

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 268

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO STATE EMPLOYEES; AMENDING SECTION 67-5303, IDAHO CODE, TO PRO-  
2 VIDE FOR EXECUTIVE EMPLOYEES TO BE NONCLASSIFIED EMPLOYEES; AMENDING  
3 SECTION 67-5302, IDAHO CODE, TO REVISE A DEFINITION; AND DECLARING AN  
4 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
5

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

7 SECTION 1. That Section 67-5303, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state  
10 of Idaho and all employees in such departments, except those employees  
11 specifically defined as nonclassified, shall be classified employees who  
12 are subject to this chapter and to the system of personnel administration  
13 it prescribes. All nonclassified employees are subject to conformity with  
14 classified positions as set forth in section 59-1603, Idaho Code. Nonclas-  
15 sified employees shall be:

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

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

23 (c) All employees and officers in the office, and at the residence, of  
24 the governor; and all employees and officers in the offices of the lieutenant  
25 governor, secretary of state, attorney general, state treasurer, state con-  
26 troller, and state superintendent of public instruction.

27 (d) Except as otherwise provided by law, one (1) declared position des-  
28 ignated by the appointing authority of a participating department, in addi-  
29 tion to those declared to be nonclassified by other provisions of law.

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

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

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

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

37 (i) Assistant attorneys general attached to the office of the attorney  
38 general.

39 (j) Officers, members of the teaching staffs of state higher educa-  
40 tional institutions, the professional staffs of the office of the state  
41 board of education and the Idaho department of education administered by the  
42 board of regents and the board of education, all professional staff of the

1 public charter school commission, and the professional staffs of the Idaho  
2 division of career technical education and vocational rehabilitation admin-  
3 istered by the state board for career technical education. "Teaching staff"  
4 includes teachers, coaches, resident directors, librarians and those prin-  
5 cipally engaged in academic research. The word "officer" means presidents,  
6 vice presidents, deans, directors, or employees in positions designated by  
7 the state board who receive an annual salary of not less than step A of the pay  
8 grade equivalent to three hundred fifty-five (355) Hay points in the state  
9 compensation schedule. In consultation with the Idaho division of human  
10 resources, the state board of education shall implement policies and pro-  
11 cedures for nonclassified employees to conform with section 59-1603, Idaho  
12 Code.

13 (k) Employees of the military division.

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

15 (m) Temporary employees.

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

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

36 (p) All employees of correctional industries within the department of  
37 correction.

38 (q) All deputy administrators and wardens employed by the department of  
39 correction. Deputy administrators are defined as only the deputy adminis-  
40 trators working directly for the nonclassified division administrators un-  
41 der the director of the department of correction.

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

44 (s) Any division administrator and all executive employees.

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

47 (u) All employees of the division of financial management, all employ-  
48 ees of the STEM action center, all employees of the office of species conser-  
49 vation, all employees of the office of drug policy, and all employees of the  
50 office of energy and mineral resources.

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

2 (w) All employees of the office of the state appellate public defender,  
3 pursuant to chapter 59, title 19, Idaho Code, and the office of the state pub-  
4 lic defender, pursuant to chapter 60, title 19, Idaho Code.

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

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

12 (z) All medical directors employed by the department of health and  
13 welfare who are engaged in the practice of medicine, as defined by section  
14 54-1803, Idaho Code, at a state hospital or other treatment facility managed  
15 and operated by the department of health and welfare.

16 (aa) All hearing officers and all other employees of the office of ad-  
17 ministrative hearings, as provided for in chapter 52, title 67, Idaho Code.

18 SECTION 2. That Section 67-5302, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 67-5302. DEFINITIONS. As used in this chapter and other applicable  
21 sections of the Idaho Code, each of the terms defined in this section shall  
22 have the meaning given in this section unless a different meaning is clearly  
23 required by the context. Such terms and their definitions are:

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

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

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

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

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

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

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

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

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

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

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

14 (12) (a) "Executive employee" means any person, ~~nonclassified or clas-~~  
15 ~~sified~~, appointed to a position equivalent to a bureau chief or above as  
16 provided in section 67-2402, Idaho Code, or any employee whose primary  
17 duty is management of a department, division or bureau and:

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

20 (ii) Who has the authority to hire and fire, or to recommend hiring  
21 and firing; or whose recommendation on these and other actions af-  
22 fecting employees is given particular weight; and

23 (iii) Who customarily and regularly exercises discretionary pow-  
24 ers.

