

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 57
DEPARTMENT OF ADMINISTRATION

67-5701. DEPARTMENT CREATED -- APPOINTMENT OF DIRECTOR -- DUTIES. There is hereby created the department of administration. The governor shall, subject to the advice and consent of the senate, appoint a director of administration who shall serve at the pleasure of the governor and who shall receive such salary as fixed by the governor. The director of administration shall exercise all the powers and duties necessary to carry out the proper administration of the department of administration. The department of administration shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

[67-5701, added I.C., sec. 67-5701, as added by 1974, ch. 34, sec. 2, p. 988.]

67-5702. DIVISIONS -- APPOINTMENT OF ADMINISTRATORS. The department of administration shall be composed of such divisions as are established or assigned by law, and of such other units as may be administratively established. The director of the department of administration shall appoint an administrator for each division, subject to the approval of the governor.

[67-5702, added I.C., sec. 67-5702, as added by 1974, ch. 34, sec. 2, p. 988; am. 1993, ch. 221, sec. 1, p. 748.]

67-5703. DEPARTMENT OF ADMINISTRATION MAY RECEIVE PAYMENT FOR SERVICES TO FEDERAL, COUNTY AND CITY AGENCIES -- APPROPRIATION. The department of administration may enter and execute contracts to provide services to any federal, county or city agency within the state of Idaho when justified and requested by such nonstate agency and approved by the state board of examiners. The department of administration is authorized to charge and receive payment for actual and necessary expenses incurred in providing services to any unit of government under the provisions of this section. Any money received for services provided under the provisions of this section is hereby continually appropriated to the unit providing the services as compensation for such actual and necessary expenses.

[67-5703, added I.C., sec. 67-5703, as added by 1974, ch. 34, sec. 2, p. 988; am. 1993, ch. 221, sec. 2, p. 748.]

67-5704. ADVANCE PAYMENTS AND INTERACCOUNT TRANSACTIONS. Any unit of the department of administration providing services to departments of state government as authorized in this chapter may charge and receive payment in advance of performance thereof for a period of time not to exceed the current appropriation of the department requesting such services. Such payments may be used for personnel costs and operating expenditures of the unit providing the services.

[67-5704, added I.C., sec. 67-5704, as added by 1974, ch. 34, sec. 2, p. 988; am. 1993, ch. 221, sec. 3, p. 748.]

67-5705. DIVISION OF PUBLIC WORKS. There is hereby created within the department of administration the division of public works. The director of the department of administration shall appoint an administrator for the division of public works, subject to the approval of the governor. The administrator of the division shall be exempt from the provisions of the state merit system. The administrator of the division may employ additional personnel as may be necessary, and may contract for professional services or assistance when necessary or desirable.

[67-5705, added I.C., sec. 67-5705, as added by 1974, ch. 34, sec. 2, p. 988.]

67-5706. ALLOCATION OF OFFICE SPACE. The division of public works shall have the power and duty to allocate all space, owned or leased in the city of Boise in the name of the state, except as provided by section [67-5707](#), Idaho Code, for the occupancy of the various state departments, agencies and institutions. Allocations of space will be made on the basis of functional need and statutory requirements and in conformity with standards and criteria adopted by the permanent building fund advisory council. In approving the allocations of space, the division shall first consult with and consider the recommendations and advice of the directors or executive heads of the various departments, agencies or institutions.

[67-5706, added I.C., sec. 67-5706, as added by 1974, ch. 34, sec. 2, p. 988.]

67-5707A. PROCEDURES FOR STATE-OWNED DWELLINGS. The department of administration shall adopt, by rule, the procedures to be followed by each state agency in managing the acquisition, rental, tax status, and record-keeping of state-owned dwellings.

[67-5707A, added 1997, ch. 137, sec. 1, p. 408.]

67-5708. LEASING OF FACILITIES FOR STATE USE -- CONTROL OF PARKING. The department of administration shall negotiate for, approve, and make any and all lease or rental agreements for facilities to be used by the various state departments, agencies and institutions in the state of Idaho.

For purposes of this section and sections [67-5708A](#) and [67-5709](#), Idaho Code, the term "facility or facilities" may be used interchangeably and shall mean real property and improvements, including buildings and structures of any kind, excluding water rights not appurtenant to other facilities, and state endowment lands.

The department of administration shall manage multi-agency facilities constructed, acquired or refurbished through the state building authority as established in [chapter 64, title 67](#), Idaho Code, and shall sublease the facilities to various state departments, agencies, and institutions in the state of Idaho. The department of administration is directed to operate any facilities acquired for the state and to enter into rental contracts and lease agreements consistent with the use of the facilities for state purposes when so authorized.

The director may authorize and enter into leases of state capitol mall real estate and multi-agency facilities constructed through the state building authority, not needed for state purposes, to other governmental

entities or to nonprofit organizations upon such terms as are just and equitable.

