

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 549

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION AND GOVERNMENTAL SERVICES; AMENDING SECTION 6-902,
2 IDAHO CODE, TO REVISE A DEFINITION AND TO DEFINE A TERM; AMENDING
3 SECTION 6-919, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A STATE
4 PUBLIC INSTITUTION OF HIGHER EDUCATION PURCHASING LIABILITY INSURANCE;
5 AMENDING SECTION 6-920, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
6 A STATE PUBLIC INSTITUTION OF HIGHER EDUCATION PURCHASING LIABILITY
7 INSURANCE; AMENDING SECTION 33-107, IDAHO CODE, TO PROVIDE THAT THE
8 STATE BOARD OF EDUCATION MAY APPROVE THE WITHDRAWAL OF A STATE PUBLIC
9 INSTITUTION OF HIGHER EDUCATION FROM USE OF A STATE SERVICE; AMEND-
10 ING SECTION 33-3727, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE;
11 AMENDING SECTION 59-1607, IDAHO CODE, TO REVISE PROVISIONS RELATING
12 TO CASH COMPENSATION OR COMPENSATORY TIME; AMENDING SECTION 67-3610,
13 IDAHO CODE, TO REMOVE LANGUAGE REFERRING TO THE UNIVERSITY OF IDAHO AND
14 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5303, IDAHO CODE,
15 TO REVISE PROVISIONS RELATING TO NONCLASSIFIED EMPLOYEES, TO PROVIDE A
16 REFERENCE TO THE PROFESSIONAL STAFF OF THE OFFICE OF THE STATE BOARD OF
17 EDUCATION AND TO DEFINE A TERM; AMENDING SECTION 67-5328, IDAHO CODE,
18 TO REVISE PROVISIONS RELATING TO CASH COMPENSATION OR COMPENSATORY
19 TIME; AMENDING SECTION 67-5711, IDAHO CODE, TO ESTABLISH PROVISIONS
20 RELATING TO A STATE PUBLIC INSTITUTION OF HIGHER EDUCATION WITHDRAWING
21 FROM CERTAIN SERVICES; AMENDING SECTION 67-5745A, IDAHO CODE, TO REVISE
22 DEFINITIONS; AMENDING SECTION 67-5747, IDAHO CODE, TO REMOVE LANGUAGE
23 REFERRING TO INSTITUTIONS OF HIGHER EDUCATION RELATING TO CERTAIN DU-
24 TIES OF THE DEPARTMENT OF ADMINISTRATION AND TO PROVIDE THAT THE STATE
25 BOARD OF EDUCATION MAY REQUEST THE DEPARTMENT OF ADMINISTRATION TO
26 PROVIDE SERVICES; AMENDING SECTION 67-5761, IDAHO CODE, TO ESTABLISH
27 PROVISIONS RELATING TO A STATE PUBLIC INSTITUTION OF HIGHER EDUCATION
28 WITHDRAWING FROM CERTAIN SERVICES AND TO MAKE A TECHNICAL CORRECTION;
29 AMENDING SECTION 67-5773, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING
30 TO A STATE PUBLIC INSTITUTION OF HIGHER EDUCATION WITHDRAWING FROM CER-
31 TAIN SERVICES; AND PROVIDING SEVERABILITY.
32

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

34 SECTION 1. That Section 6-902, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 6-902. DEFINITIONS. As used in this act:

37 1. "State" means the state of Idaho or any office, department, agency,
38 authority, commission, board, institution, hospital, college, univer-
39 sity, state public institution of higher education or other instrumentality
40 thereof.

41 2. "Political subdivision" means any county, city, municipal corpo-
42 ration, health district, school district, irrigation district, an operat-

1 ing agent of irrigation districts whose board consists of directors of its
 2 member districts, special improvement or taxing district, or any other po-
 3 litical subdivision or public corporation. As used in this act, the terms
 4 "county" and "city" also mean state licensed hospitals and attached nursing
 5 homes established by counties pursuant to chapter 36, title 31, Idaho Code,
 6 or jointly by cities and counties pursuant to chapter 37, title 31, Idaho
 7 Code.

8 3. "Governmental entity" means and includes the state and political
 9 subdivisions as herein defined.

10 4. "Employee" means an officer, board member, commissioner, execu-
 11 tive, employee, or servant of a governmental entity, including elected or
 12 appointed officials, and persons acting on behalf of the governmental entity
 13 in any official capacity, temporarily or permanently in the service of the
 14 governmental entity, whether with or without compensation, but the term
 15 employee shall not mean a person or other legal entity while acting in the
 16 capacity of an independent contractor under contract to the governmental
 17 entity to which this act applies in the event of a claim.

