



LEGISLATURE OF THE STATE OF IDAHO



Sixty-seventh Legislature

First Regular Session - 2023

IN THE _____

BILL NO. _____

BY _____

AN ACT

1 RELATING TO THE STATE EMPLOYEE PERSONNEL SYSTEM; AMENDING SECTION 67-5302,
2 IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS;
3 AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE FOR A DEPARTMENT DI-
4 RECTOR AND AN APPOINTING AUTHORITY AND TO REMOVE SURPLUS VERBIAGE AND
5 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5309, IDAHO CODE,
6 TO REVISE PROVISIONS REGARDING RULES OF THE DIVISION AND TO MAKE TECH-
7 NICAL CORRECTIONS; AMENDING SECTION 67-5311, IDAHO CODE, TO REMOVE THE
8 TERM "CLASSIFIED"; AMENDING SECTION 67-5312, IDAHO CODE, TO CLARIFY
9 LANGUAGE; AMENDING SECTION 67-5328, IDAHO CODE, TO REMOVE OBSOLETE PRO-
10 VISIONS REGARDING COMPENSATORY TIME AND TO MAKE TECHNICAL CORRECTIONS;
11 AMENDING SECTION 67-5333, IDAHO CODE, TO PROVIDE FOR BENEFITED CREDITED
12 STATE SERVICE AND TO PROVIDE FOR THE FORFEITURE OF CERTAIN UNUSED SICK
13 TIME AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 67-5333B,
14 IDAHO CODE, RELATING TO SICK LEAVE TRANSFERRED, FORMER EMPLOYEES OF
15 SELLAND COLLEGE OF APPLIED TECHNOLOGY AT BOISE STATE UNIVERSITY, AND
16 STATE EMPLOYMENT; AMENDING SECTION 67-5340, IDAHO CODE, TO CLARIFY
17 TERMINOLOGY AND TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNI-
18 CAL CORRECTIONS; AND AMENDING SECTION 59-1607, IDAHO CODE, TO REMOVE
19 OBSOLETE PROVISIONS REGARDING COMPENSATORY TIME AND TO MAKE TECHNICAL
20 CORRECTIONS.
21

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

23 SECTION 1. That Section 67-5302, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 67-5302. DEFINITIONS. As used in this chapter, and other applicable
26 sections of the Idaho Code, each of the terms defined in this section shall
27 have the meaning given in this section unless a different meaning is clearly
28 required by the context. Such terms and their definitions are:

29 (1) "Administrative employee" means any person, nonclassified or clas-
30 sified, appointed to a position that meets the criteria set forth in the fed-
31 eral fair labor standards act, 29 U.S.C. 201 et seq. Final designation of
32 a classified position as "administrative" within this definition shall be
33 made by the administrator of the division of human resources. Exceptions to
34 this designation that do not violate the federal fair labor standards act, 29
35 U.S.C. 201 et seq., may be made by the administrator.

36 (2) "Administrator" means the administrator of the division of human
37 resources in the governor's office.

38 (3) "Appointing authority" means the officer, board, commission, per-
39 son or group of persons authorized by statute or lawfully delegated author-
40 ity to make appointments to or employ personnel in any department.

41 (4) "Class" means a group of positions sufficiently similar as to the
42 duties performed, degree of supervision exercised or required, minimum re-

1 requirements of training, experience or skill, and other characteristics that
2 the same title, the same tests of fitness and the same schedule of compensa-
3 tion may be applied to each position in the group.

4 (5) "Classified officer" or "classified employee" means any person ap-
5 pointed to or holding a position in any department of the state of Idaho,
6 which position is subject to the provisions of the merit examination, selec-
7 tion, retention, promotion and dismissal requirements of section 67-5309,
8 Idaho Code.

9 (6) "Commission" means the Idaho personnel commission.

10 (7) "Compensatory time" means approved time off from duty provided in
11 compensation for overtime hours worked.

12 (8) "Computer worker" means any person, nonclassified or classified,
13 appointed to a position that meets the criteria set forth in the federal fair
14 labor standards act, 29 U.S.C. 201 et seq. Final designation of a classified
15 position as "computer worker" within this definition shall be made by the ad-
16 ministrator of the division of human resources. Exceptions to this designa-
17 tion that do not violate the federal fair labor standards act, 29 U.S.C. 201
18 et seq., may be made by the administrator.

19 (9) "Department" means any department, agency, institution or office
20 of the state of Idaho.

21 (10) "Disabled veteran" is as defined in section 65-502, Idaho Code.

22 (11) "Eligible" means a person who has been determined to be qualified
23 for a classified position and whose name has been placed on the register of
24 eligibles.

25 (12) (a) "Executive employee" means any person, nonclassified or clas-
26 sified, appointed to a position equivalent to a bureau chief or above
27 as provided in section 67-2402, Idaho Code, or any employee ~~meeting the~~
28 ~~following criteria:~~

29 ~~(a) An individual whose primary duty is management of a department, di-~~
30 ~~vision or bureau; and:~~

31 ~~(b) (i) Who customarily and regularly directs the work of at least~~
32 ~~two (2) or more other employees therein; and~~

33 ~~(c) (ii) Who has the authority to hire and fire, or to recommend~~
34 ~~hiring and firing; or whose recommendation on these and other ac-~~
35 ~~tions affecting employees is given particular weight; and~~

36 ~~(d) (iii) Who customarily and regularly exercises discretionary~~
37 ~~powers; and.~~

38 ~~(e) Who is classified to a position allocated to the pay grade equiva-~~
39 ~~lent to two hundred sixty (260) points or higher pursuant to the rating~~
40 ~~system established by rule.~~

41 ~~(f) (b) Final designation of a classified position as "executive" in~~
42 ~~this definition shall be made by the administrator. Exceptions to this~~
43 ~~designation that do not violate the federal fair labor standards act, 29~~
44 ~~U.S.C. 201 et seq., may be made by the administrator.~~

45 (13) "Exempt employee" means any employee, classified or nonclassi-
46 fied, who is determined to be an executive, professional or administrative
47 employee as defined herein, or who qualifies for any other exemption from
48 cash compensation for overtime under applicable federal law. Final designa-
49 tion of a classified position as exempt shall be made by the administrator.



