

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 594

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO STATE OFFICERS AND EMPLOYEES; AMENDING SECTION 59-1603, IDAHO
2 CODE, TO PROVIDE FOR NONCLASSIFIED EMPLOYEES OF THE EXECUTIVE DEPART-
3 MENT, TO REVISE PROVISIONS REGARDING THE STATE BOARD OF EDUCATION,
4 AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 67-5301,
5 IDAHO CODE, TO REVISE A PROVISION REGARDING STATE OF IDAHO EMPLOYEES;
6 AMENDING SECTION 67-5302, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING
7 SECTION 67-5303, IDAHO CODE, TO PROVIDE FOR NONCLASSIFIED EMPLOYEES,
8 TO REVISE PROVISIONS REGARDING CERTAIN EDUCATIONAL EMPLOYEES, AND
9 TO REMOVE A PROVISION REGARDING POSITIONS ESTABLISHED UNDER FEDERAL
10 GRANTS; REPEALING SECTION 67-5305, IDAHO CODE, RELATING TO EMPLOYEES
11 HIRED PRIOR TO A CERTAIN DATE; AMENDING SECTION 67-5308, IDAHO CODE,
12 TO PROVIDE FOR CLASSIFIED AND NONCLASSIFIED EMPLOYEES; AMENDING SEC-
13 TION 67-5309, IDAHO CODE, TO PROVIDE FOR CLASSIFIED AND NONCLASSIFIED
14 EMPLOYEES AND APPLICANTS AND TO REMOVE A PROVISION REGARDING CERTAIN
15 APPOINTMENTS; AMENDING SECTION 67-5314, IDAHO CODE, TO PROVIDE THAT
16 THE DIVISION OF HUMAN RESOURCES MAY NEGOTIATE CERTAIN FEES; AMENDING
17 SECTION 67-5315, IDAHO CODE, TO PROVIDE FOR PROBLEM SOLVING PROCEDURES
18 AND CLASSIFIED AND NONCLASSIFIED EMPLOYEES; AMENDING SECTION 67-5317,
19 IDAHO CODE, TO PROVIDE FOR CLASSIFIED AND NONCLASSIFIED EMPLOYEES;
20 AMENDING SECTION 67-5328, IDAHO CODE, TO PROVIDE FOR CLASSIFIED AND
21 NONCLASSIFIED EMPLOYEES AND FAIR LABOR STANDARDS ACT REQUIREMENTS;
22 AMENDING SECTION 67-5332, IDAHO CODE, TO PROVIDE FOR CLASSIFIED AND
23 NONCLASSIFIED EMPLOYEES; AMENDING SECTION 67-5333, IDAHO CODE, TO
24 PROVIDE FOR CLASSIFIED AND NONCLASSIFIED EMPLOYEES; AMENDING SECTION
25 67-5342, IDAHO CODE, TO PROVIDE FOR NONCLASSIFIED EMPLOYEES; AMENDING
26 SECTION 67-5342A, IDAHO CODE, TO PROVIDE FOR NONCLASSIFIED EMPLOYEES;
27 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
28

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

30 SECTION 1. That Section 59-1603, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 59-1603. CONFORMITY WITH CLASSIFIED POSITIONS. (1) To the extent
33 possible, each nonclassified position in the executive department will be
34 paid a salary or wage comparable to classified positions with similar du-
35 ties, responsibilities, training, experience and other qualifications in
36 consultation with the division of human resources. Temporary employees and
37 agricultural inspectors referred to in subsections (~~##~~) and (~~po~~) of section
38 67-5303, Idaho Code, shall not be entitled to sick leave accruals provided
39 in section 59-1605, Idaho Code, vacation leave provided in section 59-1606,
40 Idaho Code, nor holiday pay defined in subsection (15) of section 67-5302,
41 Idaho Code, unless contributions are being made to the public employee re-
42 tirement system in accordance with chapter 13, title 59, Idaho Code, and

1 rules promulgated by the retirement board. Vacation and sick leave accru-
2 als, but not holiday pay, shall be awarded retroactively, if necessary, to
3 the date such employees become eligible for retirement system membership.

4 (2) To the extent possible, nonclassified state employees in the execu-
5 tive department reporting to the governor or a board or commission appointed
6 by the governor shall conform with chapter 53, title 67, Idaho Code, defining
7 the state personnel system, in sections where nonclassified state employee
8 personnel standards are expressly defined.

9 (3) To the extent possible, each nonclassified position in the legisla-
10 tive department will be paid a salary or wage comparable to classified posi-
11 tions with similar duties, responsibilities, training, experience and other
12 qualifications.

13 (34) The supreme court shall determine the schedules of salary and com-
14 pensation for all officers and employees of the judicial department that are
15 not otherwise fixed by law. To the extent possible, the supreme court shall
16 adopt schedules compatible with the state's accounting system. The judicial
17 department may also maintain personnel records and files under such system
18 as is ordered by the supreme court.

19 (45) The state board of education shall determine the schedules of
20 salary and compensation, and prescribe policies for overtime and compen-
21 satory time off from duty, for all officers, teaching staff, and employees of
22 the state board of education ~~who are not subject to the provisions of chap-~~
23 ~~ter 53, title 67, Idaho Code, and which are not otherwise fixed as provided~~
24 by law. To the extent possible, the state board of education shall adopt
25 schedules and policies compatible with the state's accounting system. The
26 state board of education may also maintain personnel records and files under
27 a system of its own, if approved by the state controller.

28 (56) Members of the legislature, the lieutenant governor, other offi-
29 cers whose salaries are fixed by law, and members of part-time boards, com-
30 missions and committees shall be paid according to law.

31 (67) Any schedule of salary and compensation must be approved by the ap-
32 pointing authority and be communicated to the state controller in writing at
33 least thirty (30) days in advance of the effective date of the schedule.

34 (78) In addition to salary increases provided by any compensation
35 schedule adopted pursuant to subsection (67) of this section, nonclassified
36 officers and employees, except those who are elected officials or whose
37 salaries are fixed by law, may be granted an award not to exceed two thousand
38 dollars (\$2,000) in any given fiscal year based upon an affirmative cer-
39 tification of meritorious service. Exceptions to the two thousand dollar
40 (\$2,000) limit provided in this section may be granted under extraordinary
41 circumstances if approved in advance by the state board of examiners. Ap-
42 pointing authorities shall submit a report to the division of financial
43 management and the legislative services office by October 1 on all awards
44 granted in the preceding fiscal year.