18 5. "Bodily injury" means any bodily injury, sickness, disease or death
 19 sustained by any person and caused by an occurrence.

20 6. "Property damage" means injury or destruction to tangible property
 21 caused by an occurrence.

22 7. "Claim" means any written demand to recover money damages from a gov-
 23 ernmental entity or its employee which any person is legally entitled to re-
 24 cover under this act as compensation for the negligent or otherwise wrongful
 25 act or omission of a governmental entity or its employee when acting within
 26 the course or scope of his employment.

27 8. "State public institution of higher education" means the university
 28 of Idaho, Boise state university, Idaho state university and Lewis-Clark
 29 state college.

30 SECTION 2. That Section 6-919, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 6-919. LIABILITY INSURANCE FOR STATE -- COMPREHENSIVE PLAN BY DIVI-
 33 SION OF INSURANCE MANAGEMENT. The administrator of the division of insurance
 34 management in the department of administration shall provide a comprehen-
 35 sive liability plan which will cover and protect the state and its employees
 36 from claims and civil lawsuits. He shall be responsible for the acquisition
 37 and administration of all liability insurance of the state or for the use of
 38 the retained risk account provided in section 67-5776, Idaho Code, to meet
 39 the obligations of the comprehensive liability plan.

40 The administrator shall, after consultation with the departments,
 41 agencies, commissions, and other instrumentalities of the state, provide a
 42 comprehensive liability plan for the state providing liability coverage to
 43 the state and its employees in amounts not less than the minimum specified in
 44 section 6-924, Idaho Code. He shall have the authority to use the retained
 45 risk account provided in section 67-5776, Idaho Code, or to purchase, renew,
 46 cancel and modify all policies according to the comprehensive liability
 47 plan.

48 Notwithstanding the foregoing, upon approval of the state board of
 49 education as provided in section 33-107(4), Idaho Code, a state public in-

1 stitution of higher education, as defined in section 6-902(8), Idaho Code,
 2 may withdraw from services provided for in this section. Liability insur-
 3 ance purchased shall be in an amount not less than the minimum specified in
 4 section 6-924, Idaho Code. A state public institution of higher education
 5 may again participate in said services following withdrawal under mutually
 6 agreed upon terms with the administrator of the division of insurance man-
 7 agement in the department of administration.

8 SECTION 3. That Section 6-920, Idaho Code, be, and the same is hereby
 9 amended to read as follows:

10 6-920. LIABILITY INSURANCE FOR STATE PROCURED BY DIVISION OF INSUR-
 11 ANCE MANAGEMENT. Except as otherwise provided by law, nNo state agency or in-
 12 stitution other than the administrator of the division of insurance manage-
 13 ment in the department of administration may procure liability insurance un-
 14 der this act. All state agencies and institutions shall comply with this act
 15 and the comprehensive liability plan developed by the administrator of the
 16 division.

17 Notwithstanding the foregoing, upon approval of the state board of edu-
 18 cation as set forth in section 33-107(4), Idaho Code, a state public insti-
 19 tution of higher education, as defined in section 6-902(8), Idaho Code, may
 20 purchase liability insurance as provided for in this section. A state public
 21 institution of higher education may again participate in said services fol-
 22 lowing withdrawal under mutually agreed upon terms with the administrator of
 23 the division.

24 SECTION 4. That Section 33-107, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 33-107. GENERAL POWERS AND DUTIES OF THE STATE BOARD. The state board
 27 shall have power to:

28 (1) Perform all duties prescribed for it by the school laws of the
 29 state;

30 (2) Acquire, hold and dispose of title, rights and interests in real and
 31 personal property;

32 (3) Have general supervision, through its executive departments and
 33 offices, of all entities of public education supported in whole or in part by
 34 state funds;

35 (4) Approve the withdrawal of a state public institution of higher
 36 education, as defined in section 6-902(8), Idaho Code, from use of a state
 37 service based upon fiscal savings as authorized by law; provided however,
 38 that following approval, said institution shall provide eighteen (18)
 39 months' prior written notice to the agency providing the service and the
 40 withdrawal shall commence on the first day of the next fiscal year following
 41 the notification period or a date mutually agreed upon by the institution and
 42 the agency impacted.

