

IN THE SENATE

SENATE BILL NO. 1061

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PERSONNEL; AMENDING SECTION 59-1607, IDAHO CODE, TO PROVIDE  
2 THAT ELECTED OFFICIALS SHALL BE INELIGIBLE FOR OVERTIME AND TO MAKE  
3 TECHNICAL CORRECTIONS; AMENDING SECTION 67-5303, IDAHO CODE, TO REVISE  
4 A PROVISION REGARDING NONCLASSIFIED EMPLOYEES AND TO MAKE TECHNICAL  
5 CORRECTIONS; AND AMENDING SECTION 67-5328, IDAHO CODE, TO PROVIDE THAT  
6 ELECTED OFFICIALS SHALL BE INELIGIBLE FOR OVERTIME, TO PROVIDE THAT  
7 CERTAIN EMPLOYEES SHALL BE ELIGIBLE FOR OVERTIME, TO PROVIDE THAT CER-  
8 TAIN EMPLOYEES SHALL BE INELIGIBLE FOR OVERTIME AND TO MAKE TECHNICAL  
9 CORRECTIONS.  
10

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

12 SECTION 1. That Section 59-1607, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 59-1607. HOURS OF WORK AND OVERTIME. (1) It is the policy of the legis-  
15 lature of the state of Idaho that all classified and nonclassified officers  
16 and employees of the executive branch of state government shall be treated  
17 substantially similar with reference to hours of employment, holidays and  
18 vacation leave, except as provided in this chapter. For wage, hour and  
19 working conditions, the supreme court and the legislative council shall  
20 prescribe rules for employees of the judicial branch and the legislative  
21 branch, respectively. The policy of this state shall not restrict the ex-  
22 tension of regular work hour schedules on an overtime basis, which shall be  
23 the same for classified and nonclassified employees, in those activities and  
24 duties where such extension is necessary and authorized by the appointing  
25 authority.

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

30 ~~Classified and nonclassified officers and employees who fall~~  
31 ~~within one (1) or more of the following categories~~ Elected officials are  
32 ineligible for cash compensation or compensatory time for overtime work:

33 ~~(a) Elected officials; or~~

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

35 (4) Classified and nonclassified employees who are designated as exec-  
36 utive, as provided in section 67-5302, Idaho Code, and who are not included  
37 in the definition of subsection (3) of this section, shall be ineligible for  
38 compensatory time or cash compensation for overtime work. Such salaried  
39 employees shall report absences in excess of one-half (1/2) day. Unused  
40 compensatory time balances in excess of two hundred forty (240) hours as of  
41 the date of enactment of this act shall be forfeited on December 31, 2008.  
42 Unused compensatory time balances of two hundred forty (240) hours or less

1 shall be forfeited on December 31, 2006. Employees who become executives  
 2 within their current agency as set forth in section 67-5302(12), Idaho Code,  
 3 shall have twelve (12) months from the date of this act or of appointment,  
 4 whichever is later, to use any compensatory time balance. After twelve (12)  
 5 months, any remaining compensatory time will be forfeited. Compensatory  
 6 time is not transferable, and shall be forfeited at the time of transfer to  
 7 another appointing authority or upon separation from state service.

8 (5) Classified and nonclassified officers and employees who are desig-  
 9 nated as administrative or professional as provided in the federal fair la-  
 10 bor standards act, or who are designated as exempt under any other complete  
 11 exemption in federal law, and who are not included in the definition of sub-  
 12 section (3) of this section, shall be ineligible for cash compensation for  
 13 overtime work unless cash payment is authorized by the state board of exam-  
 14 iners for overtime accumulated during unusual or emergency situations, but  
 15 such classified and nonclassified officers and employees shall be allowed  
 16 compensatory time off from duty for overtime work. Such compensatory time  
 17 shall be earned and allowed on a one (1) hour for one (1) hour basis, shall  
 18 not be transferable, and shall be forfeited at the time of transfer to an-  
 19 other appointing authority or upon separation from state service. Compen-  
 20 satory time may be accrued and accumulated up to a maximum of two hundred  
 21 forty (240) hours. Effective with the first pay period in July, 2008 (begin-  
 22 ning date June 15, 2008), compensatory time balances in excess of two hundred  
 23 forty (240) hours will not continue to accrue until the balance is below the  
 24 maximum. After the last pay period in June, 2009 (ending date June 13, 2009),  
 25 balances in excess of two hundred forty (240) hours shall be forfeited.