45 (89) In addition to salary increases provided by any compensation
46 schedule, nonclassified officers and employees, except those who are
47 elected officials or whose salaries are fixed by law, may be granted an award
48 not to exceed two thousand dollars (\$2,000) in any given fiscal year based
49 upon suggestions or recommendations made by the employee that resulted in
50 taxpayer savings as a result of cost savings or greater efficiencies to the

1 department, office or institution or to the state of Idaho in excess of the
2 amount of the award. Exceptions to the two thousand dollar (\$2,000) limit
3 provided in this subsection may be granted in extraordinary circumstances
4 if approved in advance by the state board of examiners. The appointing au-
5 thority shall as near as practicable utilize the criteria in conformance
6 with rules promulgated by the division of human resources pursuant to sec-
7 tion 67-5309D, Idaho Code. Appointing authorities shall submit a report to
8 the division of financial management and the legislative services office by
9 October 1 on all employee suggestion awards granted in the preceding fiscal
10 year. Such report shall include any changes made as a direct result of an
11 employee's suggestion and savings resulting therefrom.

12 (~~9~~10) Each appointing authority, including the elective offices in the
13 executive department, the legislative department, the judicial department,
14 and the state board of education and the board of regents, shall comply with
15 all reporting requirements necessary to produce the list of employee posi-
16 tions prescribed by section 67-3519, Idaho Code.

17 (~~10~~11) The adjutant general, with the approval of the governor, shall
18 prescribe personnel policies for all officers and employees of the national
19 guard that are not otherwise fixed by law. Such policies will include an
20 employee grievance procedure with appeal to the adjutant general. The ad-
21 jutant general shall determine schedules of salary and compensation that
22 are, to the extent possible, comparable to the schedules used for federal
23 civil service employees of the national guard and those employees serving
24 in military status. Schedules adopted shall be compatible with the state's
25 accounting system to the extent possible.

26 (~~11~~12) In addition to salary increases provided by any compensation
27 schedule, nonclassified officers and employees, except those who are
28 elected officials or whose salaries are fixed by law, may be granted award
29 pay for recruitment or retention purposes based upon affirmative certifi-
30 cation of meritorious service after completion of at least six (6) months
31 of service. Department directors and the administrator of the division of
32 human resources are authorized to seek legal remedies available, including
33 deductions from an employee's accrued vacation funds, from an employee who
34 resigns during the designated period of time after receipt of a recruitment
35 or retention bonus. Appointing authorities shall submit a report to the
36 division of financial management and the legislative services office by Oc-
37 tober 1 on all such awards granted in the preceding fiscal year.

38 (~~12~~13) In addition to salary increases provided by any compensation
39 schedule, nonclassified officers and employees, except those who are
40 elected officials or whose salaries are fixed by law, may be granted other
41 pay as provided in this subsection. Appointing authorities shall submit a
42 report to the division of financial management and the legislative services
43 office by October 1 on all such awards granted in the preceding fiscal year,
44 including:

45 (a) Shift differential pay up to twenty-five percent (25%) of hourly
46 rates depending on local market rates in order to attract and retain
47 qualified staff; and

48 (b) Geographic differential pay in areas of the state where recruitment
49 and retention are difficult due to economic conditions and cost of liv-
50 ing.

1 (134) In unusual circumstances, when a distribution has been approved
2 for classified employees pursuant to section 67-5309D, Idaho Code, each ap-
3 pointing authority, including the elective offices in the executive branch,
4 the legislative branch, the judicial branch, and the state board of educa-
5 tion and the board of regents of the university of Idaho, may grant nonclas-
6 sified employees nonmerit pay in the same proportion as received by classi-
7 fied employees in that department or institution. Appointing authorities
8 shall submit a report to the division of financial management and the leg-
9 islative services office by October 1 on all such awards granted in the pre-
10 ceding fiscal year.

11 (145) Each appointing authority shall, as nearly as practicable, uti-
12 lize the criteria for reimbursement of moving expenses in conformance with
13 section 67-5337, Idaho Code, and rules promulgated by the division of human
14 resources pursuant thereto. Appointing authorities shall submit a report to
15 the division of financial management and the legislative services office by
16 October 1 on all moving reimbursements granted in the preceding fiscal year.

17 (156) Specific pay codes shall be established and maintained in the
18 state controller's office to ensure accurate reporting and monitoring of all
19 pay actions authorized in this section.

20 SECTION 2. That Section 67-5301, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 67-5301. ESTABLISHMENT OF DIVISION OF HUMAN RESOURCES AND DECLARATION
23 OF POLICY. There is hereby established the division of human resources in the
24 office of the governor, which is authorized and directed to administer a per-
25 sonnel system, including the provision of personal and professional train-
26 ing, for ~~classified Idaho employees~~ state of Idaho employees as set forth
27 in this chapter. The purpose of said personnel system is to provide a means
28 whereby classified employees of the state of Idaho shall be examined, se-
29 lected, retained and promoted on the basis of merit and their performance of
30 duties, thus effecting economy and efficiency in the administration of state
31 government. The legislature declares that, in its considered judgment, the
32 public good and the general welfare of the citizens of this state require en-
33 actment of this measure, under the powers of the state.

34 SECTION 3. That Section 67-5302, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 67-5302. DEFINITIONS. As used in this chapter, and other applicable
37 sections of the Idaho Code, each of the terms defined in this section shall
38 have the meaning given in this section unless a different meaning is clearly
39 required by the context. Such terms and their definitions are:

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

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

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

6 (4) "Class" means a group of positions sufficiently similar as to the
7 duties performed, degree of supervision exercised or required, minimum re-
8 quirements of training, experience or skill, and other characteristics that
9 the same title, the same tests of fitness and the same schedule of compensa-
10 tion may be applied to each position in the group.