43 (5) (a) Delegate to its executive secretary, to its executive officer,
 44 or to such other administrators as the board may appoint, such powers as
 45 said officers require to carry out and administer the policies, orders
 46 and directives of the board;

1 (b) Delegate to its executive officer, if necessary to enhance ef-
 2 fectiveness and efficiency, such powers as he requires to exercise
 3 discretionary authority and to perform duties vested in the state board
 4 related to the operation, control and management of Idaho's state uni-
 5 versities and colleges and other agencies under the supervision and
 6 governance of the state board, and to perform duties and render deci-
 7 sions prescribed to the state board involving the exercise of judgment
 8 and discretion that affect the public schools in Idaho;

9 (c) Delegate to the presidents of Idaho's state universities and col-
 10 leges, if necessary to enhance effectiveness and efficiency, such pow-
 11 ers as said officers require to exercise discretionary authority and to
 12 perform duties vested in the state board related to the operation, con-
 13 trol and management of Idaho's state universities and colleges;

14 (d) Delegate to its executive secretary, the superintendent of public
 15 instruction, if necessary to enhance effectiveness and efficiency,
 16 such powers as he requires to perform duties and render decisions
 17 prescribed to the state board involving the exercise of judgment and
 18 discretion that affect the public schools in Idaho;

19 (e) Delegations of powers under this subsection must be adopted as
 20 statements of agency action by the state board, as provided in section
 21 33-105(2), Idaho Code, and pursuant to a process that provides for no-
 22 tice, opportunity for input and formal adoption by the state board;

23 (~~56~~) Through its executive departments and offices:

24 (a) Enforce the school laws of the state,

25 (b) Study the educational conditions and needs of the state and recom-
 26 mend to the legislature needed changes in existing laws or additional
 27 legislation;

28 (~~67~~) In addition to the powers conferred by chapter 24, title 33, Idaho
 29 Code:

30 (a) Maintain a register of postsecondary educational institutions ap-
 31 proved to provide programs and courses that lead to a degree or which
 32 provide, offer and sell degrees in accordance with the procedures es-
 33 tablished in chapter 24, title 33, Idaho Code,

34 (b) Determine whether to accept academic credit at public postsec-
 35 ondary educational institutions in Idaho. Academic credit shall not
 36 be transferred into any Idaho public postsecondary institution from a
 37 postsecondary educational institution or other entity that is not ac-
 38 credited by an organization recognized by the board,

39 (c) Maintain a register of proprietary schools approved to conduct,
 40 provide, offer or sell a course or courses of study in accordance with
 41 the procedures established in chapter 24, title 33, Idaho Code;

42 (~~78~~) Prescribe the courses and programs of study to be offered at the
 43 public institutions of higher education, after consultation with the presi-
 44 dents of the affected institutions;

45 (~~89~~) Approve new courses and programs of study to be offered at commu-
 46 nity colleges organized pursuant to chapter 21, title 33, Idaho Code, when
 47 the courses or programs of study are academic in nature and the credits de-
 48 rived therefrom are intended to be transferable to other state institutions
 49 of higher education for credit toward a baccalaureate degree, and when the

1 courses or programs of study have been authorized by the board of trustees of
2 the community college.

3 SECTION 5. That Section 33-3727, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 33-3727. MILITARY EDUCATION, TRAINING AND SERVICE -- AWARD OF ACA-
6 DEMIC CREDIT -- DEVELOPMENT OF POLICIES. Notwithstanding the provisions
7 of section 33-107(~~67~~) (b), Idaho Code, the state board of education, the
8 board of regents of the university of Idaho, a board of trustees of a com-
9 munity college established pursuant to the provisions of section 33-2106,
10 Idaho Code, and the state board for professional-technical education shall
11 develop policies relating to the award of academic credit for education,
12 training or service completed by an individual as a member of the armed
13 forces or reserves of the United States, the national guard of any state,
14 the military reserves of any state or the naval militia of any state, where
15 such education, training or service is determined to satisfy such estab-
16 lished policies. The boards shall work cooperatively with one another and
17 with other state agencies as needed in the development of such policies. The
18 boards are authorized to adopt rules as necessary for the administration of
19 the provisions of this section.