1 (14) "Full-time employee" means any employee working a forty (40) hour
2 workweek.

3 (15) ~~(a) The term "holiday" shall mean~~ "Holiday" means any day so desig-
4 nated by the president of the United States or the governor of this state
5 for a public fast, thanksgiving or holiday. "Holidays" are enumerated
6 in section 73-108, Idaho Code.

7 (b) In the event that a holiday occurs on a Saturday, the preceding Fri-
8 day shall be a holiday, and if the holiday falls on a Sunday, the follow-
9 ing Monday shall be a holiday.

10 (c) A holiday is a day of exemption from work granted to nonexecutive
11 employees during which said employees shall be compensated as if they
12 actually worked. Employees classified as executive exempt are entitled
13 to eleven (11) paid holidays per year. If such an employee works on one
14 (1) of the official holidays listed in this subsection, then such em-
15 ployee may take an alternative day off but shall not receive additional
16 compensation.

17 (16) "Hours worked" means those hours actually spent in the performance
18 of the employee's job on any day including holidays and shall not include va-
19 cation or sick leave or other approved leave of absence.

20 (17) "Nonclassified employee" means any person appointed to or holding
21 a position in any department of the state of Idaho, which position is ex-
22 empted from the merit provisions of section 67-5309(e), (f), (g), (j), (m),
23 (o), (p), (w), and (x), Idaho Code.

24 (18) "Normal workweek" means any forty (40) hours worked during a par-
25 ticular one hundred sixty-eight (168) hour period as previously established
26 by the employee's appointing authority.

27 (19) "Open competitive examination" means an examination that may be
28 taken by qualified applicants to compete on an equal basis for listing on the
29 register of eligibles for a classified position.

30 (20) "Overtime work" means time worked on holidays and time worked in
31 excess of forty (40) hours in a period of one hundred sixty-eight (168) con-
32 secutive hours, except that in the case of those employees engaged in law
33 enforcement, correctional, and fire protection activities characterized by
34 irregular shift work schedules, time worked in excess of one hundred sixty
35 (160) hours in a period of twenty-eight (28) consecutive days shall consti-
36 tute overtime work within the meaning of this chapter. Such employees may
37 also be paid overtime for specific hours worked in addition to their normal
38 schedules upon emergency declaration by the governor or with the approval of
39 the appointing authority and the board of examiners.

40 (21) "Participating department" means any department of the state of
41 Idaho in the executive department reporting to the governor or a board or
42 commission appointed by the governor.

43 (22) "Part-time employee" means any employee whose usually scheduled
44 work is fewer than forty (40) hours in a period of one hundred sixty-eight
45 (168) consecutive hours, and who shall not be entitled to sick leave accruals
46 provided in section 67-5333, Idaho Code, vacation leave provided in section
47 67-5334, Idaho Code, ~~nor~~ or holiday pay as defined in subsection (15) of this
48 section, unless contributions are being made to the public employee retire-
49 ment system in accordance with chapter 13, title 59, Idaho Code, and rules
50 promulgated by the public employee retirement system board.



1 (23) "Personnel system" means the procedure for administering employ-
2 ees in accordance with this chapter.

3 (24) "Political office" means a public office for which partisan poli-
4 tics is a basis for nomination, election or appointment.

5 (25) "Political organization" means a party that sponsors candidates
6 for election to political office.

7 (26) "Position" means a group of duties and responsibilities legally
8 assigned or delegated by one (1) or more appointing authorities and requir-
9 ing the employment of one (1) person.

10 (27) "Professional employee" means any person, nonclassified or clas-
11 sified, appointed to a position that meets the criteria set forth in the fed-
12 eral fair labor standards act, 29 U.S.C. 201 et seq. Final designation of a
13 classified position as "professional" within this definition shall be made
14 by the administrator. Exceptions to this designation that do not violate the
15 federal fair labor standards act, 29 U.S.C. 201 et seq., may be made by the
16 administrator.

17 (28) "Public education entity" means community colleges, public school
18 districts, public charter schools and the Idaho digital learning academy.

19 (29) "Qualifying examination" means an examination or evaluation given
20 to a selected person to determine eligibility for reclassification or ap-
21 pointment to a position in a classification.

22 (30) "Register" means a list of names of persons who have been deter-
23 mined to be eligible for employment in a classified position as determined on
24 the basis of examination and merit factors as established by the administra-
25 tor.

26 (31) "Seasonal appointment" means an appointment to a position that is
27 permanent in nature but that has intermittent work periods throughout the
28 year.

29 (32) "Service rating" means a recorded evaluation of work performance
30 and promotional potential of an employee by his supervisor.

31 (33) "State educational agency" means the following state agencies and
32 educational institutions under the governance of the Idaho state board of
33 education:

- 34 (a) Boise state university;
- 35 (b) Idaho state university;
- 36 (c) University of Idaho;
- 37 (d) Lewis-Clark state college;
- 38 (e) Idaho public television;
- 39 (f) The division of vocational rehabilitation;
- 40 (g) The division of career technical education;
- 41 (h) The office of the state board of education;
- 42 (i) The state department of education; and
- 43 (j) The public charter school commission.

44 (34) "Temporary appointment" means appointment to a position that is
45 not permanent in nature and in which employment will not exceed one thousand
46 three hundred eighty-five (1,385) hours during any twelve (12) month period.
47 No person holding a temporary appointment may work in excess of one thousand
48 three hundred eighty-five (1,385) hours during a twelve (12) month period
49 of time for any one (1) department, except, upon petition by the appointing
50 authority of the department of lands that demonstrates good cause, the ad-



1 administrator of the division of human resources may extend the one thousand
2 three hundred eighty-five (1,385) hour limit for employees of the department
3 who are required to perform fire suppression activities.

4 (35) "Vacation leave" means a period of exemption from work granted to
5 employees during which time said employees shall be compensated. The term
6 shall not include compensatory time for overtime work.

7 (36) "Veteran" is as defined in section 65-203, Idaho Code.