11 (5) "Classified officer or employee" means any person appointed to or
12 holding a position in any department of the state of Idaho, which position
13 is subject to the provisions of the merit examination, selection, reten-
14 tion, promotion and dismissal requirements of ~~chapter 53, title 67~~ section
15 67-5309, Idaho Code.

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

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

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

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

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

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

32 (12) "Executive employee" means any person, nonclassified or classi-
33 fied, appointed to a position equivalent to a bureau chief or above as pro-
34 vided in section 67-2402, Idaho Code, or any employee meeting the following
35 criteria:

36 (a) An individual whose primary duty is management of a department, di-
37 vision or bureau; and

38 (b) Who customarily and regularly directs the work of at least two (2)
39 or more other employees therein; and

40 (c) Who has the authority to hire and fire, or to recommend hiring and
41 firing; or whose recommendation on these and other actions affecting
42 employees is given particular weight; and

43 (d) Who customarily and regularly exercises discretionary powers; and

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

47 (f) Final designation of a classified position as "executive" in this
48 definition shall be made by the administrator. Exceptions to this des-
49 ignation that do not violate the federal fair labor standards act, 29
50 U.S.C. 201 et seq., may be made by the administrator.

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

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

8 (15) "Holiday" means the following:

9 ~~January 1 (New Year's Day);~~

10 ~~Third Monday in January (Martin Luther King, Jr. Idaho Human~~
 11 ~~Rights Day);~~

12 ~~Third Monday in February (Washington's Birthday);~~

13 ~~Last Monday in May (Memorial Day);~~

14 ~~July 4 (Independence Day);~~

15 ~~First Monday in September (Labor Day);~~

16 ~~Second Monday in October (Columbus Day);~~

17 ~~November 11 (Veterans Day);~~

18 ~~Fourth Thursday in November (Thanksgiving);~~

19 ~~December 25 (Christmas).~~

20 ~~In addition, t~~The term "holiday" shall mean any day so designated by the
 21 president of the United States or the governor of this state for a public
 22 fast, thanksgiving or holiday. "Holidays" are enumerated in section 73-108,
 23 Idaho Code.

24 In the event that a holiday occurs on a Saturday, the preceding Friday
 25 shall be a holiday, and if the holiday falls on a Sunday, the following Monday
 26 shall be a holiday.

27 A holiday is a day of exemption from work granted to nonexecutive em-
 28 ployees during which said employees shall be compensated as if they actually
 29 worked. Employees classified as executive exempt are entitled to ~~ten~~ eleven
 30 (10~~1~~) paid holidays per year. If such an employee works on one (1) of the of-
 31 ficial holidays listed in this subsection, then such employee may take an al-
 32 ternative day off but shall not receive additional compensation.

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

36 (17) "Nonclassified employee" means any person appointed to or holding
 37 a position in any department of the state of Idaho, which position is ex-
 38 empted from the merit provisions of chapter 53, title 67, Idaho Code, as pro-
 39 vided for in section 67-5303~~9~~(e), (f), (g), (j), (m), (o), (p), (w), and (x),
 40 Idaho Code.

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

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

47 (20) "Overtime work" means time worked on holidays and time worked in
 48 excess of forty (40) hours in a period of one hundred sixty-eight (168) con-
 49 secutive hours, except that in the case of those employees engaged in law
 50 enforcement, correctional and fire protection activities characterized by

1 irregular shift work schedules, time worked in excess of one hundred sixty
 2 (160) hours in a period of twenty-eight (28) consecutive days shall consti-
 3 tute overtime work within the meaning of this chapter. Such employees may
 4 also be paid overtime for specific hours worked in addition to their normal
 5 schedules upon emergency declaration by the governor or with the approval of
 6 the appointing authority and the board of examiners.

7 (21) "Participating department" means any department of the state of
 8 Idaho ~~that employs persons in classified positions subject to the merit ex-~~
 9 ~~amination, selection, retention, promotion and dismissal requirements of~~
 10 ~~this chapter in the executive department reporting to the governor or a board~~
 11 ~~or commission appointed by the governor.~~

12 (22) "Part-time employee" means any employee whose usually scheduled
 13 work is fewer than forty (40) hours in a period of one hundred sixty-eight
 14 (168) consecutive hours, and who shall not be entitled to sick leave accruals
 15 provided in section 67-5333, Idaho Code, vacation leave provided in section
 16 67-5334, Idaho Code, nor holiday pay as defined in subsection (15) of this
 17 section, unless contributions are being made to the public employee retire-
 18 ment system in accordance with chapter 13, title 59, Idaho Code, and rules
 19 promulgated by the public employee retirement system board.

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

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

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

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

29 (27) "Professional 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 a
 32 classified position as "professional" within this definition shall be made
 33 by the administrator. Exceptions to this designation that do not violate the
 34 federal fair labor standards act, 29 U.S.C. 201 et seq., may be made by the
 35 administrator.

36 (28) ~~"Provisional appointment" means appointment to a classified posi-~~
 37 ~~tion pending the establishment of a register for such position, and employ-~~
 38 ~~ment shall not be continued in this status longer than thirty (30) days after~~
 39 ~~establishment of a register.~~

40 ~~(29) "Public education entity" means community colleges, public school~~
 41 ~~districts, public charter schools and the Idaho digital learning academy.~~

42 (30~~29~~) "Qualifying examination" means an examination or evaluation
 43 given to a selected person to determine eligibility for reclassification or
 44 appointment to a position in a classification.

45 (31~~0~~) "Register" means a list of names of persons who have been deter-
 46 mined to be eligible for employment in a classified position as determined on
 47 the basis of examination and merit factors as established by the administra-
 48 tor.

1 (321) "Seasonal appointment" means an appointment to a position that is
 2 permanent in nature but that has intermittent work periods throughout the
 3 year.

4 (332) "Service rating" means a recorded evaluation of work performance
 5 and promotional potential of an employee by his supervisor.

6 (343) "State educational agency" means the following state agencies
 7 and educational institutions ~~supervised by~~ under the governance of the Idaho
 8 state board of education:

- 9 (a) Boise state university;
- 10 (b) Idaho state university;
- 11 (c) University of Idaho;
- 12 (d) Lewis-Clark state college;
- 13 (e) Idaho public television;
- 14 (f) The division of vocational rehabilitation;
- 15 (g) The division of career technical education;
- 16 (h) The office of the state board of education; ~~and~~
- 17 (i) The department of education; and
- 18 (j) The public charter school commission.

