

IN THE SENATE

SENATE BILL NO. 1320

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EDUCATION AND GOVERNMENTAL SERVICES; AMENDING SECTION 6-902,  
2 IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 6-919, IDAHO CODE, TO  
3 ESTABLISH PROVISIONS RELATING TO A STATE INSTITUTION PURCHASING LIA-  
4 BILITY INSURANCE; AMENDING SECTION 6-920, IDAHO CODE, TO PROVIDE FOR AN  
5 EXCEPTION AND TO ESTABLISH PROVISIONS RELATING TO STATE EDUCATIONAL IN-  
6 STITUTIONS' PURCHASE OF LIABILITY INSURANCE; AMENDING SECTION 33-107,  
7 IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF EDUCATION MAY APPROVE  
8 THE WITHDRAWAL OF AN IDAHO PUBLIC UNIVERSITY OR COLLEGE FROM USE OF A  
9 STATE SERVICE; AMENDING SECTION 33-3727, IDAHO CODE, TO PROVIDE A COR-  
10 RECT CODE REFERENCE; AMENDING SECTION 67-3610, IDAHO CODE, TO REMOVE  
11 LANGUAGE REFERRING TO THE UNIVERSITY OF IDAHO AND TO MAKE A TECHNICAL  
12 CORRECTION; AMENDING SECTION 67-5303, IDAHO CODE, TO REVISE PROVISIONS  
13 RELATING TO NONCLASSIFIED EMPLOYEES, TO PROVIDE A REFERENCE TO THE  
14 PROFESSIONAL STAFF OF THE OFFICE OF THE STATE BOARD OF EDUCATION AND TO  
15 DEFINE A TERM; AMENDING SECTION 67-5711, IDAHO CODE, TO PROVIDE A REF-  
16ERENCE TO THE STATE BOARD OF EDUCATION AND TO PROVIDE FOR APPLICATION  
17 OF LAW; AMENDING SECTION 67-5745A, IDAHO CODE, TO REVISE DEFINITIONS;  
18 AMENDING SECTION 67-5747, IDAHO CODE, TO REMOVE LANGUAGE REFERRING  
19 TO INSTITUTIONS OF HIGHER EDUCATION RELATING TO CERTAIN DUTIES OF THE  
20 DEPARTMENT OF ADMINISTRATION AND TO PROVIDE THAT THE STATE BOARD OF  
21 EDUCATION MAY REQUEST THE DEPARTMENT OF ADMINISTRATION TO PROVIDE SER-  
22 VICES; AMENDING SECTION 67-5761, IDAHO CODE, TO ESTABLISH PROVISIONS  
23 RELATING TO A STATE EDUCATION INSTITUTION ELECTING TO WITHDRAW FROM  
24 CERTAIN GROUP INSURANCE PLANS AND TO MAKE A TECHNICAL CORRECTION; AND  
25 AMENDING SECTION 67-5773, IDAHO CODE, TO PROVIDE THAT NOTHING IN THIS  
26 SECTION SHALL PRECLUDE THE STATE INSTITUTIONS OF HIGHER EDUCATION FROM  
27 USING CERTAIN SERVICES; AND PROVIDING SEVERABILITY.  
28

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

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

32 6-902. DEFINITIONS. As used in this act:

33 1. "State" means the state of Idaho or any office, department, agency,  
34 authority, commission, board, institution, hospital, college, university  
35 or other instrumentality thereof.

36 2. "Political subdivision" means any county, city, municipal corpo-  
37 ration, health district, school district, irrigation district, an operat-  
38 ing agent of irrigation districts whose board consists of directors of its  
39 member districts, special improvement or taxing district, or any other po-  
40 litical subdivision or public corporation. As used in this act, the terms  
41 "county" and "city" also mean state licensed hospitals and attached nursing  
42 homes established by counties pursuant to chapter 36, title 31, Idaho Code,

1 or jointly by cities and counties pursuant to chapter 37, title 31, Idaho  
2 Code.

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

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

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

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

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

22 8. "State public institution of higher education " means the university  
23 of Idaho, Boise state university, Idaho state university and Lewis-Clark  
24 state college.