The administrator of the division of public works shall promulgate rules for the control of the parking of motor vehicles in the state capitol mall. Any person who shall violate any of the provisions of the rules shall be subject to a fine of not less than two dollars (\$2.00) nor more than twenty-five dollars (\$25.00); provided however, that any person who shall violate any of the provisions of the rules concerning the altering, counterfeiting or misuse of parking permits shall be subject to a fine of not more than fifty dollars (\$50.00).

Every magistrate and every court having jurisdiction of criminal offenses and the violation of public laws committed in the county of Ada shall have jurisdiction to hear and determine violations of the provisions of the rules and to fix, impose and enforce payment of fines therefor. Alleged violations of the parking rules are not subject to the provisions of [chapter 52, title 67](#), Idaho Code. The department of administration may pay costs incurred in the operation and management of those properties from rents received therefrom.

When a facility of the state of Idaho is authorized by concurrent resolution, and a maximum cost for the facility has been set by concurrent resolution, the administrator of the division of public works may enter into lease-purchase or other time-purchase agreements with the Idaho state building authority or other party for the facility. The director may authorize the division of public works to enter into leases incidental to the acquisition of such a facility by the Idaho state building authority.

[67-5708, added 1974, ch. 34, sec. 2, p. 988; am. 1976, ch. 142, sec. 1, p. 527; am. 1981, ch. 330, sec. 1, p. 691; am. 1987, ch. 314, sec. 1, p. 657; am. 1994, ch. 176, sec. 1, p. 403; am. 1996, ch. 183, sec. 1, p. 579; am. 1998, ch. 149, sec. 1, p. 519; am. 2017, ch. 329, sec. 1, p. 863.]

67-5708A. STATE FACILITIES MANAGEMENT -- COMPARATIVE LEASE COST ANALYSIS AND ACCOUNTABILITY. (1) The director of the department of administration shall establish a program to identify and maintain a current inventory of all leases of facilities used in any manner for the conduct of functions of state government now or hereafter entered into by any state department, agency or institution. Not later than January 1, 1999, all departments, agencies and institutions shall submit copies of all leases of facilities to the director. The submitted inventory shall record the essential terms of the leases, including the rental rate, term of the lease, description of the facilities, the size of the facilities, and the governmental use of the facilities.

(2) The director of the department of administration shall establish a program for evaluation of all leases of facilities in effect on or to be entered into after January 1, 1999. No department, agency or institution may enter into or renew any lease of facilities after January 1, 1999, until a comprehensive analysis is performed by that department, agency or institution in accord with standards and criteria established by the director of the department of administration. The comprehensive analysis shall address, at a minimum, an evaluation of the need for facilities, space utilization efficiency, long-term needs and objectives, and viable alternatives to meet facility needs, including acquiring facilities with appropriated funds and leasing facilities through the state building authority. Departments, agencies and institutions shall consult with the director when performing the comprehensive analysis and, with the director's assistance, shall

select the alternative that best serves long-term needs and objectives and that provides suitable facilities at the lowest responsible cost to the taxpayer measured over the time the facilities are expected to be needed, or forty (40) years, whichever is less. Departments, agencies and institutions shall include a summary of the comprehensive analysis annually in their budget requests to the governor and the legislature, and shall include in that summary, where appropriate, the time necessary to implement their selection.

For purposes of this section, consideration of the "lowest responsible cost," shall take into account the estimated residual asset value of facilities acquired with appropriated funds, or acquired through the state building authority or other lease-purchase arrangements and the use of public lands, wherever practicable, that are owned or can be timely acquired by the state.

[67-5708A, added 1998, ch. 149, sec. 2, p. 520.]

67-5708B. FACILITIES NEEDS PLANNING. All state agencies shall prepare and maintain a five (5) year facilities needs plan and report such projected facilities needs at their annual budget hearings. State agencies shall prepare such five (5) year plan utilizing guidelines for facilities needs planning established by the department of administration. Any state agency that has unused, underused or available building space shall notify the department of administration and seek opportunities to co-occupy those facilities or any newly acquired or leased facilities with other state agencies.

Each state agency shall provide a copy of its facilities needs plan report to the department of administration. The department of administration shall prepare a five (5) year statewide facilities needs plan incorporating the facilities needs plans of the state agencies and report such facilities needs in its annual budget hearings.

For purposes of this section, the term "state agency" shall mean all state departments, agencies and institutions, excluding state institutions of higher education. For purposes of this section, the term "facilities needs" shall mean the state agency's need to own, operate or occupy real property and improvements including administrative office buildings, structures and parking lots, to assist it in its operation as a state agency. Facilities needs shall not include the ownership, operation or occupying of real property or improvements by a state agency where such ownership, operation or occupying is a function of the agency's purpose, such as real property and improvements, other than administrative office buildings, structures and parking lots described above under the jurisdiction and control of the Idaho transportation department, the department of fish and game, the department of parks and recreation, the department of lands, and the department of water resources and water resource board.

The department may promulgate rules and prescribe necessary procedures to implement the provisions of this section.

[67-5708B, added 2000, ch. 301, sec. 1, p. 1032; am. 2006, ch. 205, sec. 1, p. 625.]