19 (354) "Temporary appointment" means appointment to a position that is
 20 not permanent in nature and in which employment will not exceed one thousand
 21 three hundred eighty-five (1,385) hours during any twelve (12) month period.
 22 No person holding a temporary appointment may work in excess of one thousand
 23 three hundred eighty-five (1,385) hours during a twelve (12) month period of
 24 time for any one (1) department, except upon petition by the appointing au-
 25 thority of the department of lands that demonstrates good cause, the admin-
 26 istrator of the division of human resources may extend the one thousand three
 27 hundred eighty-five (1,385) hour limit for employees of the department who
 28 are required to perform fire suppression activities.

29 (365) "Vacation leave" means a period of exemption from work granted to
 30 employees during which time said employees shall be compensated. The term
 31 shall not include compensatory time for overtime work.

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

33 SECTION 4. That Section 67-5303, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state
 36 of Idaho and all employees in such departments, except those employees
 37 specifically defined as nonclassified, shall be classified employees, who
 38 are subject to this chapter and to the system of personnel administration
 39 which it prescribes. All nonclassified employees are subject to conformity
 40 with classified positions as set forth in section 59-1603, Idaho Code. Non-
 41 classified employees shall be:

42 (a) Members of the state legislature and all other officers of the state
 43 of Idaho elected by popular vote, and persons appointed to fill vacancies in
 44 elective offices, and employees of the state legislature.

45 (b) Members of statutory boards and commissions and heads of depart-
 46 ments appointed by and serving at the pleasure of the governor, deputy direc-
 47 tors appointed by the director and members of advisory boards and councils
 48 appointed by the departments.

1 (c) All employees and officers in the office, and at the residence, of
 2 the governor; and all employees and officers in the offices of the lieutenant
 3 governor, secretary of state, attorney general, state treasurer, state con-
 4 troller, and state superintendent of public instruction who are appointed on
 5 and after the effective date of this chapter.

6 (d) Except as otherwise provided by law, not more than one (1) declared
 7 position for each board or commission and/or head of a participating depart-
 8 ment, in addition to those declared to be nonclassified by other provisions
 9 of law.

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

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

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

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

17 (i) Assistant attorneys general attached to the office of the attorney
 18 general.

19 (j) Officers, members of the teaching staffs of state higher educa-
 20 tional institutions, the professional staffs of the office of the state
 21 board of education and the Idaho department of education administered by
 22 the board of regents and the board of education, all professional staff of
 23 the public charter school commission, and the professional staffs of the
 24 Idaho division of career technical education and vocational rehabilitation
 25 administered by the state board for career technical education. "Teach-
 26 ing staff" includes teachers, coaches, resident directors, librarians and
 27 those principally engaged in academic research. The word "officer" means
 28 presidents, vice presidents, deans, directors, or employees in positions
 29 designated by the state board who receive an annual salary of not less than
 30 step "A" of the pay grade equivalent to three hundred fifty-five (355) Hay
 31 points in the state compensation schedule. A nonclassified employee who is
 32 designated as an "officer" on July 5, 1991, but does not meet the require-
 33 ments of this subsection, may make a one (1) time irrevocable election to
 34 remain nonclassified. Such an election must be made not later than August 2,
 35 1991. When such positions become vacant, these positions will be reviewed
 36 and designated as either classified or nonclassified in accordance with this
 37 subsection. In consultation with the Idaho division of human resources,
 38 the state board of education shall implement policies and procedures for
 39 nonclassified employees to conform with section 59-1603, Idaho Code.

40 (k) Employees of the military division.

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

42 (m) ~~Persons employed in positions established under federal grants,~~
 43 ~~which, by law, restrict employment eligibility to specific individuals or~~
 44 ~~groups on the basis of nonmerit selection requirements. Such employees~~
 45 ~~shall be termed "project exempt" and the tenure of their employment shall~~
 46 ~~be limited to the length of the project grant, or twenty-four (24) months,~~
 47 ~~or four thousand one hundred sixty (4,160) hours of credited state service,~~
 48 ~~whichever is of the shortest duration. No person hired on a project-exempt~~
 49 ~~appointment shall be employed in any position allocated to the classified~~
 50 ~~service.~~

1 ~~(n)~~ Temporary employees.

2 ~~(en)~~ All employees and officers of the following named commodity com-
3 missions, and all employees and officers of any commodity commission created
4 hereafter: the Idaho potato commission, as provided in chapter 12, title 22,
5 Idaho Code; the Idaho honey commission, as provided in chapter 28, title 22,
6 Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22,
7 Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, ti-
8 tle 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33,
9 title 22, Idaho Code; the Idaho pea and lentil commission, as provided in
10 chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in
11 chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in
12 chapter 37, title 22, Idaho Code; the Idaho mint commission, as provided in
13 chapter 38, title 22, Idaho Code; the Idaho sheep and goat health board, as
14 provided in chapter 1, title 25, Idaho Code; the state brand inspector, and
15 all district supervisors, as provided in chapter 11, title 25, Idaho Code;
16 the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and
17 the Idaho dairy products commission, as provided in chapter 31, title 25,
18 Idaho Code.

19 ~~(po)~~ All inspectors of the fresh fruit and vegetable inspection service
20 of the Idaho department of agriculture, except those positions involved in
21 the management of the program.

22 ~~(ep)~~ All employees of correctional industries within the department of
23 correction.

24 ~~(rg)~~ All deputy administrators and wardens employed by the department
25 of correction. Deputy administrators are defined as only the deputy admin-
26 istrators working directly for the nonclassified division administrators
27 under the director of the department of correction.

28 ~~(sr)~~ All public information positions, with the exception of secretar-
29 ial positions, in any department.

30 ~~(ts)~~ Any division administrator.

31 ~~(ut)~~ Any regional administrator or division administrator in the de-
32 partment of environmental quality.

33 ~~(vu)~~ All employees of the division of financial management, all employ-
34 ees of the STEM action center, all employees of the office of species conser-
35 vation, all employees of the office of drug policy and all employees of the
36 office of energy resources.