8 SECTION 2. That Section 67-5303, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state
11 of Idaho and all employees in such departments, except those employees
12 specifically defined as nonclassified, shall be classified employees who
13 are subject to this chapter and to the system of personnel administration
14 it prescribes. All nonclassified employees are subject to conformity with
15 classified positions as set forth in section 59-1603, Idaho Code. Nonclas-
16 sified employees shall be:

17 (a) Members of the state legislature and all other officers of the state
18 of Idaho elected by popular vote and persons appointed to fill vacancies in
19 elective offices and employees of the state legislature.

20 (b) Members of statutory boards and commissions and heads of depart-
21 ments appointed by and serving at the pleasure of the governor, deputy di-
22 rectors appointed by the director of a department, and members of advisory
23 boards and councils appointed by the departments.

24 (c) All employees and officers in the office, and at the residence, of
25 the governor; and all employees and officers in the offices of the lieutenant
26 governor, secretary of state, attorney general, state treasurer, state con-
27 troller, and state superintendent of public instruction ~~who are appointed on~~
28 ~~and after the effective date of this chapter.~~

29 (d) Except as otherwise provided by law, ~~not more than one (1) declared~~
30 ~~position for each board or commission and/or head~~ designated by the appoint-
31 ing authority of a participating department, in addition to those declared
32 to be nonclassified by other provisions of law.

33 (e) Part-time professional consultants who are paid on a fee basis for
34 any form of legal, medical or other professional service and who are not en-
35 gaged in the performance of administrative duties for the state.

36 (f) Judges, temporary referees, receivers and jurors.

37 (g) All employees of the Idaho supreme court, Idaho court of appeals and
38 district courts.

39 (h) All employees of the Idaho state bar.

40 (i) Assistant attorneys general attached to the office of the attorney
41 general.

42 (j) Officers, members of the teaching staffs of state higher educa-
43 tional institutions, the professional staffs of the office of the state
44 board of education and the Idaho department of education administered by
45 the board of regents and the board of education, all professional staff of
46 the public charter school commission, and the professional staffs of the
47 Idaho division of career technical education and vocational rehabilitation
48 administered by the state board for career technical education. "Teach-
49 ing staff" includes teachers, coaches, resident directors, librarians and



1 those principally engaged in academic research. The word "officer" means
2 presidents, vice presidents, deans, directors, or employees in positions
3 designated by the state board who receive an annual salary of not less than
4 step "A" of the pay grade equivalent to three hundred fifty-five (355) Hay
5 points in the state compensation schedule. In consultation with the Idaho
6 division of human resources, the state board of education shall implement
7 policies and procedures for nonclassified employees to conform with section
8 59-1603, Idaho Code. ~~onetime~~

9 (k) Employees of the military division.

10 (l) Patients, inmates or students employed in a state institution.

11 (m) Temporary employees.

12 (n) All employees and officers of the following named commodity commis-
13 sions, and all employees and officers of any commodity commission created
14 hereafter: the Idaho potato commission, as provided in chapter 12, title 22,
15 Idaho Code; the Idaho honey commission, as provided in chapter 28, title 22,
16 Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22,
17 Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, ti-
18 tle 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33,
19 title 22, Idaho Code; the Idaho pea and lentil commission, as provided in
20 chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in
21 chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in
22 chapter 37, title 22, Idaho Code; the Idaho mint commission, as provided in
23 chapter 38, title 22, Idaho Code; the Idaho sheep and goat health board, as
24 provided in chapter 1, title 25, Idaho Code; the state brand inspector, and
25 all district supervisors, as provided in chapter 11, title 25, Idaho Code;
26 the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and
27 the Idaho dairy products commission, as provided in chapter 31, title 25,
28 Idaho Code.

29 (o) All inspectors of the fresh fruit and vegetable inspection service
30 of the Idaho department of agriculture, except those positions involved in
31 the management of the program.

32 (p) All employees of correctional industries within the department of
33 correction.

34 (q) All deputy administrators and wardens employed by the department of
35 correction. Deputy administrators are defined as only the deputy adminis-
36 trators working directly for the nonclassified division administrators un-
37 der the director of the department of correction.

38 (r) All public information positions, with the exception of secretar-
39 ial positions, in any department.

40 (s) Any division administrator.

41 (t) Any regional administrator or division administrator in the de-
42 partment of environmental quality.

43 (u) All employees of the division of financial management, all employ-
44 ees of the STEM action center, all employees of the office of species conser-
45 vation, all employees of the office of drug policy, and all employees of the
46 office of energy and mineral resources.

47 (v) All employees of the Idaho food quality assurance institute.

48 (w) The state appellate public defender, deputy state appellate public
49 defenders and all other employees of the office of the state appellate public
50 defender.



1 (x) All quality assurance specialists or medical investigators of the
2 Idaho board of medicine.

3 (y) All pest survey and detection employees and their supervisors hired
4 specifically to carry out activities under the Idaho plant pest act, chapter
5 20, title 22, Idaho Code, including but not limited to pest survey, detec-
6 tion, and eradication, except those positions involved in the management of
7 the program.

8 (z) All medical directors employed by the department of health and
9 welfare who are engaged in the practice of medicine, as defined by section
10 54-1803, Idaho Code, at a state hospital or other treatment facility managed
11 and operated by the department of health and welfare.

12 SECTION 3. That Section 67-5309, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL
15 COMMISSION. The administrator of the division of human resources shall have
16 the power and authority to adopt, amend, or rescind such rules as may be nec-
17 essary for proper administration of this chapter. Such rules may include:

18 (a) A rule requiring the administrator, after consulting with each de-
19 partment, to develop, adopt, and make effective a job classification system
20 for positions covered by this chapter, based ~~upon~~ on an analysis of the du-
21 ties and responsibilities of the positions. The job classification shall
22 include an appropriate title for each class and a description of duties and
23 responsibilities of positions in the classes and the requirements of minimum
24 training, experience and other qualifications suitable for the performance
25 of duties of the position.

26 (b) A rule describing the relevant labor markets and benchmark job
27 classifications used in the administrator's salary surveys.

28 (c) A rule requiring that all classes of positions ~~which~~ that are common
29 to the departments concerned shall have the same titles, minimum require-
30 ments and compensation ranges.