20 SECTION 6. That Section 59-1607, Idaho Code, be, and the same is hereby
21 amended to read as follows:

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

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

38 (3) Classified and nonclassified officers and employees who ~~fall~~
39 ~~within one (1) or more of the following categories are elected officials~~ are
40 ineligible for cash compensation or compensatory time for overtime work:

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

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

43 (4) Classified and nonclassified employees who are designated as exec-
44 utive, as provided in section 67-5302, Idaho Code, and who are not included
45 in the definition of subsection (3) of this section, shall be ineligible for
46 compensatory time or cash compensation for overtime work. Such salaried
47 employees shall report absences in excess of one-half (1/2) day. Unused

1 compensatory time balances in excess of two hundred forty (240) hours as of
2 the date of enactment of this act shall be forfeited on December 31, 2008.
3 Unused compensatory time balances of two hundred forty (240) hours or less
4 shall be forfeited on December 31, 2006. Employees who become executives
5 within their current agency as set forth in section 67-5302(12), Idaho Code,
6 shall have twelve (12) months from the date of this act or of appointment,
7 whichever is later, to use any compensatory time balance. After twelve (12)
8 months, any remaining compensatory time will be forfeited. Compensatory
9 time is not transferable, and shall be forfeited at the time of transfer to
10 another appointing authority or upon separation from state service.

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

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

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

49 SECTION 7. That Section 67-3610, Idaho Code, be, and the same is hereby
50 amended to read as follows:

1 67-3610. ~~UNIVERSITY OF IDAHO~~ ANNUAL AUDITED FINANCIAL STATE-
 2 MENT. As a condition to availability of appropriations made to it, and to
 3 institutions and activities under its control or supervision, the state
 4 board of education and board of regents of the ~~U~~university of Idaho shall
 5 file with the state controller on or before a date mutually agreed upon by
 6 the state controller and the state board of education and board of regents of
 7 the university of Idaho, an audited financial statement showing receipt of
 8 moneys from state and federal appropriations, endowment funds, local and in-
 9 stitutional incomes, or from any other source, made to it and to institutions
 10 and activities under its control or supervision.

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

13 67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state
 14 of Idaho and all employees in such departments, except those employees
 15 specifically defined as nonclassified, shall be classified employees, who
 16 are subject to this chapter and to the system of personnel administration
 17 which it prescribes. Nonclassified employees shall be:

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

21 (b) Members of statutory boards and commissions and heads of depart-
 22 ments appointed by and serving at the pleasure of the governor, deputy direc-
 23 tors appointed by the director and members of advisory boards and councils
 24 appointed by the departments.

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

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

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

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

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

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

41 (i) Assistant attorneys general attached to the office of the attorney
 42 general.

43 (j) All oOfficers, members of the teaching staffs employees of state
 44 educational institutions designated by the board as nonclassified, the pro-
 45 fessional staff of the office of the state board of education and the Idaho
 46 department of education administered by the board of regents and the board
 47 of education, and the professional staffs of the Idaho division of profes-
 48 sional-technical education and vocational rehabilitation administered by
 49 the state board for professional-technical education. ~~"Teaching staff" in-~~

1 ~~cludes teachers, coaches, resident directors, librarians and those princi-~~
 2 ~~pally engaged in academic research. The word term "officer" means presi-~~
 3 ~~dents, vice presidents, deans, directors, or employees in positions desig-~~
 4 ~~nated by the state board who receive an annual salary of not less than step~~
 5 ~~"A" of the pay grade equivalent to three hundred fifty-five (355) Hay points~~
 6 ~~in the state compensation schedule. A nonclassified employee who is desig-~~
 7 ~~nated as an "officer" on July 5, 1991, but does not meet the requirements~~
 8 ~~of this subsection, may make a one (1) time irrevocable election to remain~~
 9 ~~nonclassified. Such an election must be made not later than August 2, 1991.~~
 10 ~~When such positions become vacant, these positions will be reviewed and desig-~~
 11 ~~nated as either classified or nonclassified in accordance with this sub-~~
 12 ~~section. As used in this section, "professional staff" means any employee~~
 13 ~~in a position whose primary responsibilities require the exercise of discre-~~
 14 ~~tion and independent judgment as determined by the state board of education.~~

15 (k) Employees of the military division.

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

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

26 (n) Temporary employees.

27 (o) All employees and officers of the following named commodity commis-
 28 sions, and all employees and officers of any commodity commission created
 29 hereafter: the Idaho potato commission, as provided in chapter 12, title 22,
 30 Idaho Code; the Idaho honey advertising commission, as provided in chapter
 31 28, title 22, Idaho Code; the Idaho bean commission, as provided in chapter
 32 29, title 22, Idaho Code; the Idaho hop grower's commission, as provided in
 33 chapter 31, title 22, Idaho Code; the Idaho wheat commission, as provided
 34 in chapter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as
 35 provided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as
 36 provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission,
 37 as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's com-
 38 mission, as provided in chapter 38, title 22, Idaho Code; the Idaho sheep and
 39 goat health board, as provided in chapter 1, title 25, Idaho Code; the state
 40 brand inspector, and all district supervisors, as provided in chapter 11,
 41 title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, ti-
 42 tle 25, Idaho Code; and the Idaho dairy products commission, as provided in
 43 chapter 31, title 25, Idaho Code.