37 ~~(wv)~~ All employees of the Idaho food quality assurance institute.

38 ~~(*w)~~ The state appellate public defender, deputy state appellate pub-
39 lic defenders and all other employees of the office of the state appellate
40 public defender.

41 ~~(yx)~~ All quality assurance specialists or medical investigators of the
42 Idaho board of medicine.

43 ~~(zy)~~ All pest survey and detection employees and their supervisors
44 hired specifically to carry out activities under the Idaho plant pest act,
45 chapter 20, title 22, Idaho Code, including but not limited to pest survey,
46 detection and eradication, except those positions involved in the manage-
47 ment of the program.

48 ~~(aaz)~~ All medical directors employed by the department of health and
49 welfare who are engaged in the practice of medicine, as defined by section
50 54-1803, Idaho Code, at an institution named in section 66-115, Idaho Code.

1 SECTION 5. That Section [67-5305](#), Idaho Code, be, and the same is hereby
2 repealed.

3 SECTION 6. That Section 67-5308, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 67-5308. AUTHORITY AND DUTIES OF THE DIVISION OF HUMAN RESOURCES --
6 SELECTION OF ADMINISTRATOR. (1) It shall be the duty of the division of human
7 resources to administer this chapter. The administrator of the division of
8 human resources shall have the duty, power and authority to employ such per-
9 sons, make such expenditures, require such reports, make investigations of
10 state classified and nonclassified employees, perform such travel pursuant
11 to the provisions of this chapter, and to take such other actions as it deems
12 necessary or suitable to that end.

13 (2) An administrator of the division of human resources in the office of
14 the governor shall be appointed by the governor, shall be subject to confir-
15 mation by the senate and shall serve at the pleasure of [the] governor. The
16 administrator shall be experienced in personnel administration. The admin-
17 istrator shall provide necessary support to the commission when it carries
18 out its duties.

19 SECTION 7. That Section 67-5309, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL
22 COMMISSION. The administrator of the division of human resources shall have
23 the power and authority to adopt, amend, or rescind such rules as may be nec-
24 essary for proper administration of this chapter. Such rules may include:

25 (a) A rule requiring the administrator, after consulting with each de-
26 partment, to develop, adopt, and make effective a job classification system
27 for positions covered by this chapter, based upon an analysis of the duties
28 and responsibilities of the positions. The job classification shall include
29 an appropriate title for each class and a description of duties and responsi-
30 bilities of positions in the classes and the requirements of minimum train-
31 ing, experience and other qualifications suitable for the performance of du-
32 ties of the position.

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

35 (c) A rule requiring that all classes of positions which are common to
36 the departments concerned shall have the same titles, minimum requirements
37 and compensation ranges.

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

41 (e) A rule that, notwithstanding the procedure for examination and
42 ranking of eligibles applicants on a register provided in subsection (f) of
43 this section, an agency may appoint an individual directly into an entrance
44 or promotional probation if the division of vocational rehabilitation,
45 Idaho commission for the blind and visually impaired or the industrial
46 commission certifies, with the concurrence of division of human resources
47 staff, that the individual: (1) has a disability or handicap as defined un-

1 der state or federal law; (2) is qualified to perform the essential functions
2 of a particular classified position with or without reasonable accommoda-
3 tion; and (3) lacks competitiveness in the examination process due to the
4 disability or handicap. The probationary period as provided in subsection
5 (j) of this section shall be the sole examination for such individuals.

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

49 (g) A rule that, whenever practicable, a vacancy in a classified posi-
50 tion shall be filled by the promotion of a qualified employee of the agency

1 in which the vacancy occurs. An interagency promotion shall be made through
2 competitive examination and all qualified state employees shall have the
3 opportunity to compete for such promotions. If an employee's name appears
4 within certifiable range on a current register for a higher class of posi-
5 tion, he shall be eligible for a transfer and promotion.

6 (h) A rule for development and maintenance of a system of service rat-
7 ings and the use of such ratings by all departments in connection with pro-
8 motions, demotions, retentions, separations and reassignments. The rule
9 shall require that an evaluation of each classified employee shall be made
10 after each two thousand eighty (2,080) hour period of credited state service
11 and that a copy of the evaluation shall be filed with the division.

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

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

35 (k) A rule concerning temporary appointments.

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

38 (m) A rule for the disciplinary dismissal, demotion, suspension or
39 other discipline of classified employees only for cause with reasons given
40 in writing. Such rule shall provide that any of the following reasons shall
41 be proper cause for the disciplinary dismissal, demotion or suspension of
42 any employee in the state classified service:

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

46 2. Inefficiency, incompetency, or negligence in the performance of
47 duties, or job performance that fails to meet established performance
48 standards.

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

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

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

5 6. Intoxication on duty.

6 7. Careless, negligent, or improper use or unlawful conversion of state
7 property, equipment or funds.

8 8. Use of any influence that violates the principles of the merit system
9 in an attempt to secure a promotion or privileges for individual advan-
10 tage.

11 9. Conviction of official misconduct in office, or conviction of any
12 crime that is deemed relevant in accordance with section 67-9411(1),
13 Idaho Code.

14 10. Acceptance of gifts in exchange for influence or favors given in the
15 employee's official capacity.

16 11. Habitual pattern of failure to report for duty at the assigned place
17 and time.

18 12. Habitual improper use of sick leave privileges.

19 13. Unauthorized disclosure of confidential information from official
20 records.

21 14. Absence without leave.

22 15. Misstatement or deception in the application for the position.

23 16. Failure to obtain or maintain a current license or certificate law-
24 fully required as a condition for performing the duties of the job.

25 17. Prohibited participation in political activities.

26 (n) A rule to establish procedures for maintenance of a record of the
27 employment history and appropriate information relating to performance of
28 all classified and nonclassified employees under the personnel system. For
29 the purposes of this rule, the state shall be considered one (1) employer.

30 (o) Rules to provide for recruitment programs in cooperation with de-
31 partment heads and the employment security agency in keeping with current
32 employment conditions and labor market trends.

33 (p) Rules to establish procedures for classified position examinations
34 as necessary for the purpose of maintaining current registers from which to
35 fill employment vacancies.