67-5709. MANAGEMENT OF STATE FACILITIES. (1) In addition to the authority granted by section [67-1603](#), Idaho Code, the director of the department of administration shall have exclusive control of the capitol mall properties identified in subsection (2) of this section and, where not otherwise

established by law, multi-agency facilities owned or leased by the state of Idaho. The department of administration shall have authority to promulgate rules relating to use of those properties, including the authority to promulgate rules requiring a permit for various uses of the properties. Violations of rules promulgated under this section shall be infractions. The director shall have authority to sue to enjoin any threatened or continuing violation of such rules.

(2) Except as otherwise provided by law, the capitol mall properties shall include state of Idaho lands and buildings, together with any appurtenant grounds and systems including, but not limited to, electrical, plumbing, sewer, water, heating, ventilation and air conditioning systems as well as geothermal systems and tunnels, located between blocks one (1) and one hundred thirty-six (136) as shown on the Boise City original townsite plat filed in the Ada County recorder's office in book 1 on page 1. Subject to the following, the capitol mall properties shall be identified in rules promulgated pursuant to this section:

(a) At a minimum, the capitol mall properties shall consist of the following grounds, buildings, improvements and real property in Boise, Idaho: Joe R. Williams (700 W. State street), Len B. Jordan (650 W. State street), Pete T. Cenarrusa (450 W. State street), Division of Public Works (502 N. 4th street), Alexander House (304 W. State street), State Library (325 W. State street), Secretary of State (450 N. 4th street), 954 Jefferson (954 W. Jefferson street), Capitol Annex (514 W. Jefferson street), Borah Building (304 N. 8th street), and Steunenberg Monument Park (intersection of Capitol boulevard and Bannock street), and the Idaho Supreme Court (451 W. State street); provided, that the Idaho supreme court may regulate uses at the Idaho supreme court building and its grounds.

(b) The parking facilities, including appurtenant grounds and systems, at the following locations in Boise, Idaho, shall also be within the capitol mall properties: West State street parking facility, occupying block 101 as shown on the Boise City original townsite plat; 3rd street and Washington street parking facility, occupying a portion of block 105 as shown on the Boise City original townsite plat; 6th street and Washington street parking facility, occupying a portion of block 96 as shown on the Boise City original townsite plat; 8th street and Jefferson street parking facility, occupying a portion of block 66 as shown on the Boise City original townsite plat; and 10th street and Jefferson parking facility, occupying a portion of block 68 as shown on the Boise City original townsite plat.

(c) The space within the interior of the capitol building shall be allocated and controlled as set forth in section [67-1602](#), Idaho Code; provided however, that the executive and legislative departments may subject all or a part of such space to the rules promulgated pursuant to this section as set forth in subsection (3) of this section.

(3) Rules promulgated pursuant to this section shall apply to properties not described in subsection (1) of this section upon the request of the state of Idaho public entity owning or controlling the property. When such a request has been made, the property subject to the request shall be identified by the director of the department of administration in rules promulgated under this section. Violations of the rules adopted under this section shall be infractions. The director of the department of administration and the governing authority of the requesting entity shall have the authority

to sue to enjoin any threatened or continuing violation of such rules. All state law enforcement personnel, any sheriff or deputy sheriff in a county in which the property is located and any police officer in a city in which the property is located shall have authority to enforce the rules for that property.

(4) Responsibility for law enforcement at the capitol mall properties is vested in the director of the Idaho state police. In coordination with the director of the Idaho state police, Ada County and the city of Boise are granted jurisdiction to enforce the laws of the state of Idaho, the ordinances of Ada County, the ordinances of the city of Boise and the rules promulgated pursuant to this section. The director of the department of administration, or his designee, shall be responsible for security at the capitol mall properties and has the authority to contract with private contractors to provide security for persons and property at the capitol mall properties.

(5) The director of the department of administration may pay personnel costs and operating expenditures incurred in the operation and management of the capitol mall properties and the multiagency facilities from the rents received therefrom. In addition to funding annual operating costs, rental rates at multiagency facilities shall include a provision sufficient to provide for the long-term maintenance and upkeep of the facilities, subject to the review and approval of the permanent building fund advisory council. Proceeds accruing from such rental contracts and lease agreements after payment of personnel costs and operating expenditures which are in excess of two hundred thousand dollars (\$200,000) at the end of the fiscal year shall be deposited to the credit of the permanent building fund and accounted for separately for each property. Proceeds from the rental of parking spaces at the capitol mall shall be deposited upon receipt to the credit of the permanent building fund. Said proceeds shall not be expended without an appropriation and shall only be appropriated for the security, maintenance and upkeep of the property generating the proceeds.

(6) Nothing contained in this section shall be deemed to give the department of administration control or management over the garden level, the first, third or fourth floors of the state capitol building, which are vested with the legislative branch of government.

[67-5709, added 1974, ch. 34, sec. 2, p. 988; am. 1981, ch. 186, sec. 1, p. 332; am. 1998, ch. 149, sec. 3, p. 520.; am. 2012, ch. 194, sec. 1, p. 523; am. 2018, ch. 127, sec. 1, p. 266; am. 2018, ch. 180, sec. 1, p. 393.]