31 (d) A rule providing for review by the administrator of the personnel
32 system, including classifications and compensation policies and procedures
33 of state classified and nonclassified employees.

34 (e) A rule that, notwithstanding the procedure for examination and
35 ranking of eligible applicants on a register provided in subsection (f) of
36 this section, ~~an agency may appoint an individual directly into an entrance~~
37 ~~or promotional probation if the division of vocational rehabilitation,~~
38 ~~Idaho commission for the blind and visually impaired or the industrial~~
39 ~~commission certifies, with the concurrence of division of human resources~~
40 ~~staff, that the individual: (1) has a disability or handicap as defined un-~~
41 ~~der state or federal law; (2) is qualified to perform the essential functions~~
42 ~~of a particular classified position with or without reasonable accommo-~~
43 ~~dation; and (3) lacks competitiveness in the examination process due to the~~
44 ~~disability or handicap. The probationary period as provided in subsection~~
45 ~~(j) of this section shall be the sole examination for such individuals offers~~
46 an alternative application process for persons with disabilities.

47 (f) A rule requiring fair and impartial selection of appointees to all
48 positions, other than those defined as nonclassified in this chapter, on the
49 basis of open competitive merit examinations or evaluations. An applica-



1 tion for an examination will be accepted after the closing date of the exam-
2 ination from a person who was serving in the armed forces or undergoing ser-
3 vice-connected hospitalization up to one (1) year following discharge. The
4 application must be submitted within one hundred twenty (120) days of separa-
5 tion from the armed forces or hospitalization and prior to the expiration
6 of the register established as a result of the examination. A disabled vet-
7 eran may file an application at any time up until a selection has been made
8 for any position for which the division maintains a register as a source for
9 future job openings or for which a register is about to be established, pro-
10 vided he or she has not already been examined twice for the same position and
11 grade for which application is made, does not have current eligibility on
12 that register, or is not serving in a competitive position in the same grade
13 for which application is made. Examinations may be assembled or unassembled
14 and may include various examining techniques such as rating of training and
15 experience, written tests, oral interviews, recognition of professional li-
16 censing, performance tests, investigations and any other measure of abil-
17 ity to perform the duties of the position. Examinations shall be scored ob-
18 jectively. Five (5) points shall be added to the earned rating of any vet-
19 eran as defined in section 65-203, Idaho Code, and the widow or widower of
20 any veteran as defined in section 65-203, Idaho Code, as long as he or she
21 remains unmarried. Pursuant to section 65-504, Idaho Code, ten (10) points
22 shall be added to the earned rating of any disabled veteran as defined in sec-
23 tion 65-502, Idaho Code, the widow or widower of any disabled veteran as long
24 as he or she remains unmarried, or the spouse of any eligible disabled vet-
25 eran who cannot qualify for any public employment because of a service-con-
26 nected disability. Employment registers shall be established in order of
27 final score except that the names of all five (5) and ten (10) point prefer-
28 ence eligibles resulting from any merit system or civil service examination
29 shall be placed on the register in accordance with their augmented rating.
30 ~~Certification of eligibility for appointment to vacancies shall be in ac-~~
31 ~~cordance with a formula that limits selection by the hiring department from~~
32 ~~among the twenty-five (25) top ranking available eligibles plus the names~~
33 ~~of all individuals with scores identical to the twenty-fifth ranking eligi-~~
34 ~~ble on the register. A register with at least five (5) eligibles shall be~~
35 ~~adequate. Selective certification shall be permitted when justified by the~~
36 ~~hiring department, under rules to be made by the division defining adequate~~
37 ~~justification based on the duties and requirements of the positions. Such~~
38 ~~examinations need not be held until after the rules have been adopted, the~~
39 ~~service classified, and a pay plan established, but shall be held not later~~
40 ~~than one (1) year after departments commence participation in the personnel~~
41 ~~system.~~

42 (g) A rule that, whenever practicable, a vacancy in a classified posi-
43 tion shall be filled by the promotion of a qualified employee of the agency
44 in which the vacancy occurs. An interagency promotion shall be made through
45 competitive examination and all qualified state employees shall have the
46 opportunity to compete for such promotions. If an employee's name appears
47 within certifiable range on a current register for a higher class of posi-
48 tion, he shall be eligible for a transfer and promotion.

49 (h) A rule for development and maintenance of a system of service rat-
50 ings and the use of such ratings by all departments in connection with pro-

1 motions, demotions, retentions, separations and reassignments. The rule
2 shall require that an evaluation of each classified employee shall be made
3 after each two thousand eighty (2,080) hour period of credited state service
4 and that a copy of the evaluation shall be filed with the division.

5 (i) A rule prohibiting disqualification of any person from taking an
6 examination, from appointment to a position, from promotion, or from holding
7 a position because of race or national origin, color, sex, age, political or
8 religious opinions or affiliations, and providing for right of appeal.

9 (j) A rule establishing a probation period not to exceed one thousand
10 forty (1,040) hours of credited state service for all classified appoint-
11 ments and promotions, except that peace officers as defined in section
12 19-5101, Idaho Code, shall be subject to a probation period of two thou-
13 sand eighty (2,080) hours of credited state service, and for the appointing
14 authority to provide the employee and the administrator a performance eval-
15 uation indicating satisfactory or unsatisfactory performance ~~not later~~
16 ~~than thirty (30) days after the expiration of the probationary period.~~
17 ~~The rule shall provide that if the appointing authority fails to provide~~
18 ~~a performance evaluation within thirty (30) days after the expiration of~~
19 ~~the probationary period, the employee shall be deemed to have satisfactori-~~
20 ~~rily completed the probation unless. The employee shall be deemed to have~~
21 satisfactorily completed the probation unless, prior to one thousand forty
22 (1,040) hours, or two thousand eighty (2,080) hours for peace officers, the
23 appointing authority receives approval from the administrator to extend the
24 probationary period for good cause for an additional specified period not
25 to exceed one thousand forty (1,040) hours of credited state service. If an
26 employee is performing in an unsatisfactory manner during the entrance pro-
27 bationary period, the appointing authority shall ask the employee to resign
28 and, if no resignation is submitted, shall terminate the employment of such
29 employee without the right of grievance or appeal.