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

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

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

48 67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state  
 49 of Idaho and all employees in such departments, except those employees

1 specifically defined as nonclassified, shall be classified employees, who  
 2 are subject to this chapter and to the system of personnel administration  
 3 which it prescribes. Nonclassified employees shall be:

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

7 (b) Members of statutory boards and commissions and heads of depart-  
 8 ments appointed by and serving at the pleasure of the governor, deputy direc-  
 9 tors appointed by the director and members of advisory boards and councils  
 10 appointed by the departments.

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

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

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

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

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

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

27 (i) Assistant attorneys general attached to the office of the attorney  
 28 general.

29 (j) Officers, members of the teaching staffs and the professional staff  
 30 of "state educational institutions" that include the university of Idaho,  
 31 Boise state university, Lewis-Clark state college, Idaho state university  
 32 and eastern Idaho technical college, the professional staff of the Idaho  
 33 department of education administered by the board of regents and the Idaho  
 34 state board of education, and the professional staffs of the Idaho division  
 35 of career technical education and vocational rehabilitation administered,  
 36 and the professional staff of Idaho public television, all of which are  
 37 governed by the Idaho state board for career technical of education. "Teach-  
 38 ing staff" includes teachers, coaches, resident directors, librarians and  
 39 those principally engaged in academic research. The word "officer" means  
 40 presidents, vice presidents, deans, directors, or employees in positions  
 41 designated by the Idaho state board of education who receive an annual salary  
 42 of not less than ~~step "A" of the pay grade equivalent~~ the equivalent to three  
 43 hundred ~~fifty-five~~ seventy-three (355373) Hay points in the state compensa-  
 44 tion schedule. An ~~nonclassified~~ employee who is has been designated as an  
 45 "officer" by a state educational institution as a nonclassified employee on  
 46 July 51, 19912017, but does not meet the requirements of this subsection,  
 47 may make a one (1) time irrevocable election to remain nonclassified. Such  
 48 an election must be made not later than August 21, 19912017. When such po-  
 49 sitions become vacant, these positions will be reviewed and designated as  
 50 either classified or nonclassified in accordance with this subsection.

- 1 (k) Employees of the military division.
- 2 (l) Patients, inmates or students employed in a state institution.
- 3 (m) Persons employed in positions established under federal grants,  
4 which, by law, restrict employment eligibility to specific individuals or  
5 groups on the basis of nonmerit selection requirements. Such employees  
6 shall be termed "project exempt" and the tenure of their employment shall  
7 be limited to the length of the project grant, or twenty-four (24) months,  
8 or four thousand one hundred sixty (4,160) hours of credited state service,  
9 whichever is of the shortest duration. No person hired on a project-exempt  
10 appointment shall be employed in any position allocated to the classified  
11 service.
- 12 (n) Temporary employees.
- 13 (o) All employees and officers of the following named commodity commis-  
14 sions, and all employees and officers of any commodity commission created  
15 hereafter: the Idaho potato commission, as provided in chapter 12, title  
16 22, Idaho Code; the Idaho honey commission, as provided in chapter 28, ti-  
17 tle 22, Idaho Code; the Idaho bean commission, as provided in chapter 29, ti-  
18 tle 22, Idaho Code; the Idaho hop grower's commission, as provided in chapter  
19 31, title 22, Idaho Code; the Idaho wheat commission, as provided in chap-  
20 ter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as pro-  
21 vided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as  
22 provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission,  
23 as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's com-  
24 mission, as provided in chapter 38, title 22, Idaho Code; the Idaho sheep and  
25 goat health board, as provided in chapter 1, title 25, Idaho Code; the state  
26 brand inspector, and all district supervisors, as provided in chapter 11,  
27 title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, ti-  
28 tle 25, Idaho Code; and the Idaho dairy products commission, as provided in  
29 chapter 31, title 25, Idaho Code.
- 30 (p) All inspectors of the fresh fruit and vegetable inspection service  
31 of the Idaho department of agriculture, except those positions involved in  
32 the management of the program.
- 33 (q) All employees of correctional industries within the department of  
34 correction.
- 35 (r) All deputy administrators and wardens employed by the department of  
36 correction. Deputy administrators are defined as only the deputy adminis-  
37 trators working directly for the nonclassified division administrators un-  
38 der the director of the department of correction.
- 39 (s) All public information positions, with the exception of secretar-  
40 ial positions, in any department.
- 41 (t) Any division administrator.
- 42 (u) Any regional administrator or division administrator in the de-  
43 partment of environmental quality.
- 44 (v) All employees of the division of financial management, all employ-  
45 ees of the ~~stem~~ STEM action center, all employees of the office of species  
46 conservation, all employees of the office of drug policy and all employees of  
47 the office of energy resources.
- 48 (w) All employees of the Idaho food quality assurance institute.