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

27 6-919. LIABILITY INSURANCE FOR STATE -- COMPREHENSIVE PLAN BY DIVI-  
28 SION OF INSURANCE MANAGEMENT. The administrator of the division of insurance  
29 management in the department of administration shall provide a comprehen-  
30 sive liability plan which will cover and protect the state and its employees  
31 from claims and civil lawsuits. He shall be responsible for the acquisition  
32 and administration of all liability insurance of the state or for the use of  
33 the retained risk account provided in section 67-5776, Idaho Code, to meet  
34 the obligations of the comprehensive liability plan.

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

43 Notwithstanding the foregoing, upon approval of the state board of ed-  
44 ucation and eighteen (18) months' prior written notice to the administrator  
45 that the discontinuance of any service shall be subject to the terms speci-  
46 fied in section 33-107(4), Idaho Code, a state institution of higher educa-  
47 tion may purchase its own liability insurance in an amount not less than the  
48 minimum specified in section 6-924, Idaho Code.

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

3 6-920. LIABILITY INSURANCE FOR STATE PROCURED BY DIVISION OF INSUR-  
4 ANCE MANAGEMENT. Except as otherwise provided by law, nNo state agency or in-  
5 stitution other than the administrator of the division of insurance manage-  
6 ment in the department of administration may procure liability insurance un-  
7 der this act. All state agencies and institutions shall comply with this act  
8 and the comprehensive liability plan developed by the administrator of the  
9 division.

10 Provided however, nothing contained in this section shall preclude the  
11 state board of education from authorizing the state educational institu-  
12 tions from purchasing liability insurance.

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

15 33-107. GENERAL POWERS AND DUTIES OF THE STATE BOARD. The state board  
16 shall have power to:

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

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

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

24 (4) Approve the withdrawal of an Idaho public university or college  
25 from use of a state service based upon fiscal savings as authorized by law;  
26 provided however, that following approval, said institution shall provide  
27 eighteen (18) months' prior written notice to the agency providing the ser-  
28 vice and the withdrawal shall commence on the first day of the next fiscal  
29 year following the notification period or a date mutually agreed upon by the  
30 institution and the agency impacted.

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

35 (b) Delegate to its executive officer, if necessary to enhance ef-  
36 fectiveness and efficiency, such powers as he requires to exercise  
37 discretionary authority and to perform duties vested in the state board  
38 related to the operation, control and management of Idaho's state uni-  
39 versities and colleges and other agencies under the supervision and  
40 governance of the state board, and to perform duties and render deci-  
41 sions prescribed to the state board involving the exercise of judgment  
42 and discretion that affect the public schools in Idaho;

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

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

6 (e) Delegations of powers under this subsection must be adopted as  
 7 statements of agency action by the state board, as provided in section  
 8 33-105(2), Idaho Code, and pursuant to a process that provides for no-  
 9 tice, opportunity for input and formal adoption by the state board;

10 (~~56~~) Through its executive departments and offices:

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

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

15 (~~67~~) In addition to the powers conferred by chapter 24, title 33, Idaho  
 16 Code:

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

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

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

29 (~~78~~) Prescribe the courses and programs of study to be offered at the  
 30 public institutions of higher education, after consultation with the presi-  
 31 dents of the affected institutions;

32 (~~89~~) Approve new courses and programs of study to be offered at commu-  
 33 nity colleges organized pursuant to chapter 21, title 33, Idaho Code, when  
 34 the courses or programs of study are academic in nature and the credits de-  
 35 rived therefrom are intended to be transferable to other state institutions  
 36 of higher education for credit toward a baccalaureate degree, and when the  
 37 courses or programs of study have been authorized by the board of trustees of  
 38 the community college.

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

41 33-3727. MILITARY EDUCATION, TRAINING AND SERVICE -- AWARD OF ACA-  
 42 DEMIC CREDIT -- DEVELOPMENT OF POLICIES. Notwithstanding the provisions  
 43 of section 33-107(~~67~~)(b), Idaho Code, the state board of education, the  
 44 board of regents of the university of Idaho, a board of trustees of a com-  
 45 munity college established pursuant to the provisions of section 33-2106,  
 46 Idaho Code, and the state board for professional-technical education shall  
 47 develop policies relating to the award of academic credit for education,  
 48 training or service completed by an individual as a member of the armed  
 49 forces or reserves of the United States, the national guard of any state,

1 the military reserves of any state or the naval militia of any state, where  
 2 such education, training or service is determined to satisfy such estab-  
 3 lished policies. The boards shall work cooperatively with one another and  
 4 with other state agencies as needed in the development of such policies. The  
 5 boards are authorized to adopt rules as necessary for the administration of  
 6 the provisions of this section.

