

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 431

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION  
2 59-1308, IDAHO CODE, TO REVISE A PROVISION REGARDING CONTRIBUTIONS AND  
3 INVESTMENT EARNINGS UNDER SUPPLEMENTAL BENEFIT PLANS, TO PROVIDE FOR  
4 QUALIFIED AFTER-TAX CONTRIBUTIONS, AND TO MAKE TECHNICAL CORRECTIONS;  
5 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
6

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

8 SECTION 1. That Section 59-1308, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 59-1308. SUPPLEMENTAL BENEFIT PLAN -- CONTRIBUTIONS AND EXPENSES  
11 OF THE SUPPLEMENTAL BENEFIT PLAN -- INDEMNIFICATION. (1) The state shall  
12 sponsor and the board shall administer one (1) or more supplemental benefit  
13 plans to be used for allocation of extraordinary gains as provided in section  
14 59-1309, Idaho Code, and for voluntary contributions of active members. The  
15 supplemental plans may be established under the qualified requirements of  
16 section 401(a) of the Internal Revenue ~~Service~~ Code and with the qualified  
17 cash or deferred arrangements under section 401(k) of the Internal Revenue  
18 ~~Service~~ Code or any other tax-deferred plan permitted by law, as determined  
19 by the retirement board. The board is authorized to secure such qualified  
20 staff and consultants as it determines necessary to establish and admin-  
21 ister such plans. Employee and employer contributions shall be permitted  
22 according to the provisions of these plans as established by the board. For  
23 purposes of this section, "employee" shall mean a participant as defined in  
24 the supplemental benefit plan documents or board rules.

25 (2) The board is authorized, but not required, to establish separate  
26 trust funds to hold the assets of the supplemental benefit plans created un-  
27 der this section. The investment options available under supplemental bene-  
28 fit plans shall be determined by the board, and may include, but are not lim-  
29 ited to, investment in all or part of the public employee retirement fund and  
30 use of private vendor options.

31 (3) Supplemental benefit plans shall be available to all active members  
32 and shall be in addition to any other retirement or tax-deferred compensa-  
33 tion system established by the employer. The board may provide educational  
34 opportunities related to supplemental benefit plans and retirement savings,  
35 as determined by the board.

36 (4) Accounts shall be established in supplemental benefit plans for all  
37 active members eligible for an extraordinary gains transfer under section  
38 59-1309, Idaho Code. After the initial transfer of extraordinary gains,  
39 any active member may make additional voluntary contributions to his/her  
40 account, subject to applicable limitations, by authorizing his/her employer  
41 to contribute an amount by payroll deduction to the supplemental benefit  
42 plan in lieu of receiving such amount as salary. The amount of such contribu-

1 tions shall be subject to any limitations established by the board, or state  
2 or federal law. The employer shall provide coordination of contributions  
3 between multiple plans to assure that contribution limits are not exceeded.  
4 Should aggregate contributions to multiple plans exceed applicable lim-  
5 its, excess contributions shall be deemed to apply exclusively to plans not  
6 created by this chapter. In the event a preexisting plan is used as a sup-  
7 plemental plan, voluntary contributions may continue to be made to that plan  
8 despite the absence of extraordinary gains transfers.

9 (5) For purposes of this section, the employer is authorized to make  
10 such deductions from salary for any employee who has authorized such deduc-  
11 tions in writing. The employer shall forward all contributions under this  
12 section to the board by the fifth working day after each payroll, in addi-  
13 tion to reports as directed by the board. Any costs incurred by the board,  
14 whether direct or indirect, due to an employer's failure to properly with-  
15 hold, transfer, limit and report contributions, shall be the responsibil-  
16 ity of the employer and shall be immediately due and payable upon notice from  
17 the board. This includes, but is not limited to, costs associated with plan  
18 corrections. Such costs shall be treated as delinquent contributions under  
19 section 59-1325, Idaho Code.

20 (6) The board may enter into agreements with employers or require par-  
21 ticipation to implement the supplemental benefit plans, and the board may  
22 designate administrative agents to execute all necessary agreements per-  
23 taining to the supplemental benefit plans.

24 (7) All contributions received from participants in the supplemental  
25 benefit plans shall be deposited with a trustee designated by the board. All  
26 such funds are hereby perpetually appropriated to the board, shall not be in-  
27 cluded in the department's budget, and may be invested or used to pay for in-  
28 vestment and administrative expenses of the supplemental benefit plans. In-  
29 active members may be required to transfer supplemental benefit plan account  
30 balances as determined by the board.

31 (8) The board may establish rules to implement and administer supple-  
32 mental benefit plans. Costs of administration shall be appropriated by the  
33 legislature and may be paid from the interest earnings of the funds accrued  
34 as a result of the deposits or as an assessment against each account, to be  
35 decided by the board. Investment-related expenses are exempt from appropri-  
36 ation.

37 ~~(9) Contributions and investment earnings under the supplemental bene-~~  
38 ~~fit plans shall be exempt from federal and state income taxes until the ulti-~~  
39 ~~mate distribution of such contributions.~~

40 (9) (a) Qualified pre-tax contributions and investment earnings under  
41 the supplemental benefit plans shall be in compliance with the require-  
42 ments of sections 401(a) and 401(k) of the Internal Revenue Code or any  
43 other tax-deferred plan permitted by law.

44 (b) Qualified after-tax contributions shall be in compliance with the  
45 requirements of section 401(k) of the Internal Revenue Code.

46 (c) Distributions of funds held in supplemental benefit plan accounts  
47 are subject to federal law limitations. The board may provide for re-  
48 irement disbursement options other than lump sum payments.

49 (10) All additional contributions made by the employee under this sec-  
50 tion shall continue to be included as regular compensation for the purpose

1 of computing the employer and employee retirement contributions and pension  
2 benefits earned by an employee under this chapter, but such sum shall not be  
3 included in the computation of any income taxes withheld on behalf of any em-  
4 ployee. However, funds accrued in a supplemental benefit plan account shall  
5 not be considered in determining any other benefits under this chapter.

6 (11) The provisions of sections 59-1316 and 59-1317(1), (2) and (5),  
7 Idaho Code, shall also apply to the supplemental benefit plans created under  
8 this section. Should a court order that an assignment be made to a partici-  
9 pant's spouse or former spouse of all or part of an account created under this  
10 section, the assignment shall be separate and distinct from any approved  
11 domestic retirement order required by section 59-1317(4), Idaho Code. Re-  
12 quirements for assignments of supplemental accounts may be set forth in rule  
13 or other plan documents.

14 (12) Members of the retirement board or retirement system staff shall,  
15 jointly or individually, be provided a defense and indemnified against all  
16 claims, demands, judgments, costs, charges and expenses, including court  
17 costs and attorney's fees, and against all liability losses and damages of  
18 any nature whatsoever arising out of and in the course and scope of their  
19 official duties and functions in administering any plans created pursuant  
20 to the provisions of this section to the same extent as provided in section  
21 59-1305(1), Idaho Code. The venue of all actions in which the retirement  
22 board or retirement staff is a party shall be in Ada county, Idaho.

23 SECTION 2. An emergency existing therefor, which emergency is hereby  
24 declared to exist, this act shall be in full force and effect on and after  
25 July 1, 2024.