44 (p) All inspectors of the fresh fruit and vegetable inspection service
 45 of the Idaho department of agriculture, except those positions involved in
 46 the management of the program.

47 (q) All employees of correctional industries within the department of
 48 correction.

49 (r) All deputy administrators and wardens employed by the department of
 50 correction. Deputy administrators are defined as only the deputy adminis-

1 trators working directly for the nonclassified division administrators un-
2 der the director of the department of correction.

3 (s) All public information positions with the exception of secretarial
4 positions, in any department.

5 (t) Any division administrator.

6 (u) Any regional administrator or division administrator in the de-
7 partment of environmental quality.

8 (v) All employees of the division of financial management.

9 (w) All employees of the Idaho food quality assurance institute.

10 (x) The state appellate public defender, deputy state appellate public
11 defenders and all other employees of the office of the state appellate public
12 defender.

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

15 (z) All pest survey and detection employees and their supervisors hired
16 specifically to carry out activities under the Idaho plant pest act, chapter
17 20, title 22, Idaho Code, including but not limited to pest survey, detec-
18 tion and eradication, except those positions involved in the management of
19 the program.

20 SECTION 9. That Section 67-5328, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 67-5328. HOURS OF WORK AND OVERTIME. (1) It is hereby declared to
23 be the policy of the legislature of the state of Idaho that all classified
24 employees shall be treated substantially similar with reference to hours
25 of employment. The policy of this state as declared in this act shall not
26 restrict the extension of regular work hour schedules on an overtime ba-
27 sis in those activities and duties where such extension is necessary and
28 authorized, provided that overtime work performed under such extension is
29 compensated for as hereinafter provided.

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

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

36 (a) Classified and nonclassified officers and employees who ~~fall~~
37 ~~within one (1) or more of the following categories~~ are elected officials
38 are ineligible for cash compensation or compensatory time for overtime
39 work:

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

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

43 (b) Classified and nonclassified employees who are designated as ex-
44 ecutive, as provided in section 67-5302, Idaho Code, and who are not
45 included in the definition of subsection (3) (a) of this section, shall
46 be ineligible for compensatory time or cash compensation for overtime
47 work. Such salaried employees shall report absences in excess of one-
48 half (1/2) day. Unused compensatory time balances in excess of two hun-
49 dred forty (240) hours as of the date of enactment of this act shall be

1 forfeited on December 31, 2008. Unused compensatory time balances of
2 two hundred forty (240) hours or less shall be forfeited on December 31,
3 2006. Employees who become executives within their current agency as
4 set forth in section 67-5302(12), Idaho Code, shall have twelve (12)
5 months from the date of this act or of appointment, whichever is later,
6 to use any compensatory time balance. After twelve (12) months, any re-
7 maining compensatory time will be forfeited. Compensatory time is not
8 transferable, and shall be forfeited at the time of transfer to another
9 appointing authority or upon separation from state service.

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

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

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

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

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

11 SECTION 10. That Section 67-5711, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 67-5711. CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND REPAIR
14 OF PUBLIC BUILDINGS AND WORKS. (1) The director of the department of admin-
15 istration, or his designee, of the state of Idaho, is authorized and empow-
16 ered, subject to the approval of the permanent building fund advisory coun-
17 cil, to provide or secure all plans and specifications for, to let all con-
18 tracts for, and to have charge of and supervision of the construction, alter-
19 ation, equipping and furnishing, repair, maintenance other than preventive
20 maintenance of any and all buildings, improvements of public works of the
21 state of Idaho, the cost of which construction, alteration, equipping and
22 furnishing, repair, maintenance other than preventive maintenance exceeds
23 the sum of one hundred thousand dollars (\$100,000) for labor, materials and
24 equipment, which sum shall exclude design costs, bid advertising and related
25 bidding expenses, provided, that the director or his designee, and perma-
26 nent building fund advisory council shall, in the letting of contracts un-
27 der this section, comply with the procedure for the calling of bids provided
28 in section 67-5711C, Idaho Code; provided, however, that this section shall
29 not apply to the construction, alteration, equipping or furnishing or repair
30 or maintenance other than preventive maintenance of public buildings under
31 the jurisdiction and control of the board of regents of the university of
32 Idaho; provided further, that the bidding procedures required by this sec-
33 tion and section 67-5711C, Idaho Code, shall not apply to performance con-
34 tracts as provided in section 67-5711D, Idaho Code; provided further, that
35 public works for the Idaho transportation department, the department of fish
36 and game, the department of parks and recreation, the department of lands,
37 and the department of water resources and water resource board, except for
38 administrative office buildings and all associated improvements, are exempt
39 from the provisions of this section that relate to the administration and re-
40 view of such projects by the director of the department of administration or
41 his designee and by the permanent building fund advisory council. This ex-
42 emption shall not relieve the Idaho transportation department, the depart-
43 ment of fish and game, the department of parks and recreation, the depart-
44 ment of lands, and the department of water resources and water resource board
45 in the letting of contracts for public works, from complying with the proce-
46 dures of section 67-5711C, Idaho Code, related to the advertising and bid-
47 ding for contracts. The permanent building fund advisory council may adopt
48 rules consistent with existing law, including rules for a program of inspec-
49 tion and maintenance, to carry out the provisions of this chapter.