67-5709A. SALE, TRANSFER OR DISPOSITION OF STATE ADMINISTRATIVE FACILITIES. The provisions of sections [58-331](#) through [58-335](#), Idaho Code, shall not apply to state administrative facilities in the custody, or control of the state of Idaho. When a state agency declares that a state administrative facility is not needed or is unsuitable for its purposes, custody and control shall be transferred to the state board of examiners, which shall immediately transfer authority for the disposition of the property to the department of administration which shall send a notice to all state agencies and institutions that the property is available for other state use. Any state agency interested in leasing or buying the property shall notify the department of administration within the time the department specifies.

If no state agency or institution is interested, the department shall obtain an appraisal and commence procedures to sell the property for the highest price possible. All proceeds from the sale or lease of adminis-

trative facilities acquired by the department of administration pursuant to this section, other than proceeds required by law to be deposited in a special fund, less the department of administration's cost of selling or leasing, shall be deposited into the permanent building fund for the purpose of holding such proceeds. Such proceeds in the permanent building fund acquired pursuant to this section may be expended pursuant to appropriation.

As used in this section, "state administrative facility" shall mean any real property and improvements, including administrative office buildings, structures and parking lots, used by any state agency to assist it in its operation as a state agency. State administrative facilities shall not include the real property or improvements owned or occupied by a state agency where such ownership, operation or occupying is a function of the agency's purpose, such as real property and improvements, other than the administrative office buildings, structures and parking lots described above, under the jurisdiction and control of the Idaho transportation department, the department of fish and game, the department of parks and recreation and the department of lands.

[67-5709A, added 2000, ch. 300, sec. 1, p. 1031.]

67-5710. PERMANENT BUILDING FUND ADVISORY COUNCIL -- APPROVAL OF USE OF FUND -- DUTIES OF ADMINISTRATOR OF PUBLIC WORKS. There is hereby created in the division of public works a permanent building fund advisory council which shall be appointed by the governor. This council shall be composed of one (1) member of the senate, one (1) member of the house of representatives, a citizen engaged in the contracting business, a citizen engaged in the banking business, and a citizen who is a member of the business community not engaged in contracting or banking. The senate member and house of representative member shall be appointed for a fixed term of two (2) years. All other council members shall be appointed for a fixed term of three (3) years. The terms of office of members of the council holding office prior to July 1, 1996, shall expire on the following dates: contracting business member on July 1, 1996; senate member and house of representative member on December 1, 1996; business community member on July 1, 1997; and banking member on July 1, 1998. On or after July 1, 1996, the governor shall appoint members of the council as terms of existing members expire. All members of the council shall serve at the pleasure of the governor. The administrator of public works and the responsible heads of the agencies for which appropriations for construction, renovations, remodelings or repairs are made pursuant to [chapter 11, title 57](#), Idaho Code, shall consult, confer and advise with the permanent building fund advisory council in connection with all decisions concerning the administration of these appropriations and the planning and construction or execution of work or works pursuant thereto. The approval of the permanent building fund advisory council shall be a condition precedent to the undertaking of planning or construction.

The administrator of public works is hereby directed to work in close cooperation with the responsible heads of institutions and agencies for which appropriations are made herein and no building proposals shall be approved by the administrator of public works nor any planning or work undertaken by that officer pursuant to these appropriations without the prior approval of the responsible chief officer of the institutions and agencies for whom appropriations are made herein.

[67-5710, added I.C., sec. 67-5710, as added by 1974, ch. 34, sec. 2, p. 988; am. 1996, ch. 200, sec. 1, p. 621.]

67-5710A. REQUIREMENT OF PLANS AND SPECIFICATION APPROVAL BY PERMANENT BUILDING FUND ADVISORY COUNCIL AND DELEGATION OF PROJECT OVERSIGHT BY THE ADMINISTRATOR FOR THE DIVISION OF PUBLIC WORKS.

(1) (a) Unless an emergency exists as defined in section [67-5711B](#), Idaho Code, an existing public works may not be altered, repaired, constructed or improved on property owned or occupied by any state institution, department, commission, board or agency, if the estimated cost of work exceeds the limit established in section [67-5711](#), Idaho Code, and except for those institutions and agency exemptions listed in section [67-5711](#), Idaho Code, without regard to source of funding, until the location, design, plans and specifications are approved by the permanent building fund advisory council and the project supervised by the division of public works or its designee.

(b) Facilities to be built with funds under the control of a nonstate entity, and owned or occupied by state entities, must have plans and specifications prepared, and all plans and specifications must be reviewed and approved by the permanent building fund advisory council prior to the advertising, bidding, construction and/or negotiation for construction of the facilities.

(2) (a) The administrator for the division of public works may delegate control over design, construction and all other aspects of a public works or maintenance project which costs less than one hundred fifty thousand dollars (\$150,000), to agencies of state government on a project-by-project basis, if a responsible party of the state agency requests that delegation in writing and the permanent building fund advisory council approves the delegation.