1 (x) The state appellate public defender, deputy state appellate public  
2 defenders and all other employees of the office of the state appellate public  
3 defender.

4 (y) All quality assurance specialists or medical investigators of the  
5 Idaho board of medicine.

6 (z) All pest survey and detection employees and their supervisors hired  
7 specifically to carry out activities under the Idaho plant pest act, chapter  
8 20, title 22, Idaho Code, including but not limited to pest survey, detec-  
9 tion and eradication, except those positions involved in the management of  
10 the program.

11 SECTION 3. 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 employees shall be treated substantially similar with reference to hours  
16 of employment. The policy of this state as declared in this act shall not  
17 restrict the extension of regular work hour schedules on an overtime ba-  
18 sis 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 Elected officials~~  
29 ~~are ineligible for cash compensation or compensatory time for overtime~~  
30 ~~work:~~

31 ~~(i) Elected officials; or~~

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

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

1 time of transfer to another appointing authority or upon separation  
2 from state service.

3 (c) Classified and nonclassified employees who are designated as ad-  
4 ministrative or professional, as provided in the federal fair labor  
5 standards act, 29 U.S.C. ~~section~~ 2017 et seq., or who are designated as  
6 exempt under any other complete exemption in federal law, and who are  
7 not included in the definition of either ~~subsection (3)~~ paragraph (a)  
8 or ~~(3)~~(b) of this subsection, shall be ineligible for cash compensa-  
9 tion for overtime work unless cash payment is authorized by the state  
10 board of examiners for overtime accumulated during unusual or emergency  
11 situations, but such classified and nonclassified employees shall be  
12 allowed compensatory time off from duty for overtime work. Such compen-  
13 satory time shall be earned and allowed on a one (1) hour for one (1) hour  
14 basis, shall not be transferable, and shall be forfeited at the time  
15 of transfer to another appointing authority or upon separation from  
16 state service. Compensatory time may be accrued and accumulated up to a  
17 maximum of two hundred forty (240) hours. Effective with the first pay  
18 period in July7 2008 (beginning date June 15, 2008), compensatory time  
19 balances in excess of two hundred forty (240) hours will not continue to  
20 accrue until the balance is below the maximum. After the last pay period  
21 in June7 2009 (ending date June 13, 2009), balances in excess of two  
22 hundred forty (240) hours shall be forfeited. The provisions of this  
23 paragraph shall apply to covered employees designated as exempt under  
24 the fair labor standards act prior to December 1, 2016.

25 (d) Classified employees who are not designated as executive, ad-  
26 ministrative or professional as provided in this section7 and who are  
27 not included in the definition of ~~subsection (3)~~ paragraph (a) of this  
28 subsection, or who are not designated as exempt under any other complete  
29 exemption in federal law, shall be eligible for cash compensation or  
30 compensatory time off from duty for overtime work, subject to the re-  
31 strictions of applicable federal law. Compensatory time off may be pro-  
32 vided in lieu of cash compensation at the discretion of the appointing  
33 authority after consultation, in advance, with the employee. Compen-  
34 satory time off shall be paid at the rate of one and one-half (1 1/2)  
35 hours for each overtime hour worked. Compensatory time off ~~which that~~  
36 has been earned during any one-half (1/2) fiscal year, but not taken  
37 by the end of the succeeding one-half (1/2) fiscal year, shall be paid  
38 in cash on the first payroll following the close of such succeeding  
39 one-half (1/2) fiscal year. Compensatory time not taken at the time of  
40 transfer to another appointing authority or upon separation from state  
41 service shall be liquidated at the time of such transfer or separation  
42 by payment in cash. The provisions of this paragraph shall not apply to  
43 covered employees designated as exempt under the fair labor standards  
44 act prior to December 1, 2016.

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

48 (4) Cash compensation for overtime, when paid, shall be at one and one-  
49 half (1 1/2) times the hourly rate of that officer's or employee's salary or  
50 wage, except for those employees whose positions fall within the definitions

1 of executive, administrative or professional as stated in section 67-5302,  
2 Idaho Code, who will be paid at their regular hourly rate of pay as provided  
3 for in subsection (3) of this section.

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