30 (k) A rule concerning temporary appointments.

31 (l) A rule governing the employment of consultants and persons retained
32 under independent contract.

33 (m) A rule for the disciplinary dismissal, demotion, suspension or
34 other discipline of classified employees only for cause with reasons given
35 in writing. Such rule shall provide that any of the following reasons shall
36 be proper cause for the disciplinary dismissal, demotion or suspension of
37 any employee in the state classified service:

38 1. Failure to perform the duties and carry out the obligations imposed
39 by the state constitution, state statutes and rules of the employee's
40 department, or rules of the administrator or the division.

41 2. Inefficiency, incompetency, or negligence in the performance of du-
42 ties; or job performance that fails to meet established performance
43 standards.

44 3. Physical or mental incapability for performing assigned duties.

45 4. Refusal to accept a reasonable and proper assignment from an autho-
46 rized supervisor.

47 5. Insubordination or conduct unbecoming a state employee or conduct
48 detrimental to good order and discipline in the employee's department.

49 6. Intoxication on duty.



- 1 7. Careless, negligent, or improper use or unlawful conversion of state
2 property, equipment or funds.
- 3 8. Use of any influence that violates the principles of the merit system
4 in an attempt to secure a promotion or privileges for individual advan-
5 tage.
- 6 9. Conviction of official misconduct in office, or conviction of any
7 crime that is deemed relevant in accordance with section 67-9411(1),
8 Idaho Code.
- 9 10. Acceptance of gifts in exchange for influence or favors given in the
10 employee's official capacity.
- 11 11. Habitual pattern of failure to report for duty at the assigned place
12 and time.
- 13 12. Habitual improper use of sick leave privileges.
- 14 13. Unauthorized disclosure of confidential information from official
15 records.
- 16 14. Unapproved aAbsence without leave.
- 17 15. Misstatement or deception in the application for the position.
- 18 16. Failure to obtain or maintain a current license or certificate law-
19 fully required as a condition for performing the duties of the job.
- 20 17. Prohibited participation in political activities.
- 21 (n) A rule to establish procedures for maintenance of a record of the
22 employment history and appropriate information relating to performance of
23 all classified and nonclassified employees under the personnel system. For
24 the purposes of this rule, the state shall be considered one (1) employer.
- 25 (o) Rules to provide for recruitment programs in cooperation with de-
26 partment heads ~~and the employment security agency~~ in keeping with current
27 employment conditions and labor market trends.
- 28 (p) Rules to establish procedures for classified position examinations
29 as necessary for the purpose of maintaining current registers from which to
30 fill employment vacancies.
- 31 (q) Other rules not inconsistent with the foregoing provisions of this
32 section as may be necessary and proper for the administration and enforce-
33 ment of this chapter.
- 34 (r) Rules relating to leave for state employees from official duties
35 including, but not limited to, sick leave, military leave, jury duty, leaves
36 of absence without compensation and such other forms of absence from perfor-
37 mance of duties in the course of state employment as may be necessary.
- 38 (s) A rule providing up to twenty-five percent (25%) shift differential
39 pay based on local market practices.
- 40 (t) A rule to establish guidelines for awarding employee suggestion
41 awards set forth in sections 59-1603 and 67-5309D, Idaho Code.
- 42 (u) A rule to establish the reimbursement of moving expenses for a cur-
43 rent or newly hired state employee.
- 44 (v) A rule to allow, at the request of the hiring agency, temporary ser-
45 vice time to count toward fulfilling entrance probationary requirements as
46 established in subsection (j) of this section.
- 47 (w) A rule to allow, at the request of the hiring agency, acting ap-
48 pointment service time to count toward fulfilling promotional probationary
49 requirements as established in subsection (j) of this section.

1 SECTION 4. That Section 67-5311, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 67-5311. LIMITATION OF POLITICAL ACTIVITY. (1) No ~~classified~~ employee
4 of a state department covered by this act shall:

5 (a) Use his official authority or influence for the purpose of inter-
6 fering with an election to or a nomination for office, or affecting the
7 result thereof;

8 (b) Directly or indirectly coerce, attempt to coerce, command, or
9 direct any other such officer or employee to pay, lend, or contribute
10 any part of his salary or compensation or anything else of value to any
11 party, committee, organization, agency, or person for political pur-
12 poses; or

13 (c) Be a candidate and hold elective office in any partisan election.

14 (2) All such employees shall retain the right to:

15 (a) Register and vote in any election;

16 (b) Express an opinion as an individual privately and publicly on po-
17 litical subjects and candidates;

18 (c) Display a political picture, sticker, badge, or button;

19 (d) Participate in the nonpartisan activities of a civic, community,
20 social, labor, or professional organization, or of a similar organiza-
21 tion;

22 (e) Be a member of a political party or other political organization and
23 participate in its activities;

24 (f) Attend a political convention, rally, fund-raising function, or
25 other political gathering;

26 (g) Sign a political petition as an individual;

27 (h) Make a financial contribution to a political party or organization;

28 (i) Take an active part, in support of a candidate, in an election;

29 (j) Be politically active in connection with a question which is not
30 specifically identified with a political party, such as a constitu-
31 tional amendment, referendum, approval of a municipal ordinance or any
32 other question or issue of a similar character;

33 (k) Serve as an election judge or clerk, or in a similar position to per-
34 form nonpartisan duties as prescribed by state or local law;

35 (l) Be a candidate and hold elective office in any nonpartisan elec-
36 tion;

37 (m) Take an active part in political organization management; and

38 (n) Otherwise participate fully in public affairs, except as prohib-
39 ited by law, in a manner which does not materially compromise the neu-
40 trality, efficiency, or integrity of the employee's administration of
41 state functions.

42 SECTION 5. That Section 67-5312, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 67-5312. VIOLATIONS. Any person ~~wilfully~~ willfully violating any of
45 the provisions of this act or of the rules or regulations established there-
46 under shall be guilty of a misdemeanor.