(i) The state agency to whom control is delegated shall assume all responsibility for project budgets and shall receive funds appropriated for the project upon application and approval by the permanent building fund advisory council.

(ii) Delegation of project control does not exempt the state agency from complying with public works statutes, life safety and building codes or other applicable codes and regulations. The state agency also must comply with any guidelines or procedures for design and construction adopted by the division of public works and the permanent building fund advisory council.

(iii) State agencies that receive delegated projects may not have access to permanent building fund advisory council contingency funds unless approved by the permanent building fund advisory council or authorized by appropriation.

(iv) Prior, written approval from the administrator must be granted for any public works utilizing sole source or limited competition. No agency will be delegated the ability to declare an emergency as defined in section [67-5711B](#), Idaho Code.

(v) The permanent building fund advisory council may elect to audit any project for compliance with applicable codes and policies.

(vi) The delegated state agency will use standard documents for professional services contracts and for construction contracts as adopted by the division of public works.

(vii) Delegation is subject to cancellation by the administrator for the division of public works with the concurrence of the permanent building fund advisory council.

[67-5710A, added 1991, ch. 136, sec. 1, p. 318; am. 1996, ch. 148, sec. 1, p. 485.]

67-5710B. DEFINITIONS. As used in this chapter:

(1) "Preventive maintenance" means:

(a) Corrective repairs or replacements used for existing state-owned, or state operated facilities, which result from a systematic program in which wear, tear, and change are anticipated and continuous corrective actions are required to be taken to ensure peak efficiency and to minimize deterioration. It includes systematic inspection, adjustment, lubrication, replacement of components, as well as performance testing and analysis; and

(b) Repairs and replacements with an estimated useful life of less than five (5) years; and

(c) Repairs and replacements which are funded in the state agency's operating budget; and

(d) Repairs and replacements which can be accomplished by the agency's existing physical plant staff; and

(e) Repairs and replacements which do not require the services of architects, engineers, and other professionally licensed consultants to investigate conditions, prepare recommendations for corrective action, prepare plans and specifications, and supervise the execution of corrective projects.

(2) "Public works" mean:

(a) Any new building, alteration, repair, demolition or improvement of any land, building, structure including utilities, or remodeling or renovation of existing buildings, or other physical facilities, to make physical changes necessitated by changes in the program, to meet standards required by applicable codes, to correct other conditions hazardous to health and safety of persons which are not covered by codes, or to effect a permanent improvement to the facility for any reason including aesthetics or appearance;

(b) Site improvement or developments which constitute permanent improvements to real property;

(c) Purchase and installation of fixed equipment necessary for the operation of new, remodeled, or renovated buildings and other physical facilities for the conduct of programs initially housed therein to include any equipment that is made a permanent fixture of the building; and

(d) Purchase of the services of architects, engineers, and other consultants to prepare plans, program documents, life cycle cost studies, energy analysis, and other studies associated with any new building, alteration, repair, demolition or improvement and to supervise the construction or execution of such projects.

[67-5710B, added 1991, ch. 133, sec. 1, p. 293.]

67-5711. CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND REPAIR OF PUBLIC BUILDINGS AND WORKS. The director of the department of administration, or his designee, of the state of Idaho, is authorized and empow-

ered, subject to the approval of the permanent building fund advisory council, to provide or secure all plans and specifications for, to let all contracts for, and to have charge of and supervision of the construction, alteration, equipping and furnishing, repair, maintenance other than preventive maintenance of any and all buildings, improvements of public works of the state of Idaho, the cost of which construction, alteration, equipping and furnishing, repair, maintenance other than preventive maintenance exceeds the sum of one hundred thousand dollars (\$100,000) for labor, materials and equipment, which sum shall exclude design costs, bid advertising and related bidding expenses, provided, that the director or his designee, and permanent building fund advisory council shall, in the letting of contracts under this section, comply with the procedure for the calling of bids provided in section [67-5711C](#), Idaho Code; provided, however, that this section shall not apply to the construction, alteration, equipping or furnishing or repair or maintenance other than preventive maintenance of public buildings under the jurisdiction and control of the board of regents of the university of Idaho; provided further, that the bidding procedures required by this section and section [67-5711C](#), Idaho Code, shall not apply to performance contracts as provided in section [67-5711D](#), Idaho Code; provided further, that public works for the Idaho transportation department, the department of fish and game, the department of parks and recreation, the department of lands, and the department of water resources and water resource board, except for administrative office buildings and all associated improvements, are exempt from the provisions of this section that relate to the administration and review of such projects by the director of the department of administration or his designee and by the permanent building fund advisory council. This exemption shall not relieve the Idaho transportation department, the department of fish and game, the department of parks and recreation, the department of lands, and the department of water resources and water resource board in the letting of contracts for public works, from complying with the procedures of section [67-5711C](#), Idaho Code, related to the advertising and bidding for contracts. The permanent building fund advisory council may adopt rules consistent with existing law, including rules for a program of inspection and maintenance, to carry out the provisions of this chapter.

