

TITLE 59
PUBLIC OFFICERS IN GENERAL

CHAPTER 11
SOCIAL SECURITY BENEFITS

59-1101. ACCEPTANCE OF BENEFITS OF FEDERAL SOCIAL SECURITY ACT. (1) The state of Idaho on behalf of all of its officers and employees and the officers and employees of all of its agencies, counties and cities and of any and all of its municipal corporations, political subdivisions, governmental entities, independent bodies corporate and politic or any legal entity independently or collectively providing governmental functions and created pursuant to Idaho Code, hereby accepts the benefits of the provisions of the federal social security act, of 1935, as amended thereto, whenever the provisions of such act are extended to embrace their officers and employees; provided however, that any services performed pursuant to 42 U.S.C. section 418(c) (6) shall not be considered as employment within the meaning of this chapter.

(2) Pursuant to the provisions of 42 U.S.C. section 418(d) (1), (d) (3) and (1), the benefits described in this section are extended to police officer positions and firefighter positions covered by a retirement system.

(a) For the purposes of social security coverage and the provisions of this section, a "police officer position" means a paid position existing in the regularly organized police department or police force of the state or any political subdivision created pursuant to Idaho Code, whose primary duties and principal accountability consists of one (1) or more of the characteristics of maintaining order, preventing and detecting crime and enforcing the laws of the state or any political subdivision.

(b) For the purposes of social security coverage and the provisions of this section, a "firefighter position" means a paid position existing in the organized fire department, district or association of incorporated municipalities, counties, state agencies or any political subdivision created pursuant to Idaho Code, whose primary duties and principal accountability consists of the prevention, pre-suppression, suppression and extinguishment of fires. A "firefighter position" includes positions such as a fire marshal whose principal accountability is to investigate the cause and origin of fires and includes a fire chief, fire captain and fire warden whose primary position and principal accountability requires direct supervision of employees engaged in the prevention, pre-suppression, suppression and extinguishment of fires. A "firefighter position" does not include an employee who may be required on occasion to engage in firefighter activities as a secondary requirement of the position.

(c) The terms "police officer position" and "firefighter position" do not include services in positions that, although connected with police officer and firefighter functions, are not police officer or firefighter positions.

[59-1101, added 1949, ch. 285, sec. 1, p. 586; am. 1951, ch. 295, sec. 1, p. 652; am. 1953, ch. 81, sec. 1, p. 105; am. 1953, ch. 190, sec. 1, p. 299; am. 1955, ch. 14, sec. 1, p. 17; am. 1961, ch. 86, sec. 1, p. 117; am. 2013, ch. 334, sec. 1, p. 871.]

59-1101A. AUTHORITY TO ACCESS RECORDS. The state controller serving as the state social security administrator shall take such actions as may be necessary to ensure compliance with 42 U.S.C. section 418 and for this purpose shall have the power and authorization to inspect and copy, at any reasonable time, the records maintained by an agency whenever it is necessary for such compliance purposes. Access shall include, but not be limited to, examining, copying, transferring, receiving and making use of records, papers, letters, correspondence and transactions, whether printed or electronic. Such records may include otherwise nonpublic confidential employer and individual information necessary for the purposes of complying with 42 U.S.C. section 418. The administrator as recipient will implement, maintain and comply with technical and physical safeguards to protect the security, confidentiality and integrity of information consistent with the confidentiality rules and requirements of the issuing department or agency. For purposes of this section, "agency" shall mean each department, division, public body corporate and politic, elected and appointed board and commission, office and institution, educational or otherwise and instrumentalities thereof, including agencies hereinafter created in state and local government as set forth in [chapter 11, title 59](#), Idaho Code.

[59-1101A, added 2011, ch. 283, sec. 3, p. 771.]

59-1102. PAYROLL AND SALARY DEDUCTIONS. Any and all officials, boards, commissions, directors and boards having charge and preparation of payrolls and payment of salaries and wages to officers and employees of the state of Idaho, or any of its political subdivisions as set forth in section [59-1101](#), are hereby authorized and directed to make payroll and salary and wage deductions and to handle and dispose of the same as required by the Federal Social Security Act, as amended to include such officers and employees within the eligible group, and any official or board being authorized to disburse funds for the salary or wages, or of any officer or employee who shall come within such eligible group is authorized to pay and disburse out of any funds available for operation and maintenance such sums, and dispose or handle the same in such manner as is required and necessary to make payments and benefits of said Federal Social Security Act available to such officers and employees who shall become eligible.

[59-1102, added 1949, ch. 285, sec. 2, p. 586.]

59-1103. EXISTING RIGHTS PRESERVED. Nothing contained in this act should deprive any person of benefit under any existing retirement system, nor repeal, amend, modify or supersede any law, charter, amendment or ordinance established or pertaining to existing retirement systems.