36 (q) Other rules not inconsistent with the foregoing provisions of this
37 section as may be necessary and proper for the administration and enforce-
38 ment of this chapter.

39 (r) ~~A rule concerning "project exempt" appointments.~~

40 ~~(s)~~ Rules relating to leave for state employees from official duties
41 including, but not limited to, sick leave, military leave, jury duty, leaves
42 of absence without compensation and such other forms of absence from perfor-
43 mance of duties in the course of state employment as may be necessary.

44 ~~(t)~~ A rule providing up to twenty-five percent (25%) shift differen-
45 tial pay based on local market practices.

46 ~~(u)~~ A rule to establish guidelines for awarding employee suggestion
47 awards set forth in sections 59-1603 and 67-5309D, Idaho Code.

48 ~~(v)~~ A rule to establish the reimbursement of moving expenses for a cur-
49 rent or newly hired state employee.

1 (wv) A rule to allow, at the request of the hiring agency, temporary
2 service time to count toward fulfilling entrance probationary requirements
3 as established in subsection (j) of this section.

4 (*w) A rule to allow, at the request of the hiring agency, acting ap-
5 pointment service time to count toward fulfilling promotional probationary
6 requirements as established in subsection (j) of this section.

7 SECTION 8. That Section 67-5314, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 67-5314. METHOD OF FINANCING. (1) There is hereby created in the state
10 treasury the division of human resources fund. All participating depart-
11 ments are hereby authorized and directed to pay out of their funds to the
12 state treasurer their respective shares of the authorized budget of the di-
13 vision. All moneys placed in said fund are hereby perpetually appropriated
14 to the division for the administrative purposes of this chapter. All expen-
15 ditures from said fund shall be paid out in warrants drawn by the state con-
16 troller upon presentation of proper vouchers from the administrator.

17 (2) The division shall allocate costs of its operation to each partic-
18 ipating department in the same proportion that the amount of the payroll for
19 classified employees of the department bears to the total amount of the pay-
20 roll for classified employees of all departments combined and averaged as to
21 the basis for allocation of costs.

22 (3) Each participating department shall deposit to said fund on a pay
23 period basis as prescribed by the state controller, an amount equal to its
24 share of costs of operation of the human resources division according to the
25 cost allocation formula set forth above. Departmental deposits for each
26 succeeding fiscal year shall be at a percentage rate of salaries and wages
27 for positions subject to this chapter, computed to be sufficient to carry out
28 the intent and all provisions of this chapter as directed by the legislature.

29 (4) The division of human resources may negotiate fees with partici-
30 partating departments with only nonclassified employees to provide services to
31 support state employment systems.

32 SECTION 9. That Section 67-5315, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 67-5315. ESTABLISHMENT AND ADOPTION OF EMPLOYEE PROBLEM SOLVING AND
35 DUE PROCESS PROCEDURES. (1) Each participating department shall, on or be-
36 fore July 1, 1999, establish and adopt an employee problem solving proce-
37 dure within such department, which shall be reduced to writing and shall be
38 in full compliance with the provisions of the uniform problem solving proce-
39 dure as adopted by rule by the administrator pursuant to subsection (4) of
40 this section. The department problem solving procedure shall be approved by
41 the administrator of the division of human resources prior to implementation
42 or amendment. A copy of the approved problem solving procedure plan shall
43 be furnished and explained to each employee of the department concerned. No
44 employee shall be disciplined or otherwise prejudiced in his employment for
45 exercising his rights under the plan, and department heads shall encourage
46 the use of the plan in the resolution of grievances arising in the course of
47 public employment. A classified employee may file under the problem solving

1 procedure any matter, except that compensation shall not be deemed a proper
2 subject for consideration under the problem solving procedure except as it
3 applies to alleged inequities within a particular agency or department, and
4 except for termination during the entrance probationary period, and except
5 for those matters set forth in subsection (2) of this section.

6 (2) No action of a participating department relating to a disciplinary
7 dismissal, suspension or demotion, or an involuntary transfer of a classi-
8 fied state employee shall be effective until the affected employee shall
9 have received notice and an opportunity to be heard. The classified employee
10 may then appeal to the Idaho personnel commission those disciplinary matters
11 set forth in section 67-5316(1) (a), Idaho Code.

12 (3) If the filing concerns a matter which is reviewable pursuant to
13 section 67-5316, Idaho Code, the time for appeal to the commission shall not
14 commence to run until the employee has completed the problem solving proce-
15 dure provided by the department in accordance with the terms thereof or, in
16 the case of disciplinary actions set forth in subsection (2) of this section,
17 until the disciplinary action becomes effective; provided, however, the
18 failure of an employee to pursue the problem solving procedures established
19 within the department shall constitute a waiver of the employee's right of
20 review by the commission.

21 (4) ~~On or before July 1, 1999, t~~The division of human resources shall
22 adopt a rule defining uniform problem solving and due process procedures for
23 use by all participating departments with classified employees. With re-
24 spect to the problem solving procedure, the rule shall provide a complete
25 procedure for all stages of the process, including problem solving meetings
26 with department representatives in the employee's chain of command. With
27 respect to the due process procedure, the rule shall provide that the em-
28 ployee receive notice and an opportunity to be heard before the department
29 decides in favor of disciplinary action. The rule shall also provide for
30 time periods for each step of the procedures. The rule shall provide for the
31 use of an impartial mediator upon agreement between the agency and the em-
32 ployee. The employee shall be entitled to be represented by a person of the
33 employee's own choosing at each step of the procedures, except the initial
34 informal discussion with the immediate supervisor prior to filing under the
35 problem solving procedure.

36 SECTION 10. That Section 67-5317, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 67-5317. CLASSIFIED EMPLOYEE PETITION FOR REVIEW PROCEDURE. (1) If a
39 classified employee files a petition for review ~~is filed~~, the personnel com-
40 mission shall review the record of the proceeding before the hearing offi-
41 cer, briefs submitted in accordance with any briefing schedule it orders,
42 and any transcripts submitted of the hearing below. The commission may grant
43 the parties the opportunity to present oral argument, but need not do so if
44 the record clearly shows that the commission or the hearing officer lacks ju-
45 risdiction over the appeal or petition for review. The personnel commission
46 may affirm, reverse or modify the decision of the hearing officer, may remand
47 the matter, or may dismiss it for lack of jurisdiction.

