

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 452

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO SICK LEAVE; AMENDING SECTION 33-1217, IDAHO CODE, TO PROVIDE
2 THAT AN EMPLOYEE EMPLOYED BY A STATE EDUCATIONAL AGENCY SHALL BE CRED-
3 ITED CERTAIN UNUSED SICK LEAVE AND TO MAKE TECHNICAL CORRECTIONS; AND
4 AMENDING SECTION 67-5333, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
5 CERTAIN SICK LEAVE CREDITS, TO PROVIDE FOR THE APPLICATION OF LAW AND
6 TO ESTABLISH A MAXIMUM UNUSED SICK LEAVE AND TO MAKE TECHNICAL CORREC-
7 TIONS.
8

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

10 SECTION 1. That Section 33-1217, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 33-1217. ACCUMULATION OF UNUSED SICK LEAVE -- TRANSFER -- SICK LEAVE
13 WHEN DISTRICTS DIVIDE OR CONSOLIDATE. Unused sick leave shall be accumu-
14 lated from year to year as long as an employee remains continuously in the
15 service of the same school district, including charter districts, to ninety
16 (90) days accumulation of leave. Termination of employment in any district
17 shall terminate sick leave rights, both current and accumulated, except when
18 such employee is employed by another district or another state educational
19 agency during the school year immediately following the year of termination
20 or within three (3) school years immediately following the year of termi-
21 nation if termination of employment is due to a reduction in force; and the
22 accumulated leave up to a maximum of ninety (90) days shall be secured for,
23 and credited to, the employee by the district or state educational agency
24 thereafter employing such employee. Any employee employed by a school dis-
25 trict who was employed by a state educational agency during the current or
26 prior school year shall be credited any unused sick leave accumulated during
27 state employment up to a maximum of ninety (90) days. Whenever new school
28 districts are formed by the consolidation or by the division of existing dis-
29 tricts, the accumulated sick leave of school district employees who continue
30 in service in the new district or districts created by such consolidation or
31 division shall have such accumulated sick leave secured for₇ and credited
32 to₇ them in such newly created district₇ or districts.

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

35 67-5333. SICK LEAVE. (1) Sick leave shall be computed as follows:
36 (a) The rate per hour at which sick leave shall accrue to classified of-
37 ficers and employees earning credited state service shall be at the rate
38 represented by the proportion 96/2080. Sick leave shall accrue without
39 limit₇ and shall be transferable from department to department.

1 (b) Sick leave shall not accrue to any officer or employee on any kind
2 of leave of absence without pay, suspension without pay or layoff. Sick
3 leave shall accrue while an officer or employee is on approved leave
4 with pay, on approved vacation leave, on approved military leave with
5 pay, and on approved sick leave, but not when compensatory time is
6 taken.

7 (c) All accrued sick leave shall be forfeited at the time of separa-
8 tion from state service and no officer or employee shall be reimbursed
9 for accrued sick leave at the time of separation, except as provided in
10 subsection (2) of this section. If such officer or employee returns
11 to credited state service within three (3) years of such separation,
12 all sick leave credits accrued at the time of separation shall be rein-
13 stated, except to the extent that unused sick leave was utilized for the
14 purposes specified in subsection (2) of this section or transferred to a
15 school district or charter district pursuant to section 33-1217, Idaho
16 Code.

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

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

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

28 (g) The administrator shall prescribe additional requirements for sick
29 leave for classified officers and employees on a part-time or irregular
30 schedule, for maintaining sick leave records, for funeral leave, and
31 such other applicable purposes as necessary.

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

33 (a) Upon separation from state employment by retirement in accordance
34 with chapter 13, title 59, or chapter 1, title 33, Idaho Code, an em-
35 ployee's unused sick leave shall be determined based on accumulated
36 sick leave earned subsequent to July 1, 1976, and shall be reported by
37 the employer to the public employee retirement system. Upon separation
38 from state employment by retirement in accordance with chapter 20, ti-
39 tle 1, Idaho Code, an employee's unused sick leave shall be determined
40 based on accumulated sick leave earned subsequent to July 1, 2000, and
41 shall be reported by the employer to the public employee retirement
42 system. A sum equal to one-half (1/2), or the maximum amount allowed
43 by paragraph (b) of this subsection ~~(2)~~, whichever is the lesser, of
44 the monetary value of such unused sick leave, calculated at the rate
45 of pay for such employee at the time of retirement, as determined by
46 the retirement board, shall be transferred from the sick leave account
47 provided by paragraph (c) of this subsection ~~(2)~~ and shall be credited
48 to such employee's retirement account. Such sums shall be used by the
49 Idaho public employee retirement board to pay premiums, as permitted by
50 and subject to applicable federal tax laws and limits, for such health,

1 dental, vision, long-term care, prescription drug and life insurance
2 programs as may be maintained by the state, to the extent of the funds
3 credited to the employee's account pursuant to this section. Upon an
4 employee's death, any unexpended sums remaining in the account shall
5 revert to the sick leave account.

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

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

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

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

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

19 (v) For any employees of a state educational agency with unused
20 sick leave that includes sick leave credited pursuant to section
21 33-1217, Idaho Code, the credited state service requirements of
22 subsection (2) (b) (i) through (iv) of this section shall not apply,
23 but the maximum unused sick leave which may be considered shall be
24 six hundred (600) hours.

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