[59-1103, added 1949, ch. 285, sec. 3, p. 586.]

59-1104. INCLUSION OF EMPLOYEES -- TIME ALLOWED. Each department and agency of the state of Idaho, and each political subdivision as defined in section [59-1101](#), which shall pay and disburse salary and wages separately shall have ninety (90) days from and after the date when the Federal Social Security Act shall be amended to include its officers and employees in the eligible group within which to take the necessary steps to include its officers and employees within such eligible group.

[59-1104, added 1949, ch. 285, sec. 4, p. 586.]

59-1105. CONTRIBUTIONS FROM LOCAL ENTITIES. Under policies and procedures to be prescribed by the state controller, each municipal corporation, political subdivision, drainage or irrigation district, hereinafter referred to as public employer, coming within the provisions of this chapter, shall remit to the state controller the amounts required to be withheld from the salary or wages of each officer and employee together with the matching contribution of such public employer and any interest or penalties imposed for late remittances, in the manner and form prescribed by the state controller. Such moneys shall be deposited in the social security trust account.

In case any public employer does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at the rate of six percent (6%) per annum from the date due until paid plus a penalty of six percent (6%) and the state controller may, at his discretion, deduct any delinquent amounts including interest and penalty from any funds or moneys due such delinquent public employer as may be in the possession of the state treasurer, and credit the same to the social security trust account.

If any public employer is delinquent in the payment of any moneys required to be paid under the provisions of this chapter, and is so delinquent for more than thirty (30) days, the state controller shall so notify the board of county commissioners who shall thereupon order the county treasurer to withhold the equivalent amount of such moneys as are delinquent, together with the equivalent amount of any penalty or interest which may be due as a result of such delinquency, from any funds or moneys due such delinquent public employer as may be in the possession of the county treasurer, and to pay the same over to the state controller, for the credit of the social security trust account.

[59-1105, added 1951, ch. 295, sec. 2, p. 652; am. 1980, ch. 113, sec. 1, p. 251; am. 1994, ch. 180, sec. 134, p. 509; am. 2003, ch. 32, sec. 30, p. 135.]

59-1106. STATE TRUST FUND ESTABLISHED. There is hereby established a fund in the state treasury to be known as the social security trust fund for the sole purpose of receiving contributions of the state and political subdivisions, and taxes on employees, under the Federal Old Age and Survivors Insurance program, under Public Law 734, 81st Congress of the United States, and in accordance with sections [59-1101](#)--[59-1104](#).

[59-1106, added 1951, ch. 18, sec. 1, p. 27.]

59-1106A. REVOLVING ACCOUNT FOR SOCIAL SECURITY ADMINISTRATION. There is hereby appropriated out of the general account in the state operating fund, not otherwise appropriated, the sum of fifty thousand dollars (\$50,000) to be used as a revolving account in the state treasury by the state controller to handle remittances that must be made to the federal social security administration pending the making of adjustments and the collection of shortages in remittances for local government entities. The state controller shall prescribe and adopt all necessary procedures for implementing the purpose of the revolving account.

[59-1106A, added 1972, ch. 376, sec. 1, p. 1097; am. 1980, ch. 114, sec. 1, p. 252; am. 1994, ch. 180, sec. 135, p. 509.]

59-1107. PAYMENTS FROM STATE TRUST FUND. Moneys now or hereafter in such fund are hereby appropriated to the state board of examiners for the sole purpose of making payments to the United States in accordance with said Public Law 734. Such payments shall be made in such amounts and at such times as the state controller shall certify them to be due and payable.

[59-1107, added 1951, ch. 18, sec. 2, p. 27; am. 1994, ch. 180, sec. 136, p. 510.]

59-1107A. RECOVERY OF OVERPAYMENTS -- PAYMENT OF EXPENSES AND DISTRIBUTION OF RECOVERIES. The state controller is authorized to recover on behalf of the state and all governmental entities enumerated in section [59-1101](#), Idaho Code, and on behalf of all officers and employees thereof, social security overpayments made to the United States treasury.

The expenses incurred by the state controller in recovering such overpayments for a state agency and its employees or any governmental entity other than a school district and its employees shall be charged to the state agency or such governmental entity. In the event the state controller incurs expenses in connection with a program to seek such a recovery on behalf of more than one (1) state agency or governmental entity, he shall allocate such expenses to such state agencies and governmental entities in such manner as he deems reasonable. The state controller may bill state agencies and governmental entities other than school districts directly for such expenses or may reduce the amount of their recovery of social security funds or credits by the amount of such expenses.

Expenses incurred for recovery of funds on behalf of school districts and their employees may be paid out of any recoveries of overpayments on behalf of school districts.

