

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 452, As Amended in the Senate

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO THE TRANSFER OF SICK LEAVE AND STATE EDUCATIONAL AGENCIES;  
2 AMENDING SECTION 67-5302, IDAHO CODE, TO DEFINE TERMS AND TO MAKE TECH-  
3 NICAL CORRECTIONS; AMENDING SECTION 67-5333A, IDAHO CODE, TO REVISE  
4 PROVISIONS REGARDING THE TRANSFER OF ACCRUED SICK LEAVE FOR CERTAIN EM-  
5 PLOYEES; AND AMENDING SECTION 33-1217, IDAHO CODE, TO REVISE PROVISIONS  
6 REGARDING ACCRUED UNUSED SICK LEAVE.  
7

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

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

11 67-5302. DEFINITIONS. As used in this chapter, and other applicable  
12 sections of the Idaho Code, each of the terms defined in this section shall  
13 have the meaning given in this section unless a different meaning is clearly  
14 required by the context. Such terms and their definitions are:

15 (1) "Administrative employee" means any person, nonclassified or clas-  
16 sified appointed to a position which meets the criteria set forth in the fed-  
17 eral fair labor standards act, 29 U.S.C. section 201, et seq. Final des-  
18 ignation of a classified position as "administrative" within this defini-  
19 tion shall be made by the administrator of the division of human resources.  
20 Exceptions to this designation which do not violate the federal fair labor  
21 standards act, 29 U.S.C. section 201, et seq., may be made by the administra-  
22 tor.

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

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

28 (4) "Class" means a group of positions sufficiently similar as to the  
29 duties performed, degree of supervision exercised or required, minimum  
30 requirements of training, experience or skill, and other characteristics,  
31 that the same title, the same tests of fitness and the same schedule of com-  
32 pensation may be applied to each position in the group.

33 (5) "Classified officer or employee" means any person appointed to or  
34 holding a position in any department of the state of Idaho, which position  
35 is subject to the provisions of the merit examination, selection, retention,  
36 promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

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

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

40 (8) "Computer worker" means any person, nonclassified or classified,  
41 appointed to a position which meets the criteria set forth in the federal  
42 fair labor standards act, 29 U.S.C. section 201, et seq. Final designation

1 of a classified position as "computer worker" within this definition shall  
 2 be made by the administrator of the division of human resources. Exceptions  
 3 to this designation ~~which~~ that do not violate the federal fair labor stan-  
 4 dards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

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

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

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

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

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

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

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

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

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

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

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

35 (14) "Full-time employee" means any employee working a forty (40) hour  
 36 work week.

37 (15) "Holiday" means the following:

38 January 1 (New Year's Day);

39 Third Monday in January (Martin Luther King, Jr.-Idaho Human  
 40 Rights Day);

41 Third Monday in February (Washington's Birthday);

42 Last Monday in May (Memorial Day);

43 July 4 (Independence Day);

44 First Monday in September (Labor Day);

45 Second Monday in October (Columbus Day);

46 November 11 (Veterans Day);

47 Fourth Thursday in November (Thanksgiving);

48 December 25 (Christmas).

1 In addition, the term "holiday" shall mean any day so designated by the  
2 President of the United States or the governor of this state for a public  
3 fast, thanksgiving or holiday.

4 In the event that a holiday occurs on a Saturday, the preceding Friday  
5 shall be a holiday, and if the holiday falls on a Sunday, the following Monday  
6 shall be a holiday.

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

13 (16) "Hours worked" means those hours actually spent in the performance  
14 of the employee's job on any day including holidays, and shall not include  
15 vacation or sick leave or other approved leave of absence.

16 (17) "Nonclassified employee" means any person appointed to or holding  
17 a position in any department of the state of Idaho, which position is ex-  
18 empted from the provisions of chapter 53, title 67, Idaho Code, as provided  
19 for in section 67-5303, Idaho Code.

20 (18) "Normal work week" means any forty (40) hours worked during a par-  
21 ticular one hundred sixty-eight (168) hour period as previously established  
22 by the employee's appointing authority.

23 (19) "Open competitive examination" means an examination which may be  
24 taken by qualified applicants to compete on an equal basis for listing on the  
25 register of eligibles.

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

36 (21) "Participating department" means any department of the state of  
37 Idaho which employs persons in classified positions subject to the merit  
38 examination, selection, retention, promotion and dismissal requirements of  
39 this chapter.

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

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

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

3 (25) "Political organization" means a party ~~which~~ that sponsors candi-  
4 dates for election to political office.

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

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

15 (28) "Provisional appointment" means appointment to a classified posi-  
16 tion pending the establishment of a register for such position and employ-  
17 ment shall not be continued in this status longer than thirty (30) days after  
18 establishment of a register.