[67-5711, as added by 1974, ch. 34, sec. 2, p. 988; am. 1976, ch. 26, sec. 1, p. 61; am. 1988, ch. 369, sec. 1, p. 1089; am. 1991, ch. 133, sec. 2, p. 293; am. 1991, ch. 134, sec. 1, p. 294; am. 1991, ch. 164, sec. 1, p. 393; am. 1996, ch. 148, sec. 2, p. 486; am. 2001, ch. 213, sec. 1, p. 839; am. 2005, ch. 213, sec. 39, p. 681; am. 2006, ch. 205, sec. 2, p. 625.]

67-5711A. DESIGN-BUILD CONTRACTING AUTHORIZED. Notwithstanding any other provisions of law to the contrary, the director of the department of administration, or his designee, is authorized and empowered, subject to the approval of the permanent building fund council, to employ the use of the design-build method of construction in the letting of any and all contracts for the construction, alteration, equipping, furnishing and repair of any and all buildings, improvements, or other public works of the state of Idaho. For the purposes of this section, a design-build contract is a contract between the state of Idaho and a nongovernmental party in which the nongovernmental party contracting with the state of Idaho agrees to both design and build the structure, roadway, or other items specified in the contract.

[67-5711A, added 1987, ch. 283, sec. 1, p. 595.]

67-5711B. EMERGENCY CONTRACTING AUTHORIZED DIVISION OF PUBLIC WORKS. The director of the department of administration, the administrator of the division of public works, or a designee of either official may make or authorize others to make emergency public works contracts when there exists a threat to public health, welfare, or safety under emergency conditions; provided that such emergency public works contracts shall be made with such competition as is practicable under the circumstances. The administrator may declare an emergency when one (1) or more of the following conditions exist: an imminent life-threatening environment; or an imminent threat to property; or an imminent loss of significant state resources. The administrator may also waive the requirements of section [67-2309](#), Idaho Code, regarding written plans and specifications. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

[67-5711B, added 1988, ch. 165, sec. 1, p. 296.]

67-5711C. CONSTRUCTION OF PUBLIC PROJECTS -- COMPETITIVE SEALED BIDDING. (1) All construction contracts for public works shall be awarded to the lowest responsible and responsive bidder, subject to the provisions of section [59-1015](#), Idaho Code, after receipt of competitive sealed bidding except as otherwise provided in sections [67-5711B](#), [67-5711D](#) and [67-5713](#), Idaho Code.

(2) An invitation for bids shall be issued and shall include a project description and all contractual terms and conditions applicable to the public works.

(3) Adequate public notice of the invitation for bids shall be given at least fourteen (14) days prior to the date set forth therein for the opening of bids. Such notice shall include publication at least fourteen (14) days prior to bid opening in a newspaper of general circulation in the area where the work is located.

(4) When prequalification is deemed by the department and by the respective state agency to be in the best interest of the state, competitive bidding procedures shall be open only to licensed public works contractors that meet preliminary supplemental qualifications. The solicitation for bids in a prequalified bidder public works project shall consist of two (2) stages, an initial stage for identifying prequalified contractors, either prime or specialty contractors, followed by a stage during which bid prices will be accepted only from prequalified contractors. Notice of the prequalification stage shall be given in the same manner that notice of open competitive bidding is provided. Prequalification standards must be premised upon demonstrated technical competence, experience constructing similar facilities, prior experience with the state, past performance related to quality, workmanship and timeliness, reliability, safety record, available nonfinancial resources, equipment and personnel as they relate to the subject project, and overall performance history based upon a contractor's entire body of work. Any request for qualifications must include the standards for evaluating the qualifications of prospective bidders. Licensed contractors desiring to be prequalified to bid on a project must submit a written response to a request for qualifications. After a review of qualification submittals, licensed contractors that meet the prequalification standards shall be so notified, and licensed contractors that do not

meet the prequalification standards shall also be so notified. Thereafter, bids may be solicited from contractors that meet the prequalification standards. The department may promulgate rules or develop procedures to implement the prequalification process.

(5) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by rules, together with the name of each bidder, shall be entered on a record and the record shall be open to public inspection. After the time of the award, all bids and bid documents shall be open to public inspection in accordance with the provisions of [chapter 1, title 74](#) and section [67-9215](#), Idaho Code.

(6) With respect to a project having a written cost estimate of greater than twenty-five thousand dollars (\$25,000) but less than the public works limit established in section [67-5711](#), Idaho Code, the agency, if it does not perform the work with existing physical plant staff, must award a written contract to the lowest responsible and responsive bidder after soliciting at least three (3) documented informal bids from contractors licensed in Idaho to perform public works contracts, if reasonably available. Adequate public notice of the invitation for informal bids shall be given at least seven (7) days prior to the date set forth therein for the receipt of the informal bids. Such notice may include publication at least seven (7) days prior to bid opening in a newspaper of general circulation in the area where the work is located; or the agency may advertise the invitation for bids in appropriate trade journals, and otherwise notify persons believed to be interested in the award of a contract. Informal bids must be submitted by the contractor in writing in response to a prepared written document describing the project's scope of work in sufficient detail so as to enable a contractor familiar with such work to prepare a responsible bid. Nothing herein exempts an agency from the responsibility of utilizing formal plans and specifications if the work involves the public health or safety as described in chapters 3 and 12, [title 54](#), Idaho Code. The agency must document receipt of the informal bids in the project file.