1 (2) Notwithstanding the foregoing, upon approval of the state board of
 2 education as set forth in section 33-107(4), Idaho Code, a state public in-
 3 stitution of higher education, as defined in section 6-902(8), Idaho Code,
 4 may withdraw from services provided for in this section. A state public in-
 5 stitution of higher education may again participate in said services follow-
 6 ing withdrawal under mutually agreed upon terms with the director of the de-
 7 partment of administration or his designee.

8 SECTION 11. That Section 67-5745A, Idaho Code, be, and the same is
 9 hereby amended to read as follows:

10 67-5745A. DEFINITIONS. As used in ~~this chapter~~ sections 67-5745A
 11 through 67-5748, Idaho Code:

12 (1) "Information technology" means all present and future forms of com-
 13 puter hardware, computer software and services used or required for auto-
 14 mated data processing, computer-related office automation or telecommuni-
 15 cations.

16 (2) "State agencies" means all state agencies or departments, boards,
 17 commissions, ~~and councils and institutions of higher education,~~ but shall
 18 not include the elected constitutional officers and their staffs, the legis-
 19 lature and its staffs, ~~or~~ the judiciary or the state public institutions of
 20 higher education pursuant to section 6-902, Idaho Code.

21 (3) "Telecommunications" means all present and future forms of hard-
 22 ware, software or services used or required for transmitting voice, data,
 23 video or images over a distance.

24 SECTION 12. That Section 67-5747, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 67-5747. POWERS AND DUTIES. (1) The department of administration is
 27 hereby authorized and directed:

28 (a) (i) To control and approve the acquisition and installation of all
 29 communications equipment and facilities for all departments and
 30 institutions of state government, except as provided in subpara-
 31 graphs (ii), (iii) and (iv) of this subsection;

32 (ii) To coordinate the acquisition and installation of all commu-
 33 nications equipment and facilities for ~~the institutions of higher~~
 34 ~~education and~~ the elected officers in the executive department;

35 (iii) To coordinate the acquisition and installation of all commu-
 36 nications equipment and facilities for the legislative and judi-
 37 cial departments;

38 (iv) Provided however, that the acquisition and installation of
 39 all public safety and microwave equipment shall be under the con-
 40 trol of the military division.

41 In approving or coordinating the acquisition or installation of commu-
 42 nications equipment or facilities, the department shall first consult
 43 with and consider the recommendations and advice of the directors or ex-
 44 ecutive heads of the various departments or institutions. Any acqui-
 45 sition or installation of any communications equipment or facilities
 46 that is contrary to the department's recommendation, or is not in har-
 47 mony with the state's overall plan for communications and information

1 sharing, shall be reported in writing to the governor and the legisla-
2 ture.

3 (b) To receive and hold, upon order of the board of examiners, physical
4 custody and control of such existing communications equipment and fa-
5 cilities utilized by or in the possession of any department or institu-
6 tion, as may be necessary to carry out the purposes of this chapter.

7 (c) To provide a system of communications for all departments and in-
8 stitutions of state government. The department may prescribe adequate
9 rules for the use of any communications equipment and facilities now
10 in use or hereafter made available. Funds received pursuant to this
11 subsection shall be appropriated for payment of communication and tele-
12 phone charges incurred by the various agencies and institutions of
13 state government.