48 (2) Any party in interest may file in the district court for the county
49 in which any party to the proceedings resides, a certified copy of the deci-

1 sion of the commission, which the district court shall have the power to en-
2 force by proper proceedings.

3 (3) A decision of the commission shall be final and conclusive between
4 the parties, unless within forty-two (42) days of the filing of such decision
5 either party appeals to the district court. Where the decision of the per-
6 sonnel commission directed the reinstatement of an employee, the employee
7 shall be reinstated upon receipt of a copy of the decision unless a stay of
8 the order be granted by the district court upon proper petition.

9 (4) Nonclassified employees are not eligible to seek review of any per-
10 sonnel action before the personnel commission.

11 SECTION 11. That Section 67-5328, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 67-5328. HOURS OF WORK AND OVERTIME. (1) It is hereby declared to
14 be the policy of the legislature of the state of Idaho that all ~~classified~~
15 state employees shall be treated substantially similar with reference to
16 hours of employment. The policy of this state as declared in this act shall
17 not restrict the extension of regular work hour schedules on an overtime
18 basis in those activities and duties where such extension is necessary and
19 authorized, provided that overtime work performed under such extension is
20 compensated for as hereinafter provided.

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

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

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

30 (i) Elected officials; or

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

33 (b) Classified and nonclassified employees who are designated as ex-
34 ecutive, as provided in section 67-5302, Idaho Code, and who are not
35 included in the definition of subsection (3) (a) of this section, shall
36 be ineligible for compensatory time or cash compensation for overtime
37 work. Such salaried employees shall report absences in excess of one-
38 half (1/2) day. Unused compensatory time balances in excess of two hun-
39 dred forty (240) hours as of the date of enactment of this act shall be
40 forfeited on December 31, 2008. Unused compensatory time balances of
41 two hundred forty (240) hours or less shall be forfeited on December 31,
42 2006. Employees who become executives within their current agency as
43 set forth in section 67-5302(12), Idaho Code, shall have twelve (12)
44 months from the date of this act or of appointment, whichever is later,
45 to use any compensatory time balance. After twelve (12) months, any re-
46 maining compensatory time will be forfeited. Compensatory time is not
47 transferable, and shall be forfeited at the time of transfer to another
48 appointing authority or upon separation from state service.

1 (c) Classified and nonclassified employees who are designated as ad-
2 ministrative or professional, as provided in the federal fair labor
3 standards act, 29 U.S.C. section 201, et seq., or who are designated as
4 exempt under any other complete exemption in federal law, and who are
5 not included in the definition of either subsection (3) (a) or (3) (b) of
6 this section, shall be ineligible for cash compensation for overtime
7 work unless cash payment is authorized by the state board of examin-
8 ers for overtime accumulated during unusual or emergency situations,
9 but such classified and nonclassified employees shall be allowed com-
10 pensatory time off from duty for overtime work. Such compensatory
11 time shall be earned and allowed on a one (1) hour for one (1) hour ba-
12 sis, shall not be transferable, and shall be forfeited at the time of
13 transfer to another appointing authority or upon separation from state
14 service. Compensatory time may be accrued and accumulated up to a max-
15 imum of two hundred forty (240) hours. Effective with the first pay
16 period in July, 2008 (beginning date June 15, 2008), compensatory time
17 balances in excess of two hundred forty (240) hours will not continue to
18 accrue until the balance is below the maximum. After the last pay period
19 in June, 2009 (ending date June 13, 2009), balances in excess of two
20 hundred forty (240) hours shall be forfeited.

21 (d) Classified and nonclassified employees who are not designated as
22 executive, administrative or professional as provided in this section,
23 and who are not included in the definition of subsection (3) (a) of this
24 section or who are not designated as exempt under any other complete
25 exemption in federal law, shall be eligible for cash compensation or
26 compensatory time off from duty for overtime work, subject to the re-
27 strictions of applicable federal law. Compensatory time off may be pro-
28 vided in lieu of cash compensation at the discretion of the appointing
29 authority after consultation, in advance, with the employee. Compensatory
30 time off shall be paid at the rate of one and one-half (1 1/2)
31 hours for each overtime hour worked. Compensatory time off which has
32 been earned during any one-half (1/2) fiscal year but not taken by the
33 end of the succeeding one-half (1/2) fiscal year, shall be paid in cash
34 on the first payroll following the close of such succeeding one-half
35 (1/2) fiscal year. Compensatory time not taken at the time of transfer
36 to another appointing authority or upon separation from state service
37 shall be liquidated at the time of such transfer or separation by pay-
38 ment in cash.

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

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

48 (5) Except as provided for in subsection (3) of this section, compensa-
49 tion for authorized overtime work shall be made at the completion of the pay

1 period next following the pay period in which the overtime work occurred and
2 shall be added to the regular salary payment.

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

8 SECTION 12. That Section 67-5332, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 67-5332. CREDITED STATE SERVICE -- APPLICABILITY -- COMPUTATION. (1)
11 For the purposes of payroll, vacation or annual leave, sick leave and other
12 applicable purposes, credited state service shall be earned by:

13 (a) ~~Classified~~ Eligible classified and nonclassified officers and em-
14 ployees of any department, commission, division, agency or board of the
15 executive department;

16 (b) Such other classified and nonclassified officers and employees as
17 may be prescribed by law or by order of the state board of examiners.

18 (2) Service in the employ of any of the following units of government,
19 or other similar units, shall not earn credited state service: counties,
20 cities, school districts, community college districts, irrigation dis-
21 tricts and highway districts. Service as an independent contractor or
22 consultant is not state service.

23 (3) One (1) hour of credited state service shall be earned by each el-
24 igible state officer or employee for each hour, or major fraction thereof,
25 worked or on approved leave as provided in subsection (4) of this section.

26 (4) Credited state service shall be earned when on approved leave with
27 pay, on approved vacation leave, approved military leave, on approved sick
28 leave, and holiday leave, but not when compensatory time or earned adminis-
29 trative leave is taken.

30 (5) Service for retirement purposes shall be as provided in chapter 13,
31 title 59, Idaho Code.