7 SECTION 6. That Section 67-3610, Idaho Code, be, and the same is hereby  
 8 amended to read as follows:

9 67-3610. ~~UNIVERSITY OF IDAHO~~ ANNUAL AUDITED FINANCIAL STATE-  
 10 MENT. As a condition to availability of appropriations made to it, and to  
 11 institutions and activities under its control or supervision, the state  
 12 board of education and board of regents of the University of Idaho shall  
 13 file with the state controller on or before a date mutually agreed upon by  
 14 the state controller and the state board of education and board of regents of  
 15 the university of Idaho, an audited financial statement showing receipt of  
 16 moneys from state and federal appropriations, endowment funds, local and in-  
 17 stitutional incomes, or from any other source, made to it and to institutions  
 18 and activities under its control or supervision.

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

21 67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state  
 22 of Idaho and all employees in such departments, except those employees  
 23 specifically defined as nonclassified, shall be classified employees, who  
 24 are subject to this chapter and to the system of personnel administration  
 25 which it prescribes. Nonclassified employees shall be:

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

29 (b) Members of statutory boards and commissions and heads of depart-  
 30 ments appointed by and serving at the pleasure of the governor, deputy direc-  
 31 tors appointed by the director and members of advisory boards and councils  
 32 appointed by the departments.

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

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

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

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

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

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

2 (i) Assistant attorneys general attached to the office of the attorney  
3 general.

4 (j) ~~All officers, members of the teaching staffs employees~~ of state  
5 educational institutions designated by the board as nonclassified, the pro-  
6 fessional staff of the office of the state board of education and the Idaho  
7 department of education administered by the board of regents and the board  
8 of education, and the professional staffs of the Idaho division of profes-  
9 sional-technical education and vocational rehabilitation administered by  
10 the state board for professional-technical education. "Teaching staff" in-  
11 cludes teachers, coaches, resident directors, librarians and those princi-  
12 pally engaged in academic research. The word term "officer" means presi-  
13 idents, vice presidents, deans, directors, or employees in positions desig-  
14 nated by the state board who receive an annual salary of not less than step  
15 "A" of the pay grade equivalent to three hundred fifty-five (355) Hay points  
16 in the state compensation schedule. A nonclassified employee who is desig-  
17 nated as an "officer" on July 5, 1991, but does not meet the requirements  
18 of this subsection, may make a one (1) time irrevocable election to remain  
19 nonclassified. Such an election must be made not later than August 2, 1991.  
20 When such positions become vacant, these positions will be reviewed and desig-  
21 nated as either classified or nonclassified in accordance with this sub-  
22 section. As used in this section, "professional staff" means any employee  
23 in a position whose primary responsibilities require the exercise of discre-  
24 tion and independent judgment as determined by the state board of education.

25 (k) Employees of the military division.

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

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

36 (n) Temporary employees.

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

1 title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, ti-  
2 tle 25, Idaho Code; and the Idaho dairy products commission, as provided in  
3 chapter 31, title 25, Idaho Code.

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

7 (q) All employees of correctional industries within the department of  
8 correction.

9 (r) All deputy administrators and wardens employed by the department of  
10 correction. Deputy administrators are defined as only the deputy adminis-  
11 trators working directly for the nonclassified division administrators un-  
12 der the director of the department of correction.

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

15 (t) Any division administrator.

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

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

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

20 (x) The state appellate public defender, deputy state appellate public  
21 defenders and all other employees of the office of the state appellate public  
22 defender.

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

25 (z) All pest survey and detection employees and their supervisors hired  
26 specifically to carry out activities under the Idaho plant pest act, chapter  
27 20, title 22, Idaho Code, including but not limited to pest survey, detec-  
28 tion and eradication, except those positions involved in the management of  
29 the program.