14 (d) To provide a means whereby political subdivisions of the state may
15 utilize the state communications system, upon such terms and under such
16 conditions as the department may establish.

17 (e) To accept federal funds granted by congress or by executive order
18 for all or any of the purposes of this chapter, as well as gifts and dona-
19 tions from individuals and private organizations or foundations.

20 (2) The state board of education may request that the department of
21 administration provide services authorized under this section to the state
22 public institutions of higher education. The services shall be provided
23 upon mutually agreed upon terms with the department.

24 SECTION 13. That Section 67-5761, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 67-5761. POWERS AND DUTIES -- GROUP INSURANCE. (1) The director of the
27 department of administration shall:

28 (a) Establish an advisory committee to be comprised of program partic-
29 ipants from the executive, legislative and judicial branches of state
30 government. The advisory committee shall include one (1) active and one
31 (1) retired employee representative. The director shall consult with
32 the advisory committee in the performance of those duties as enumerated
33 in subsection (2) of this section.

34 (b) Promulgate rules for determining eligibility of active personnel,
35 retired personnel and dependents of such active and retired personnel
36 for participation in any group plans.

37 (c) Determine the nature and extent of needs for group life insur-
38 ance, group annuities, group disability insurance, and group health
39 care service coverages with respect to personnel, including elected or
40 appointed officers and employees, of all offices, departments, divi-
41 sions, boards, commissions, institutions, agencies and operations of
42 the government of the state of Idaho and retired personnel, the premi-
43 ums or prepayments for which are payable in whole or in part from funds
44 of the state. "Disability" insurance includes all personal accident,
45 health, hospital, surgical, and medical coverages, and "health care
46 service" includes all services rendered for maintenance of good health
47 and diagnosis, relief, or treatment of any injury, ailment, or bodily
48 condition.

1 (d) Determine the types, terms, conditions, and amounts of group insur-
2 ance, group annuities, or group coverage by health care service organi-
3 zations, as the case may be, required by such needs.

4 (e) Negotiate and contract for, and have placed or continued in effect
5 all such insurance and coverages as may reasonably be obtainable from
6 insurers and health care service organizations, as the case may be, duly
7 authorized to transact such business in this state. The director may
8 negotiate deductibles to any group plan or coverage. Alternatively,
9 the director may self-insure any insurance or coverage and may contract
10 with any insurance company or third party administrator duly authorized
11 to transact business in this state or administer such plan.

12 (f) Prepare or otherwise obtain and make available to all personnel
13 affected thereby, printed information concerning all such group plans
14 currently in effect, together with the rules governing eligibility,
15 payment of premium or prepayment where applicable, claims procedures,
16 and other matters designed to facilitate utilization and administra-
17 tion of such plans.

18 (g) Administer all such group plans on behalf of the insured, including
19 but not limited to:

20 (i) Enrollment and reporting to the insurer or health care ser-
21 vice organization of individuals eligible for coverage and cover-
22 ed under particular policies or contracts, and termination of
23 such enrollment upon termination of eligibility;

24 (ii) Collection or payment of premiums or prepayments for such
25 coverage, policies and contracts and accounting for the same;

26 (iii) Establishment of reasonable procedures for handling claims
27 arising under such coverage, policies and contracts, and render-
28 ing assistance to claimants, as may be required in the presenta-
29 tion and consideration of claims;

30 (iv) Effectuation of changes in such coverage, policies and con-
31 tracts and renewal or termination thereof;

32 (v) Making and settlement of claims.

33 (2) The director shall formulate and negotiate a plan or plans of health
34 care service coverage which includes eligible active personnel and their de-
35 pendents in consultation with the advisory committee.

36 (3) The director shall formulate and negotiate a plan or plans of health
37 care service coverage which includes eligible retired personnel and depen-
38 dents. Such plan or plans will be pooled for rating purposes with the plan or
39 plans provided for in subsection (2) of this section.

40 (a) Beginning July 1, 2009, the state shall pay one hundred fifty-five
41 dollars (\$155) per eligible retired personnel per month toward such
42 health care service coverage, subject to the conditions of subsection
43 (3)(b) of this section. Retired personnel shall be responsible for
44 paying the balance of the monthly premium for any plan of health care
45 service coverage provided pursuant to this section.

46 (b) Beginning January 1, 2010, retired personnel health care service
47 coverage shall not be available to any retired personnel or dependent
48 who is or becomes eligible for medicare. Dependent spouses of such
49 medicare eligible retired personnel who are not themselves medicare

1 eligible may remain on health care service coverage until they become
2 eligible for medicare.