1 SECTION 6. That Section 67-5328, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 67-5328. HOURS OF WORK AND OVERTIME. (1) It is hereby declared to be
4 the policy of the legislature of the state of Idaho that all state employees
5 shall be treated substantially similar with reference to hours of employ-
6 ment. The policy of this state as declared in this act shall not restrict the
7 extension of regular work hour schedules on an overtime basis in those ac-
8 tivities and duties where such extension is necessary and authorized, pro-
9 vided that overtime work performed under such extension is compensated for
10 as hereinafter provided.

11 (2) The appointing authority of any department shall determine the ne-
12 cessity for overtime work and shall provide for cash compensation or compen-
13 satory time off for such overtime work for eligible classified officers and
14 employees, subject to the restrictions of applicable federal law.

15 (3) Cash for overtime and compensatory time shall be paid based on the
16 following criteria:

17 (a) Classified and nonclassified officers and employees who fall
18 within one (1) or more of the following categories are ineligible for
19 cash compensation or compensatory time for overtime work:

20 (i) Elected officials; or

21 (ii) Those included in the definition of section 67-5303(j),
22 Idaho Code.

23 (b) Classified and nonclassified employees who are designated as ex-
24 ecutive, as provided in section 67-5302, Idaho Code, and who are not
25 included in the definition of ~~subsection (3)(a) of this paragraph (a)~~
26 of this subsection, shall be ineligible for compensatory time or cash
27 compensation for overtime work. Such salaried employees shall report
28 absences in excess of one-half (1/2) day. ~~Unused compensatory time~~
29 ~~balances in excess of two hundred forty (240) hours as of the date of~~
30 ~~enactment of this act shall be forfeited on December 31, 2008. Unused~~
31 ~~compensatory time balances of two hundred forty (240) hours or less~~
32 ~~shall be forfeited on December 31, 2006.~~ Employees who become execu-
33 tives within their current agency as set forth in section 67-5302(12),
34 Idaho Code, shall have twelve (12) months from the date of this act or of
35 appointment, whichever is later, to use any compensatory time balance.
36 After twelve (12) months, any remaining compensatory time will be for-
37 feited. Compensatory time is not transferable, and shall be forfeited
38 at the time of transfer to another appointing authority or upon separa-
39 tion from state service.

40 (c) Classified and nonclassified employees who are designated as ad-
41 ministrative or professional, as provided in the federal fair labor
42 standards act, 29 U.S.C. ~~section 201~~, et seq., or who are designated as
43 exempt under any other complete exemption in federal law, and who are
44 not included in the definition of ~~either subsection (3)(a) or (3)(b) of~~
45 this paragraph (a) or (b) of this subsection, shall be ineligible for
46 cash compensation for overtime work unless cash payment is authorized
47 by the state board of examiners for overtime accumulated during unusual
48 or emergency situations, but such classified and nonclassified employ-
49 ees shall be allowed compensatory time off from duty for overtime work.

1 Such compensatory time shall be earned and allowed on a ~~one (1) hour for~~
2 ~~one (1) hour-for-hour~~ basis, shall not be transferable, and shall be
3 forfeited at the time of transfer to another appointing authority or
4 upon separation from state service. Compensatory time may be accrued
5 and accumulated up to a maximum of two hundred forty (240) hours. Ef-
6 fective with the first pay period in July, 2008 (beginning date June
7 15, 2008), compensatory time balances in excess of two hundred forty
8 (240) hours will not continue to accrue until the balance is below the
9 maximum. ~~After the last pay period in June, 2009 (ending date June 13,~~
10 ~~2009), balances in excess of two hundred forty (240) hours shall be for-~~
11 ~~feited.~~

12 (d) Classified and nonclassified employees who are not designated as
13 executive, administrative or professional as provided in this section
14 and who are not included in the definition of ~~subsection (3) (a) of this~~
15 ~~paragraph (a) of this subsection~~ or who are not designated as exempt
16 under any other complete exemption in federal law, shall be eligible for
17 cash compensation or compensatory time off from duty for overtime work,
18 subject to the restrictions of applicable federal law. Compensatory
19 time off may be provided in lieu of cash compensation at the discretion
20 of the appointing authority after consultation, in advance, with the
21 employee. Compensatory time off shall be paid at the rate of one and
22 one-half (1 1/2) hours for each overtime hour worked. Compensatory time
23 off ~~which that~~ has been earned during any one-half (1/2) fiscal year
24 but not taken by the end of the succeeding one-half (1/2) fiscal year,
25 shall be paid in cash on the first payroll following the close of such
26 succeeding one-half (1/2) fiscal year. Compensatory time not taken at
27 the time of transfer to another appointing authority or upon separation
28 from state service shall be liquidated at the time of such transfer or
29 separation by payment in cash.

30 (e) Notwithstanding the provisions of this section, employees may be
31 paid for overtime work during a disaster or emergency with the approval
32 of the board of examiners.

33 (4) Cash compensation for overtime, when paid, shall be at one and one-
34 half (1 1/2) times the hourly rate of that officer's or employee's salary or
35 wage, except for those employees whose positions fall within the definitions
36 of executive, administrative or professional as stated in section 67-5302,
37 Idaho Code, who will be paid at their regular hourly rate of pay as provided
38 for in subsection (3) of this section.

39 (5) Except as provided for in subsection (3) of this section, compensa-
40 tion for authorized overtime work shall be made at the completion of the pay
41 period next following the pay period in which the overtime work occurred and
42 shall be added to the regular salary payment.

43 (6) At the request of the administrator of the division of human re-
44 sources, agencies in the executive department shall conduct a review and co-
45 operate with the division of human resources to ensure all fair labor stan-
46 dards act requirements are appropriately implemented for all positions and
47 provide the report to the division of human resources.

48 SECTION 7. That Section 67-5333, Idaho Code, be, and the same is hereby
49 amended to read as follows:



1 67-5333. SICK LEAVE. (1) Sick leave shall be computed as follows:

2 (a) The rate per hour at which sick leave shall accrue to eligible clas-
3 sified and nonclassified officers and employees earning credited state
4 service shall be at the rate represented by the proportion 96/2080.
5 Sick leave shall accrue without limit and shall be transferable from
6 department to department.

7 (b) Sick leave shall not accrue to any officer or employee on any kind
8 of leave of absence without pay, suspension without pay, or layoff.
9 Sick leave shall accrue while an officer or employee is on approved
10 leave with pay, on approved vacation leave, on approved military leave
11 with pay, and on approved sick leave, but not when compensatory time is
12 taken.