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

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

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

28 (312) "Seasonal appointment" means an appointment to a position ~~which~~  
29 that is permanent in nature, but ~~which~~ that has intermittent work periods  
30 throughout the year.

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

33 (334) "State educational agency" means the following state agencies  
34 and educational institutions supervised by the Idaho state board of educa-  
35 tion:

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

46 (35) "Temporary appointment" means appointment to a position ~~which~~ that  
47 is not permanent in nature, and in which employment will not exceed one thou-  
48 sand three hundred eighty-five (1,385) hours during any twelve (12) month  
49 period. No person holding a temporary appointment may work in excess of one  
50 thousand three hundred eighty-five (1,385) hours during a twelve (12) month

1 period of time for any one (1) department, except upon petition by the ap-  
 2 pointing authority of the department of lands that demonstrates good cause,  
 3 the administrator of the division of human resources may extend the one thou-  
 4 sand three hundred eighty-five (1,385) hour limit for employees of the de-  
 5 partment who are required to perform fire suppression activities.

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

9 (357) "Veteran" is as defined in section 65-502, Idaho Code.

10 SECTION 2. That Section 67-5333A, Idaho Code, be, and the same is hereby  
 11 amended to read as follows:

12 67-5333A. SICK LEAVE TRANSFERRED -- ~~COMMUNITY COLLEGES --~~  
 13 ~~STATE EMPLOYMENT PUBLIC EDUCATION ENTITY AND STATE EDUCATIONAL~~  
 14 ~~AGENCY~~. Notwithstanding any other provision of law to the contrary, any  
 15 ~~Any~~ employee who has ~~accrued sick leave while in the employment of one (1)~~  
 16 ~~of Idaho's community colleges and who, on or after January 1, 2012, is~~  
 17 ~~transferred to or otherwise~~ becomes an eligible employee of a state of Idaho  
 18 educational agency immediately following termination of employment with a  
 19 ~~community college~~ public education entity shall be credited by the state of  
 20 Idaho with the amount of any unused sick leave previously accrued and unused,  
 21 ~~up to a maximum of ninety (90) days,~~ upon commencement of state educational  
 22 agency employment. Any employee who becomes an eligible employee of a public  
 23 education entity immediately following termination of state educational  
 24 agency employment shall be credited by the public education entity with the  
 25 amount of sick leave accrued upon commencement of public education entity  
 26 employment. After such transfer, the use of sick leave shall be governed  
 27 by the laws and, rules and policies applicable to state employees and any  
 28 applicable policies of the state educational agency or public education  
 29 entity thereafter employing such employee.

30 SECTION 3. That Section 33-1217, Idaho Code, be, and the same is hereby  
 31 amended to read as follows:

32 33-1217. ~~ACCUMULATION OF ACCRUED~~ UNUSED SICK LEAVE -- TRANSFER -- ~~SICK~~  
 33 ~~LEAVE WHEN DISTRICTS DIVIDE OR CONSOLIDATE~~. Unused sick leave shall be ~~accu-~~  
 34 ~~mulated~~ accrued from year to year as long as an employee remains continuously  
 35 in the service of the same school district, including charter districts, ~~to~~  
 36 ~~ninety (90) days accumulation of leave~~. Termination of employment in any  
 37 district shall terminate sick leave rights, both current and ~~accumulated~~  
 38 accrued, except when such employee is employed by ~~another district or an-~~  
 39 ~~other~~ a public education entity or by a state educational agency, as such  
 40 terms are defined in section 67-5302, Idaho Code, during the school year im-  
 41 mediately following the year of termination or within three (3) school years  
 42 immediately following the year of termination if termination of employment  
 43 is due to a reduction in force; and the ~~accumulated~~ accrued sick leave up  
 44 to a maximum of ninety (90) days shall be secured for, and credited to, the  
 45 employee by the ~~district~~ public education entity or state educational agency  
 46 thereafter employing such employee. Any ~~employee employed by a school~~

1 ~~district who was employed by a state educational agency~~ employee or public  
2 education entity employee who obtains employment with a school district  
3 during the current or ~~prior~~ subsequent school year following termination  
4 shall be credited any unused sick leave ~~accumulated~~ accrued during state em-  
5 ployment up to a maximum of ninety (90) days. Whenever new school districts  
6 are formed by the consolidation or by the division of existing districts,  
7 the ~~accumulated~~ accrued sick leave of school district employees who continue  
8 in service in the new district or districts created by such consolidation  
9 or division shall have such ~~accumulated~~ accrued sick leave secured for and  
10 credited to them in such newly created district or districts.