3 (c) Any person who is eligible for health care service coverage as a re-
4 tired person prior to June 30, 2009, remains eligible for coverage sub-
5 ject to the conditions of subsections (3) (a) and (b) of this section.

6 (d) No personnel, including elected or appointed officers and employ-
7 ees, of all offices, departments, divisions, boards, commissions,
8 agencies and operations of the government of the state of Idaho, who
9 begin service or employment after June 30, 2009, shall be provided or be
10 eligible for any retired personnel health care service coverage, unless
11 such personnel have credited state service of at least twenty thousand
12 eight hundred (20,800) hours before June 30, 2009, and subsequent to
13 reemployment, election or reappointment on or after July 1, 2009, accu-
14 mulate an additional six thousand two hundred forty (6,240) continuous
15 hours of credited state service, and who are otherwise eligible for cov-
16 erage.

17 (e) Nothing in this subsection prohibits an active employee who retires
18 from state service on or after July 1, 2009, from being eligible for
19 health care service coverage provided that he or she is drawing a state
20 retirement benefit and meets eligibility requirements of the health
21 care service coverage.

22 (f) The Idaho department of administration shall assist medicare eli-
23 gible retirees in transitioning to a medicare supplement plan in accor-
24 dance with procedures established by the advisory committee.

25 (4) Nothing contained herein and no coverage, policy or contract which
26 provides coverage or benefits for active personnel, dependents of person-
27 nel, or retired personnel shall create any vested right or benefit for any
28 such individual in group insurance coverage.

29 (5) Notwithstanding the foregoing, upon approval of the state board of
30 education as set forth in section 33-107(4), Idaho Code, a state public in-
31 stitution of higher education, as defined in section 6-902(8), Idaho Code,
32 may withdraw from services provided for in this section. A state public in-
33 stitution of higher education may again participate in said services follow-
34 ing withdrawal under mutually agreed upon terms with the director of the de-
35 partment of administration.

36 SECTION 14. That Section 67-5773, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 67-5773. POWERS AND DUTIES -- RISK MANAGEMENT. (1) The director of the
39 department of administration shall:

40 (a) Determine the nature and extent of needs for insurance coverages of
41 all kinds, other than life and disability insurances, as to risks and
42 property of all offices, departments, divisions, boards, commissions,
43 institutions, agencies and operations of the government of the state of
44 Idaho, the premiums on which are payable in whole or in part from funds
45 of the state.

46 (b) Determine the character, terms, and amounts of insurance coverages
47 required by such needs.

48 (c) Within funds available therefor from each respective office, de-
49 partment, division, board, commission, institution, agency or opera-

1 tion with respect to coverage to be provided to it, negotiate for, pro-
2 cure, purchase, and have placed or continued in effect all such insur-
3 ance coverages and services as may reasonably be obtainable, whether
4 from insurers or brokers duly authorized to transact business in this
5 state.

6 (d) Administer all such coverages on behalf of the insured, including
7 making and settlement of loss claims arising thereunder. The director,
8 with the advice of the attorney general, may cause suit to be brought
9 with respect to any such coverage or loss.

10 (e) Within available funds and personnel, make periodic inspection
11 or appraisal of premises, property and risks as to conditions affect-
12 ing insurability, risk, and premium rate, and submit a written report
13 of each such inspection or appraisal together with recommendations,
14 if any, to the officer, department, or agency in direct charge of such
15 premises, property or risks.

16 (f) Perform such other duties and exercise such other powers as are pro-
17 vided by law.

18 (g) Establish a risk management advisory committee. The director shall
19 consult with the advisory committee in the performance of those duties
20 enumerated above.

21 (2) As to all such needs and coverages, the director shall give due con-
22 sideration to information furnished by and recommendations of any office,
23 department, division, board, commission, institution or agency.

24 (3) Notwithstanding the foregoing, upon approval of the state board of
25 education as set forth in section 33-107(4), Idaho Code, a state public in-
26 stitution of higher education, as defined in section 6-902(8), Idaho Code,
27 may withdraw from services provided for in this section. A state public in-
28 stitution of higher education may again participate in said services follow-
29 ing withdrawal under mutually agreed upon terms with the director of the de-
30 partment of administration.

31 SECTION 15. SEVERABILITY. The provisions of this act are hereby de-
32 clared to be severable and if any provision of this act or the application
33 of such provision to any person or circumstance is declared invalid for any
34 reason, such declaration shall not affect the validity of the remaining por-
35 tions of this act.