(7) Any personal property including goods, parts, supplies and equipment which is to be supplied or provided by a state agency for use in any public work, project, or preventive maintenance programs, whether the public work, project, or preventive maintenance program is constructed, undertaken or performed by agency in-house personnel, or by delegation pursuant to section [67-5710A](#), Idaho Code, or otherwise provided or supplied by the agency to a contractor, the personal property, goods, parts, supplies or equipment supplied or provided by the agency must be purchased or procured by the agency through the division of purchasing in accordance with the Idaho Code.

[67-5711C, added 1991, ch. 164, sec. 2, p. 394; am. 1992, ch. 136, sec. 1, p. 424; am. 2001, ch. 213, sec. 2, p. 840; am. 2005, ch. 213, sec. 40, p. 681; am. 2010, ch. 345, sec. 1, p. 902; am. 2015, ch. 141, sec. 178, p. 520; am. 2016, ch. 289, sec. 15, p. 814; am. 2018, ch. 119, sec. 1, p. 254.]

67-5711D. ENERGY SAVINGS PERFORMANCE CONTRACTS. (1) Definitions. As used in this section:

(a) "Cost-savings measure" means any facility improvement, repair or alteration to an existing facility, or any equipment, fixture or furnishing to be added or used in any existing facility that is designed

to reduce energy consumption and energy operating costs or increase the energy efficiency of facilities for their appointed functions that are cost effective. "Cost-savings measure" includes, but is not limited to, one (1) or more of the following:

- (i) Procurement of low-cost energy supplies of all types, including electricity, natural gas and water;
 - (ii) Insulating the building structure or systems in the building;
 - (iii) Storm windows or doors, caulking or weather stripping, multiglazed windows or door systems, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area or other window and door system modifications that reduce energy consumption;
 - (iv) Automated or computerized energy control systems;
 - (v) Heating, ventilation or air conditioning system modifications or replacements;
 - (vi) Replacing or modifying lighting fixtures to increase the energy efficiency of the lighting system;
 - (vii) Energy recovery systems;
 - (viii) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;
 - (ix) Installing new or modifying existing day lighting systems;
 - (x) Installing or modifying renewable energy and alternate energy technologies;
 - (xi) Building operation programs that reduce energy costs including, but not limited to, computerized programs, training and other similar activities;
 - (xii) Steam trap improvement programs that reduce energy costs;
 - (xiii) Devices that reduce water consumption; and
 - (xiv) Any additional building infrastructure improvements that produce energy cost savings, significantly reduce energy consumption or increase the energy efficiency of the facilities for their appointed functions and are in compliance with all applicable state building codes.
- (b) "Director" means the director of the department of administration or the director's designee.
- (c) "Energy cost savings" means any expenses that are eliminated or avoided on a long-term basis as a result of equipment installed or modified, or services performed by a qualified energy service company or a qualified provider, but does not include merely shifting personnel costs or similar short-term cost savings.
- (d) "Financial grade energy audit" means a comprehensive building energy systems audit performed by a professional engineer licensed in the state of Idaho for the purpose of identifying and documenting feasible energy and resource conservation measures and cost-savings factors.
- (e) "Performance contract" means a contract between the director or the public entity and a qualified provider or a qualified energy service company for evaluation, recommendation and implementation of one (1) or more cost-savings measures. A performance contract may be structured as either:
- (i) A guaranteed energy savings performance contract, which shall include, at a minimum, the design and installation of equip-

ment and, if applicable, operation and maintenance of any of the measures implemented. Guaranteed annual savings must meet or exceed the total annual contract payments made by the director or the user agency or the public entity for such contract, including financing charges to be incurred over the life of the contract; or

(ii) A shared savings contract, which shall include provisions mutually agreed upon by the director and the qualified provider or qualified energy service company as to the rate of payments based upon energy cost savings and a stipulated maximum energy consumption level over the life of the contract.

(f) "Person" means an individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entity as recognized by the state of Idaho.

(g) "Public entity" means the cities, counties and school districts or any political subdivision within the state of Idaho.

(h) "Qualified energy service company" means a person with a record of established projects or with demonstrated technical, operational, financial and managerial capabilities to implement performance contracts and who currently holds an Idaho public works contractor license appropriate for the work being performed.

(i) "Qualified provider" means a person who is experienced in the design, implementation and installation of energy efficiency and facility improvement measures, who has the ability to secure necessary financial measures to support energy savings guarantees and the technical capabilities to ensure such measures generate energy cost savings, and who currently holds an Idaho public works contractor license appropriate for the work being performed.

(2) Performance contracts. The director of the department of administration, subject to the approval of the permanent building fund advisory council, or any Idaho public entity may enter into a performance contract with a qualified provider or qualified energy service company to reduce energy consumption or energy operating costs. Cost-savings measures implemented under such contracts shall comply with all applicable state and local building codes.