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

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

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

37 (15) (a) "Holiday" means any day so designated by the president of the  
38 United States or the governor of this state for a public fast, thanks-  
39 giving or holiday. Holidays are enumerated in section 73-108, Idaho  
40 Code.

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

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

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

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

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

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

14 (20) "Overtime work" means:

15 (a) Time worked on holidays and time worked in excess of forty (40)  
16 hours in a period of one hundred sixty-eight (168) consecutive hours;

17 (b) Upon designation from the administrator and in the case of those  
18 employees engaged in law enforcement, correctional, and fire protec-  
19 tion activities characterized by irregular shift work schedules, time  
20 worked in excess of one hundred sixty (160) hours in a period of twenty-  
21 eight (28) consecutive days;

22 (c) Upon designation from the administrator and in the case of certain  
23 employees who meet federal exemption requirements, time worked in ex-  
24 cess of eighty (80) hours within a period of fourteen (14) consecutive  
25 days; or

26 (d) Time worked by employees during specific hours in addition to their  
27 normal schedules upon emergency declaration by the governor or with the  
28 approval of the appointing authority and the board of examiners.

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

32 (22) "Part-time employee" means any employee whose usually scheduled  
33 work is fewer than forty (40) hours in a period of one hundred sixty-eight  
34 (168) consecutive hours and who is not entitled to sick leave accruals pro-  
35 vided in section 67-5333, Idaho Code, vacation leave provided in section  
36 67-5334, Idaho Code, or holiday pay as defined in subsection (15) of this  
37 section, unless contributions are being made to the public employee retire-  
38 ment system in accordance with chapter 13, title 59, Idaho Code, and rules  
39 promulgated by the public employee retirement system board.

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

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

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

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

49 (27) "Professional employee" means any person, nonclassified or clas-  
50 sified, appointed to a position that meets the criteria set forth in the fed-

1 eral fair labor standards act, 29 U.S.C. 201 et seq. Final designation of a  
2 classified position as professional shall be made by the administrator. Ex-  
3 ceptions to this designation that do not violate the federal fair labor stan-  
4 dards act, 29 U.S.C. 201 et seq., may be made by the administrator.

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

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

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

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

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

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

22 (a) Boise state university;

23 (b) Idaho state university;

24 (c) University of Idaho;

25 (d) Lewis-Clark state college;

26 (e) Idaho public television;

27 (f) The division of vocational rehabilitation;

28 (g) The division of career technical education;

29 (h) The office of the state board of education;

30 (i) The state department of education; and

31 (j) The public charter school commission.

32 (34) "Temporary appointment" means appointment to a position that is  
33 not permanent in nature and in which employment will not exceed one thousand  
34 three hundred eighty-five (1,385) hours during any twelve (12) month period.  
35 No person holding a temporary appointment may work in excess of one thousand  
36 three hundred eighty-five (1,385) hours during a twelve (12) month period  
37 of time for any one (1) department; provided, however, upon petition by the  
38 appointing authority that demonstrates good cause, the administrator of  
39 the division of human resources may extend the one thousand three hundred  
40 eighty-five (1,385) hour limit for:

41 (a) Employees of the department of lands who are required to perform  
42 fire suppression activities; and

43 (b) Employees hired under approved apprenticeship programs.

44 (35) "Vacation leave" means a period of exemption from work during which  
45 employees shall be compensated. The term shall not include compensatory  
46 time for overtime work.

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

48 SECTION 3. An emergency existing therefor, which emergency is hereby  
49 declared to exist, this act shall be in full force and effect on and after  
50 July 1, 2025.