) Are subject to liability for money damages arising out of the negligence or otherwise wrongful acts or omissions of their employees while acting within the course and scope of their employment or duties;

(b) Are required to provide a defense to employees, including a defense and indemnification against claims brought against the employee in the employee's individual capacity, when the claims are related to the course and scope of employment, regardless of whether the claim is in state or federal court;

(c) Shall be responsible for the payment of any judgment on any claim or civil lawsuit against an employee for money damages arising out of any act or omission within the course and scope of employment or duties for the school district;

(d) Are not entitled to contribution, indemnification or reimbursement for legal fees or expenses from their employees unless a court shall find that the act or omission of the employee was outside the course and scope of employment or included malice or criminal intent. It is a re-

1 buttable presumption for the purposes of the Idaho tort claims act that
 2 any act or omission of an employee within the time and at the place of
 3 employment is within the course and scope of employment and is without
 4 malice or criminal intent.

5 The existence of this statute and the contents herein shall not expand the
 6 terms or provisions of the Idaho tort claims act, nor shall they expand or
 7 amend the terms or provisions of section 6-1607, Idaho Code.

8 ~~(2) School districts seek to protect their employees from harmful~~
 9 ~~liability and are also in the best position to inform employees about pro-~~
 10 ~~tections available to them~~ The state department of education shall create
 11 a state education employee association registry for education employee
 12 associations that provide membership benefits that include education em-
 13 ployee liability insurance and legal representation in employment rights
 14 to employees of Idaho school districts. The contact information of such
 15 associations shall be placed on the registry upon request of an association
 16 meeting these criteria. Such associations must submit contact information
 17 to the department, including association name, physical, electronic mail
 18 and website addresses and phone number, by no later than July 1 in order to be
 19 included on the registry for the ensuing school year.

20 ~~(3) All employees of a school district shall be informed of all of~~
 21 ~~their options in regards to professional liability insurance for educa-~~
 22 ~~tors education employee associations. To that end school districts shall~~
 23 ~~disclose to all employees a professional liability insurance for educators~~
 24 ~~provider list provide a personal, physical copy of an "Education Employee~~
 25 ~~Associations Providing Education Employee Liability Insurance and Legal~~
 26 ~~Representation in Employment Rights List" to all employees on the first day~~
 27 ~~all employees are required to report to school for the start of the school~~
 28 ~~year or the first day an employee works in a school, in the case of substitute~~
 29 ~~teachers and pre-service certificated staff. Such list shall be provided~~
 30 ~~to school districts by the department and shall consist of the contact in-~~
 31 ~~formation of those associations on the registry for the ensuing school year.~~
 32 The department and school districts shall not endorse any education employee
 33 association, product or service, and are not responsible for the quality of
 34 services provided thereby. Districts shall encourage employees who have
 35 interaction with students to have such insurance although no employee is
 36 required to carry such insurance.

37 ~~(4) School districts shall create a list for such disclosure. Any~~
 38 ~~provider authorized by the state shall be added to the school district's list~~
 39 ~~by request, if the insurance provided is underwritten by a licensed insur-~~
 40 ~~ance company with an A.M. Best rating of B+ or better. No provider shall be~~
 41 ~~denied if the provider is properly authorized within the state and meets the~~
 42 ~~provisions of this section.~~

43 ~~(5) Providers are required to submit complete and accurate information~~
 44 ~~regarding their insurance to each school district in the state by June 30 in~~
 45 ~~order for information to be included on the list for the ensuing school year.~~
 46 ~~School districts receiving information regarding insurance after June 30~~
 47 ~~shall not be required to include the information in the list of insurance~~
 48 ~~options.~~

49 ~~(6) "Complete and accurate information" is defined as name of provider,~~
 50 ~~business mailing address, telephone number and website information.~~

~~(7) School districts shall provide name of provider, business mailing address, telephone number and website information to all employees. School districts shall not endorse any provider, product or service.~~

~~(8) School districts are hereby required to provide all employees with a list of insurance options on the first day all teachers and staff are required to report back to school for the start of the school year. All employees shall be required to sign a form provided by the department and showing all of the associations on the list, indicating that they have received information about their insurance association options. School districts shall require employees to review and sign the disclosure form each year he or she is employed with the district. Disclosure Such forms shall list the names of insurance providers disclosed to employees and remain on file with the school district. The disclosure forms shall be held for a period of three (3) years one (1) year and shall be accessible to the public by request.~~

~~(9) School districts are required to provide substitute teachers and pre-service teachers with a list of insurance options prior to their first day of teaching in the school district. Substitute teachers and pre-service teachers will be required to sign a form indicating that they have received information about their insurance options. This form shall list the names of insurance providers disclosed to employees.~~

~~(105) Each school district shall have an updated a current list available upon request from an employee of that district. School districts may post such information on a staff website or the intranet.~~

~~(116) Definitions. For the purposes of this section, the following terms have the following meanings: "providers" refers to any provider of professional liability insurance for educators. "Employees" refers to all certificated and noncertificated staff in a school district. "List" refers to the document containing a description of all providers offering professional liability insurance for educators to employees of the school district. "Form" refers to a document to be signed by school district employees who acknowledge such disclosure.~~

(a) "Association" means an education employee association that provides membership benefits that include education employee liability insurance and legal representation in employment rights to employees of Idaho school districts and appears on the registry pursuant to subsection (2) of this section.

(b) "Department" means the state department of education.

(c) "Employees" means the certificated employees, substitute teachers and pre-service certificated staff of a school district.

(d) "Form" means a document to be signed by school district employees who acknowledge receipt of the list.

(e) "List" means the document furnished by the department containing the contact information of associations appearing on the registry pursuant to subsection (2) of this section.

(f) "Pre-service certificated staff" means individuals working in a school district as part of a professional educator preparation program.

(g) "School district" and "district" means an Idaho school district or public charter school.

1 SECTION 2. If Chapter 96, Laws of 2011, is rejected through voter refer-
2 endum in November 2012, the provisions of this act shall be null, void and of
3 no further force or effect.