The state controller may take such actions as he deems reasonable in the recovery of such overpayments including contracting with third parties for the recovery of such funds.

The full amount of any recoveries of overpayments for employees of the state and all governmental entities shall be refunded to such employees. The amount of any recoveries on behalf of the state and its agencies and school districts after deducting the expenses of collection shall be transferred to the state general account. Any expenses previously paid by a state agency shall be refunded to such state agency from such recoveries. Any unpaid expenses shall be paid from such recoveries. The amount of any recoveries on behalf of other governmental entities after deducting any unpaid expenses of collection shall be refunded to such governmental entities or allowed as a credit against future social security liability.

[59-1107A, added 1983, Ch. 2, 1st E.S., sec. 1, p. 7; am. 1994, ch. 180, sec. 137, p. 510.]

59-1108. RECEIPTS OF STATE TRUST FUND. Collections into said fund shall be paid into said fund under such policies and procedures as shall be prescribed by the state controller, and shall consist of all moneys received from the various political subdivisions of the state, all state contributions for participation in the Federal Old Age and Survivors Insurance program, and all taxes collected from employees covered by said program.

[59-1108, added 1951, ch. 18, sec. 3, p. 27; am. 1994, ch. 180, sec. 138, p. 511; am. 2003, ch. 32, sec. 31, p. 136.]

59-1109. APPROPRIATIONS -- DATE OF TRANSFER. Appropriations from the general fund of the state for the purposes of said Public Law 734, in accordance with sections [59-1101](#)--[59-1104](#), shall be transferred into said social security trust fund on the effective date of any such appropriation acts.

[59-1109, added 1951, ch. 18, sec. 4, p. 27.]

59-1110. ASSESSMENT OF SPECIAL FUNDS. The state board of examiners shall assess any special fund of the state from which salaries are paid, for the full amount due as state participation, when and as the state controller shall certify such amounts as due and payable; and all such amounts are hereby appropriated for transfer from whatever fund or funds as shall be concerned, to the social security trust fund, save and except the several endowment earning funds.

[59-1110, added 1951, ch. 18, sec. 5, p. 27; am. 1994, ch. 180, sec. 139, p. 511.]

59-1111. PAYMENTS BY ENDOWED INSTITUTIONS. When any endowed institution pays salaries and wages from its endowment earning funds, state contributions covering such salaries and wages shall be paid from any amount appropriated and transferred from the general fund of the state of Idaho as herein provided.

[59-1111, added 1951, ch. 18, sec. 6, p. 27.]

59-1112. PAYMENTS FROM SPECIAL FUNDS. When any fund except endowment earning funds, is defined or dedicated to particular purpose or purposes, then the legislature hereby declares that the payment of state contributions in participation on salaries and wages paid from such fund for such purposes is in accord with such purpose or purposes.

[59-1112, added 1951, ch. 18, sec. 7, p. 27.]

59-1113. REFERENDUM ON ACCEPTANCE BY GOVERNMENTAL RETIREMENT SERVICES. The governor of the state of Idaho is hereby empowered to authorize a referendum, and to designate any agency or individual to supervise its conduct, in accordance with the requirements of section 218(d) (3) of the Federal Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be included under said Federal Social Security Act.

[59-1113, added 1957, ch. 23, sec. 1, p. 29.]

59-1114. MAJORITY FAVORING ACCEPTANCE -- AGREEMENT ENTERED INTO FOR COVERAGE. Should a majority of the eligible members of a retirement system established by the state or by a political subdivision thereof, in a referendum held in accordance with section 218(d) (3) of the Federal Social Security Act, vote favorably for inclusion of positions covered by said retirement system under said Federal Social Security Act, the governor, on behalf of

the state of Idaho, is hereby empowered to enter into an agreement with the secretary of health, education, and welfare of the United States for the purpose of covering said positions under said Federal Social Security Act. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of agreement, administration, and other appropriate provisions as the governor and the secretary of health, education, and welfare shall agree upon, consistent with the provisions of the Federal Social Security Act.

[59-1114, added 1957, ch. 23, sec. 2, p. 29.]

59-1115. EMPLOYER'S PORTION OF SOCIAL SECURITY TAX FOR SCHOOL DISTRICT PERSONNEL. The board of trustees of each class of school district, shall pay the employer's social security tax for its personnel, as required by federal law.

The department of education shall transmit to the school districts from the appropriation made for that purpose the amount determined in section [33-1004F](#), Idaho Code.

[59-1115, added 1984, ch. 180, sec. 4, p. 429; am. 1986, ch. 252, sec. 2, p. 673; am. 1988, ch. 255, sec. 1, p. 495; am. 1994, ch. 428, sec. 14, p. 1380.]

CHAPTER 12
GROUP INSURANCE -- [REPEALED]