30 SECTION 8. That Section 67-5711, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32 67-5711. CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND RE-  
33 PAIR OF PUBLIC BUILDINGS AND WORKS. (1) The director of the department of  
34 administration, or his designee, of the state of Idaho, is authorized and  
35 empowered, subject to the approval of the permanent building fund advisory  
36 council, to provide or secure all plans and specifications for, to let all  
37 contracts for, and to have charge of and supervision of the construction,  
38 alteration, equipping and furnishing, repair, maintenance other than pre-  
39 ventive maintenance of any and all buildings, improvements of public works  
40 of the state of Idaho, the cost of which construction, alteration, equip-  
41 ping and furnishing, repair, maintenance other than preventive maintenance  
42 exceeds the sum of one hundred thousand dollars (\$100,000) for labor, mate-  
43 rials and equipment, which sum shall exclude design costs, bid advertising  
44 and related bidding expenses, provided, that the director or his designee,  
45 and permanent building fund advisory council shall, in the letting of con-  
46 tracts under this section, comply with the procedure for the calling of  
47 bids provided in section 67-5711C, Idaho Code; provided, however, that  
48 this section shall not apply to the construction, alteration, equipping or  
49 furnishing or repair or maintenance other than preventive maintenance of

1 public buildings under the jurisdiction and control of the state board of  
 2 education and board of regents of the university of Idaho; provided further,  
 3 that the bidding procedures required by this section and section 67-5711C,  
 4 Idaho Code, shall not apply to performance contracts as provided in section  
 5 67-5711D, Idaho Code; provided further, that public works for the Idaho  
 6 transportation department, the department of fish and game, the department  
 7 of parks and recreation, the department of lands, and the department of  
 8 water resources and water resource board, except for administrative office  
 9 buildings and all associated improvements, are exempt from the provisions of  
 10 this section that relate to the administration and review of such projects by  
 11 the director of the department of administration or his designee and by the  
 12 permanent building fund advisory council. This exemption shall not relieve  
 13 the Idaho transportation department, the department of fish and game, the  
 14 department of parks and recreation, the department of lands, and the depart-  
 15 ment of water resources and water resource board in the letting of contracts  
 16 for public works, from complying with the procedures of section 67-5711C,  
 17 Idaho Code, related to the advertising and bidding for contracts. The perma-  
 18 nent building fund advisory council may adopt rules consistent with existing  
 19 law, including rules for a program of inspection and maintenance, to carry  
 20 out the provisions of this chapter.

21 (2) Nothing contained in this section shall preclude the public insti-  
 22 tutions of higher education in this state from using services as provided for  
 23 in this section. Once a state institution of higher education has withdrawn,  
 24 the state board of education may request supervision of public works under  
 25 their jurisdiction by the department of administration. Such supervision  
 26 shall be provided upon the approval of the administrator of public works un-  
 27 der such terms as the administrator determines are in the best interest of  
 28 the state.

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

31 67-5745A. DEFINITIONS. As used in this chapter:

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

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

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

44 SECTION 10. That Section 67-5747, Idaho Code, be, and the same is hereby  
 45 amended to read as follows:

46 67-5747. POWERS AND DUTIES. (1) The department of administration is  
 47 hereby authorized and directed:

- 1 (a) (i) To control and approve the acquisition and installation of all  
 2 communications equipment and facilities for all departments and  
 3 institutions of state government, except as provided in subpara-  
 4 graphs (ii), (iii) and (iv) of this subsection;  
 5 (ii) To coordinate the acquisition and installation of all commu-  
 6 nications equipment and facilities for ~~the institutions of higher~~  
 7 ~~education~~ and the elected officers in the executive department;  
 8 (iii) To coordinate the acquisition and installation of all commu-  
 9 nications equipment and facilities for the legislative and judi-  
 10 cial departments;  
 11 (iv) Provided however, that the acquisition and installation of  
 12 all public safety and microwave equipment shall be under the con-  
 13 trol of the military division.

14 In approving or coordinating the acquisition or installation of commu-  
 15 nications equipment or facilities, the department shall first consult  
 16 with and consider the recommendations and advice of the directors or ex-  
 17 ecutive heads of the various departments or institutions. Any acqui-  
 18 sition or installation of any communications equipment or facilities  
 19 that is contrary to the department's recommendation, or is not in har-  
 20 mony with the state's overall plan for communications and information  
 21 sharing, shall be reported in writing to the governor and the legisla-  
 22 ture.

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

27 (c) To provide a system of communications for all departments and in-  
 28 stitutions of state government. The department may prescribe adequate  
 29 rules for the use of any communications equipment and facilities now  
 30 in use or hereafter made available. Funds received pursuant to this  
 31 subsection shall be appropriated for payment of communication and tele-  
 32 phone charges incurred by the various agencies and institutions of  
 33 state government.

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

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

40 (2) The state board of education may request that the department of  
 41 administration provide services authorized under this section to the state  
 42 public institution of higher education. The services shall be provided upon  
 43 mutually agreed upon terms, such that the discontinuance of any service  
 44 shall be subject to the terms specified in section 33-107(4), Idaho Code.