13 (c) All accrued sick leave shall be forfeited at the time of separa-
14 tion from state service and no officer or employee shall be reimbursed
15 for accrued sick leave at the time of separation, except as provided in
16 subsection (2) of this section. If such officer or employee returns to
17 benefited credited state service within three (3) years of such separa-
18 tion, all sick leave credits accrued at the time of separation shall be
19 reinstated for use, except to the extent that unused sick leave was uti-
20 lized for the purposes specified in subsection (2) of this section or
21 transferred to a school district or charter district pursuant to sec-
22 tion 33-1217, Idaho Code.

23 (d) Sick leave shall be taken on a workday basis. Regularly scheduled
24 days off and officially designated holidays falling within a period of
25 sick leave shall not be counted against sick leave. Sick leave shall not
26 be taken in advance of being earned and shall only be taken in pay peri-
27 ods subsequent to being earned.

28 (e) In cases where absences for sick leave exceed three (3) consec-
29 utive working days, the appointing authority may require verification by
30 a physician or other authorized practitioner.

31 (f) If an absence for illness or injury extends beyond the sick leave
32 accrued to the credit of the officer or employee, the officer or em-
33 ployee may be granted leave without pay.

34 (g) The administrator shall prescribe additional requirements for
35 sick leave for classified and nonclassified officers and employees on
36 a part-time or irregular schedule, for maintaining sick leave records,
37 for funeral leave and for such other applicable purposes as necessary.

38 (2) Unused sick leave may be used as follows:

39 (a) Upon separation from state employment by retirement in accordance
40 with chapter 13, title 59, or chapter 1, title 33, Idaho Code, an em-
41 ployee's unused sick leave shall be determined based on accumulated
42 sick leave earned subsequent to July 1, 1976, and shall be reported by
43 the employer to the public employee retirement system. Upon separa-
44 tion from state employment by retirement in accordance with chapter
45 20, title 1, Idaho Code, an employee's unused sick leave shall be de-
46 termined based on accumulated sick leave earned subsequent to July 1,
47 2000, and shall be reported by the employer to the public employee re-
48 tirement system. A sum equal to one-half (1/2), or the maximum amount
49 allowed by paragraph (b) of this subsection, whichever is the lesser,
50 of the monetary value of such unused sick leave, calculated at the rate

1 of pay for such employee at the time of retirement, as determined by the
2 retirement board, shall be transferred from the sick leave account pro-
3 vided by paragraph (c) of this subsection and shall be credited to such
4 employee's retirement account. The remaining one-half (1/2) balance
5 shall be forfeited. Such sums shall be used by the Idaho public employee
6 retirement board to pay premiums, as permitted by and subject to ap-
7 plicable federal tax laws and limits, for such health, dental, vision,
8 long-term care, prescription drug, and life insurance programs as may
9 be maintained by the state, to the extent of the funds credited to the
10 employee's account pursuant to this section. Upon an employee's death,
11 any unexpended sums remaining in the account shall revert to the sick
12 leave account.

13 (b) For the purposes of determining the monetary value of unused sick
14 leave, the maximum unused sick leave ~~which~~ that may be considered shall
15 be:

16 (i) During the first ten thousand four hundred (10,400) hours of
17 credited state service, the maximum unused sick leave ~~which~~ that
18 may be considered shall be four hundred twenty (420) hours;

19 (ii) During the second ten thousand four hundred (10,400) hours of
20 credited state service, the maximum unused sick leave ~~which~~ that
21 may be considered shall be four hundred eighty (480) hours;

22 (iii) During the third ten thousand four hundred (10,400) hours of
23 credited state service, the maximum unused sick leave ~~which~~ that
24 may be considered shall be five hundred forty (540) hours; and

25 (iv) Thereafter, the maximum unused sick leave ~~which~~ that may be
26 considered shall be six hundred (600) hours; and

27 ~~(v)~~ For any employees of a state educational agency with unused sick
28 leave that includes sick leave credited pursuant to section 33-1217,
29 Idaho Code, the credited state service requirements of ~~subsection~~
30 ~~(2) (b) (i) through (iv) of this section~~ subparagraphs (i) through (iv)
31 of this paragraph shall not apply, but the maximum unused sick leave
32 ~~which~~ that may be considered shall be six hundred (600) hours.

33 (c) Each employer in state government shall contribute to a sick leave
34 account maintained by the public employee retirement system in trust
35 exclusively for the purpose of the provisions of this section. The
36 retirement board shall serve as trustee of the trust and shall be in-
37 demnified to the same extent as provided in section 59-1305, Idaho
38 Code. Assets in the trust shall not be assignable or subject to execu-
39 tion, garnishment or attachment or to the operation of any bankruptcy
40 or insolvency law. The rate of such contribution each pay period shall
41 consist of a percentage of employees' salaries as determined by the
42 board, and such rate shall remain in effect until next determined by the
43 board. Any excess balance in the sick leave account shall be invested,
44 and the earnings therefrom shall accrue to the sick leave account except
45 the amount required by the board to defray administrative expenses.
46 Assets of the trust may be commingled for investment purposes with other
47 assets managed by the retirement board. All moneys payable to the sick
48 leave account are hereby perpetually appropriated to the board and
49 shall not be included in its departmental budget. The state insurance



1 fund and public health districts shall be considered employers in state
2 government for purposes of participation under this section.

3 SECTION 8. That Section 67-5333B, Idaho Code, be, and the same is hereby
4 repealed.

5 SECTION 9. That Section 67-5340, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 67-5340. LEAVE OF ABSENCE WITH PAY IN LIEU OF ~~WORKMEN'S~~ WORKER'S COM-
8 PENSATION BENEFITS. (1) Whenever any employee of the state of Idaho who is
9 categorized as a police officer for retirement purposes pursuant to section
10 ~~59-1302A~~ 59-1303, Idaho Code, is physically disabled by a serious injury
11 arising out of and in the course of his duties, and the injury is induced by
12 a second party, he shall be entitled, regardless of his period of service
13 with the department, to a leave of absence while so disabled without loss of
14 salary or benefits for a period of not more than one (1) year. Any ~~workmen's~~
15 worker's compensation payments made to the employee shall revert back to
16 the employee's department. For the purposes of this section, "serious in-
17 jury" means an injury ~~which~~ that renders the police officer incapable of
18 performing the regularly assigned duties of his regular employment position
19 or office and "injury induced by a second party" means an injury induced by
20 the negligent, malicious, or intentional act or omission of another person
21 during a chargeable misdemeanor or felony.