32 SECTION 13. That Section 67-5333, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 67-5333. SICK LEAVE. (1) Sick leave shall be computed as follows:

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

40 (b) Sick leave shall not accrue to any officer or employee on any kind
41 of leave of absence without pay, suspension without pay or layoff. Sick
42 leave shall accrue while an officer or employee is on approved leave
43 with pay, on approved vacation leave, on approved military leave with
44 pay, and on approved sick leave, but not when compensatory time is
45 taken.

46 (c) All accrued sick leave shall be forfeited at the time of separa-
47 tion from state service and no officer or employee shall be reimbursed

1 for accrued sick leave at the time of separation, except as provided in
2 subsection (2) of this section. If such officer or employee returns
3 to credited state service within three (3) years of such separation,
4 all sick leave credits accrued at the time of separation shall be rein-
5 stated, except to the extent that unused sick leave was utilized for the
6 purposes specified in subsection (2) of this section or transferred to a
7 school district or charter district pursuant to section 33-1217, Idaho
8 Code.

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

14 (e) In cases where absences for sick leave exceed three (3) consecu-
15 tive working days, the appointing authority may require verification by
16 a physician or other authorized practitioner.

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

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

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

25 (a) Upon separation from state employment by retirement in accordance
26 with chapter 13, title 59, or chapter 1, title 33, Idaho Code, an em-
27 ployee's unused sick leave shall be determined based on accumulated
28 sick leave earned subsequent to July 1, 1976, and shall be reported by
29 the employer to the public employee retirement system. Upon separa-
30 tion from state employment by retirement in accordance with chapter
31 20, title 1, Idaho Code, an employee's unused sick leave shall be de-
32 termined based on accumulated sick leave earned subsequent to July 1,
33 2000, and shall be reported by the employer to the public employee re-
34 tirement system. A sum equal to one-half (1/2), or the maximum amount
35 allowed by paragraph (b) of this subsection, whichever is the lesser,
36 of the monetary value of such unused sick leave, calculated at the rate
37 of pay for such employee at the time of retirement, as determined by
38 the retirement board, shall be transferred from the sick leave account
39 provided by paragraph (c) of this subsection and shall be credited to
40 such employee's retirement account. Such sums shall be used by the
41 Idaho public employee retirement board to pay premiums, as permitted by
42 and subject to applicable federal tax laws and limits, for such health,
43 dental, vision, long-term care, prescription drug and life insurance
44 programs as may be maintained by the state, to the extent of the funds
45 credited to the employee's account pursuant to this section. Upon an
46 employee's death, any unexpended sums remaining in the account shall
47 revert to the sick leave account.

48 (b) For the purposes of determining the monetary value of unused sick
49 leave, the maximum unused sick leave which may be considered shall be:

1 (i) During the first ten thousand four hundred (10,400) hours of
2 credited state service, the maximum unused sick leave which may be
3 considered shall be four hundred twenty (420) hours;

4 (ii) During the second ten thousand four hundred (10,400) hours of
5 credited state service, the maximum unused sick leave which may be
6 considered shall be four hundred eighty (480) hours;

7 (iii) During the third ten thousand four hundred (10,400) hours of
8 credited state service, the maximum unused sick leave which may be
9 considered shall be five hundred forty (540) hours;

10 (iv) Thereafter, the maximum unused sick leave which may be con-
11 sidered shall be six hundred (600) hours; and

12 (v) For any employees of a state educational agency with unused
13 sick leave that includes sick leave credited pursuant to section
14 33-1217, Idaho Code, the credited state service requirements of
15 subsection (2) (b) (i) through (iv) of this section shall not apply,
16 but the maximum unused sick leave which may be considered shall be
17 six hundred (600) hours.

18 (c) Each employer in state government shall contribute to a sick leave
19 account maintained by the public employee retirement system in trust
20 exclusively for the purpose of the provisions of this section. The
21 retirement board shall serve as trustee of the trust and shall be in-
22 demnified to the same extent as provided in section 59-1305, Idaho
23 Code. Assets in the trust shall not be assignable or subject to execu-
24 tion, garnishment or attachment or to the operation of any bankruptcy
25 or insolvency law. The rate of such contribution each pay period shall
26 consist of a percentage of employees' salaries as determined by the
27 board and such rate shall remain in effect until next determined by the
28 board. Any excess balance in the sick leave account shall be invested,
29 and the earnings therefrom shall accrue to the sick leave account except
30 the amount required by the board to defray administrative expenses.
31 Assets of the trust may be commingled for investment purposes with other
32 assets managed by the retirement board. All moneys payable to the sick
33 leave account are hereby perpetually appropriated to the board and
34 shall not be included in its departmental budget. The state insurance
35 fund and public health districts shall be considered employers in state
36 government for purposes of participation under this section.

37 SECTION 14. That Section 67-5342, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 67-5342. SEVERANCE PAY FOR STATE EMPLOYEES. Upon termination from
40 state service, no classified, nonclassified, or exempt employee shall be
41 eligible for severance pay and no employer shall provide or pay severance pay
42 to such an employee or former employee. As used in this section, "severance
43 pay" shall mean money, exclusive of wages or salary, vacation leave payoff,
44 and compensatory time leave and earned administrative leave payoff, paid
45 to a classified, nonclassified, or exempt employee who resigns from state
46 service of his own volition and not under duress.

47 SECTION 15. That Section 67-5342A, Idaho Code, be, and the same is
48 hereby amended to read as follows:

1 67-5342A. SEVERANCE PAY -- PURCHASE OF MEMBERSHIP SERVICE PROHIB-
2 ITED. The provisions of this section shall apply to classified ~~or~~, nonclas-
3 sified, and exempt state employees of the legislative and executive branches
4 of government. For purposes of this chapter, the term "severance pay" as
5 provided for in section 67-5342, Idaho Code, shall include any payment by
6 an employer toward the purchase of membership service pursuant to section
7 59-1363, Idaho Code. Provided however, that nothing in this section shall
8 change any rights provided pursuant to section 59-1362, Idaho Code, related
9 to active duty service.

10 SECTION 16. An emergency existing therefor, which emergency is hereby
11 declared to exist, this act shall be in full force and effect on and after
12 July 1, 2022.