45 SECTION 11. That Section 67-5761, Idaho Code, be, and the same is hereby  
 46 amended to read as follows:

47 67-5761. POWERS AND DUTIES -- GROUP INSURANCE. (1) The director of the  
 48 department of administration shall:

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

7 (b) Promulgate rules for determining eligibility of active personnel,  
8 retired personnel and dependents of such active and retired personnel  
9 for participation in any group plans.

10 (c) Determine the nature and extent of needs for group life insur-  
11 ance, group annuities, group disability insurance, and group health  
12 care service coverages with respect to personnel, including elected or  
13 appointed officers and employees, of all offices, departments, divi-  
14 sions, boards, commissions, institutions, agencies and operations of  
15 the government of the state of Idaho and retired personnel, the premi-  
16 ums or prepayments for which are payable in whole or in part from funds  
17 of the state. "Disability" insurance includes all personal accident,  
18 health, hospital, surgical, and medical coverages, and "health care  
19 service" includes all services rendered for maintenance of good health  
20 and diagnosis, relief, or treatment of any injury, ailment, or bodily  
21 condition.

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

25 (e) Negotiate and contract for, and have placed or continued in effect  
26 all such insurance and coverages as may reasonably be obtainable from  
27 insurers and health care service organizations, as the case may be, duly  
28 authorized to transact such business in this state. The director may  
29 negotiate deductibles to any group plan or coverage. Alternatively,  
30 the director may self-insure any insurance or coverage and may contract  
31 with any insurance company or third party administrator duly authorized  
32 to transact business in this state or administer such plan.

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

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

41 (i) Enrollment and reporting to the insurer or health care ser-  
42 vice organization of individuals eligible for coverage and covered  
43 under particular policies or contracts, and termination of  
44 such enrollment upon termination of eligibility;

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

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

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

3 (v) Making and settlement of claims.

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

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

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

17 (b) Beginning January 1, 2010, retired personnel health care service  
18 coverage shall not be available to any retired personnel or dependent  
19 who is or becomes eligible for medicare. Dependent spouses of such  
20 medicare eligible retired personnel who are not themselves medicare  
21 eligible may remain on health care service coverage until they become  
22 eligible for medicare.

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

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

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

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

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

49 (5) Upon approval of the state board of education and eighteen (18)  
50 months' prior written notice to the director, a state public institution of

1 higher education, pursuant to section 6-902, Idaho Code, may elect to with-  
2 draw from participation in the group plans contracted for by the director,  
3 such that the withdrawal shall commence on the first day of the next fiscal  
4 year following the notification period or a date mutually agreed upon by  
5 the institution and the director. Upon withdrawal, the institution and its  
6 employees shall not be eligible for such group plans. The institution may  
7 begin participation in the group plans following withdrawal upon the ap-  
8 proval of the director under the terms that the director determines are in  
9 the best interest of the state.

10 SECTION 12. That Section 67-5773, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 67-5773. POWERS AND DUTIES -- RISK MANAGEMENT. (1) The director of the  
13 department of administration shall:

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

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

22 (c) Within funds available therefor from each respective office, de-  
23 partment, division, board, commission, institution, agency or opera-  
24 tion with respect to coverage to be provided to it, negotiate for, pro-  
25 cure, purchase, and have placed or continued in effect all such insur-  
26 ance coverages and services as may reasonably be obtainable, whether  
27 from insurers or brokers duly authorized to transact business in this  
28 state.

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

33 (e) Within available funds and personnel, make periodic inspection  
34 or appraisal of premises, property and risks as to conditions affect-  
35 ing insurability, risk, and premium rate, and submit a written report  
36 of each such inspection or appraisal together with recommendations,  
37 if any, to the officer, department, or agency in direct charge of such  
38 premises, property or risks.

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

41 (g) Establish a risk management advisory committee. The director shall  
42 consult with the advisory committee in the performance of those duties  
43 enumerated above.

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

47 (3) Nothing contained in this section shall preclude the state public  
48 institutions of higher education from using services as provided in this  
49 section.

1           SECTION 13. SEVERABILITY. The provisions of this act are hereby de-  
2           clared to be severable and if any provision of this act or the application  
3           of such provision to any person or circumstance is declared invalid for any  
4           reason, such declaration shall not affect the validity of the remaining por-  
5           tions of this act.