22 (2) It shall be the duty of the director of the applicable department to
23 determine whether or not the disability referred to in subsection (1) of this
24 section arose out of and in the course of duty. The director of the applica-
25 ble department shall also determine when such disability ceases.

26 (3) Payment of salary pursuant to this section shall not preclude the
27 disabled police officer from receiving regular medical, surgical or hospi-
28 tal coverage as provided pursuant to section 67-5761, Idaho Code.

29 (4) If a police officer is disabled for more than one (1) year, then the
30 regular disability insurance provisions of the Idaho Code shall apply to any
31 period of disability beyond the one (1) year period of disability covered by
32 this section.

33 (5) The provisions of this section shall not apply to periods of dis-
34 ability ~~which~~ that occur subsequent to termination of employment by resigna-
35 tion, retirement, or dismissal. When the provisions of this section do not
36 apply, the employee shall be eligible for those benefits ~~which~~ that would ap-
37 ply if this section had not been enacted.

38 SECTION 10. That Section 59-1607, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 59-1607. HOURS OF WORK AND OVERTIME. (1) It is the policy of the legis-
41 lature of the state of Idaho that all classified and nonclassified officers
42 and employees of the executive branch of state government shall be treated
43 substantially similar with reference to hours of employment, holidays and
44 vacation leave, except as provided in this chapter. For wage, hour and
45 working conditions, the supreme court and the legislative council shall
46 prescribe rules for employees of the judicial branch and the legislative



1 branch, respectively. The policy of this state shall not restrict the ex-
2 tension of regular work hour schedules on an overtime basis, which shall be
3 the same for classified and nonclassified employees, in those activities and
4 duties where such extension is necessary and authorized by the appointing
5 authority.

6 (2) The appointing authority of any department shall determine the ne-
7 cessity for overtime work and shall provide for cash compensation or compen-
8 satory time off for such overtime work for eligible classified and nonclas-
9 sified officers and employees.

10 (3) Classified and nonclassified officers and employees who fall
11 within one (1) or more of the following categories are ineligible for cash
12 compensation or compensatory time for overtime work:

13 (a) Elected officials; or

14 (b) Those included in the definition of section 67-5303(j), Idaho Code.

15 (4) Classified and nonclassified employees who are designated as exec-
16 utive, as provided in section 67-5302, Idaho Code, and who are not included
17 in the definition of subsection (3) of this section, shall be ineligible for
18 compensatory time or cash compensation for overtime work. Such salaried
19 employees shall report absences in excess of one-half (1/2) day. ~~Unused~~
20 ~~compensatory time balances in excess of two hundred forty (240) hours as of~~
21 ~~the date of enactment of this act shall be forfeited on December 31, 2008.~~
22 ~~Unused compensatory time balances of two hundred forty (240) hours or less~~
23 ~~shall be forfeited on December 31, 2006.~~ Employees who become executives
24 within their current agency as set forth in section 67-5302(12), Idaho Code,
25 shall have twelve (12) months from the date of this act or of appointment,
26 whichever is later, to use any compensatory time balance. After twelve (12)
27 months, any remaining compensatory time will be forfeited. Compensatory
28 time is not transferable, and shall be forfeited at the time of transfer to
29 another appointing authority or upon separation from state service.

30 (5) Classified and nonclassified officers and employees who are desig-
31 nated as administrative or professional as provided in the federal fair la-
32 bor standards act, or who are designated as exempt under any other complete
33 exemption in federal law, and who are not included in the definition of sub-
34 section (3) of this section, shall be ineligible for cash compensation for
35 overtime work unless cash payment is authorized by the state board of exam-
36 iners for overtime accumulated during unusual or emergency situations, but
37 such classified and nonclassified officers and employees shall be allowed
38 compensatory time off from duty for overtime work. Such compensatory time
39 shall be earned and allowed on a ~~one (1) hour for one (1) hour-~~for-hour
40 shall not be transferable, and shall be forfeited at the time of transfer to
41 another appointing authority or upon separation from state service. Com-
42 pensatory time may be accrued and accumulated up to a maximum of two hundred
43 forty (240) hours. Effective with the first pay period in July, 2008 (begin-
44 ning date June 15, 2008), compensatory time balances in excess of two hundred
45 forty (240) hours will not continue to accrue until the balance is below the
46 maximum. ~~After the last pay period in June, 2009 (ending date June 13, 2009),~~
47 ~~balances in excess of two hundred forty (240) hours shall be forfeited.~~

48 (6) Classified and nonclassified officers and employees who are not
49 designated as executive, administrative or professional as provided in this
50 section, and who are not included in the definition of subsection (3) of

1 this section or who are not designated as exempt under any other complete
2 exemption in federal law, shall be eligible for cash compensation or com-
3 pensatory time off from duty for overtime work, subject to the restrictions
4 of applicable federal law. Compensatory time off may be provided in lieu
5 of cash compensation at the discretion of the appointing authority after
6 consultation, in advance, with the employee. Compensatory time off shall
7 be paid at the rate of one and one-half (1 1/2) hours for each overtime hour
8 worked. Compensatory time off ~~which~~ that has been earned during any one-half
9 (1/2) fiscal year but not taken by the end of the succeeding one-half (1/2)
10 fiscal year, shall be paid in cash on the first payroll following the close of
11 such succeeding one-half (1/2) fiscal year. Compensatory time not taken at
12 the time of transfer to another appointing authority or upon separation from
13 state service shall be liquidated at the time of such transfer or separation
14 by payment in cash.

15 (7) Notwithstanding the provisions of this section, employees may be
16 paid for overtime work during a disaster or emergency with the approval of
17 the board of examiners.