(3) Requests for qualifications. The director of the department of administration or the public entity shall request qualifications from qualified providers and qualified energy service companies inviting them to submit information describing their capabilities in the areas of:

(a) Design, engineering, installation, maintenance and repairs associated with performance contracts;

(b) Experience in conversions to a different energy or fuel source, so long as it is associated with a comprehensive energy efficiency retrofit;

(c) Postinstallation project monitoring, data collection and reporting of savings;

(d) Overall project experience and qualifications;

(e) Management capability;

(f) Ability to assess the availability of long-term financing;

(g) Experience with projects of similar size and scope; and

(h) Other factors determined by the director or the public entity to be relevant and appropriate relating to the ability of the qualified provider or qualified energy service company to perform the project.

(4) Notice. Adequate public notice of the request for qualifications shall be given at least fourteen (14) days prior to the date set forth therein for the opening of the responses to the request for qualifications. Such notice may be provided electronically or by publication in a newspaper of general circulation in the area where the work is located.

(5) Public inspection. All records of the department or an agency or the public entity relating to the award of a performance contract shall be open to public inspection in accordance with the provisions of [chapter 1, title 74](#), and section [67-9215](#), Idaho Code.

(6) Award of performance contract.

(a) The director or public entity shall select up to three (3) qualified providers or qualified energy service companies who have responded to the request for qualifications. Factors to be considered in selecting the successful qualified provider or qualified energy service company shall include, but not be limited to:

(i) Fee structure;

(ii) Contract terms;

(iii) Comprehensiveness of the proposal and cost-savings measures;

(iv) Experience of the qualified provider or qualified energy service company;

(v) Quality of the technical approach of the qualified provider or qualified energy service company; and

(vi) Overall benefits to the state or the public entity.

(b) Notwithstanding the provisions of section [67-5711C](#), Idaho Code, the director or the public entity may, following the request for qualifications and the expiration of the specified notice period, award the performance contract to the qualified provider or qualified energy service company which best meets the needs of the project and whose proposal may or may not represent the lowest cost among the proposals submitted pursuant to this section.

(c) Upon award of the performance contract, the successful qualified provider or qualified energy service company shall prepare a financial grade energy audit which, upon acceptance by the director or the public entity, shall become a part of the final performance contract.

(7) Installment payment and lease-purchase agreements. Pursuant to this section, the director or the public entity may enter into a performance contract, payments for which shall be made by the user agency or public entity. Such performance contracts may be financed as installment payment contracts or lease-purchase agreements for the purchase and installation of cost-savings measures. Financing implemented through another person other than the qualified provider or qualified energy service company is authorized.

(8) Terms of performance contract.

(a) Each performance contract shall provide that all payments between parties, except obligations upon termination of the contract before its expiration, shall be made over time and that the objective of such performance contract is the implementation of cost-savings measures and energy cost savings.

(b) A performance contract, and payments provided thereunder, may extend beyond the fiscal year in which the performance contract becomes effective, subject to appropriation by the legislature or by the public entity, for costs incurred in future fiscal years. The performance con-

tract may extend for a term not to exceed twenty-five (25) years. The permissible length of the contract may also reflect the useful life of the cost-savings measures.

(c) Performance contracts may provide for payments over a period of time not to exceed deadlines specified in the performance contract from the date of the final installation of the cost-savings measures.

(d) Performance contracts entered pursuant to this section may be amended or modified, upon agreement by the director or the public entity and the qualified provider or qualified energy service company, on an annual basis.

(9) Monitoring and reports. During the term of each performance contract, the qualified provider or qualified energy service company shall monitor the reductions in energy consumption and cost savings attributable to the cost-savings measures installed pursuant to the performance contract and shall annually prepare and provide a report to the director or the public entity documenting the performance of the cost-savings measures.

[67-5711D, added 2001, ch. 213, sec. 3, p. 841; am. 2004, ch. 15, sec. 1, p. 12; am. 2008, ch. 366, sec. 1, p. 1001; am. 2015, ch. 141, sec. 179, p. 521; am. 2016, ch. 289, sec. 16, p. 816.]

67-5712. PROJECTION OF BUILDING REQUIREMENTS REPORT. The permanent building fund council and the director of the department of administration works shall on or before September 1 next preceding each regular session of the legislature prepare and submit to the governor a projection of building requirements of all institutions and agencies of Idaho. Such projection shall include new buildings, maintenance and repair of existing state owned buildings.

[67-5712, added I.C., sec. 67-5712, as added by 1974, ch. 34, sec. 2, p. 988.]

67-5713. CONSTRUCTION AND ALTERATION OF STATE CORRECTIONAL FACILITIES. The administrator of the division of public works is authorized and empowered, subject to the approval of the permanent building fund advisory council, to use appropriated funds or other fund sources to construct or alter, either in whole or in part, state owned correctional facilities by inmate labor for the purpose of providing meaningful work and rehabilitation programs for inmates confined therein, or to have such construction accomplished by the competitive bid process as authorized by section [67-5711](#), Idaho Code, whichever the permanent building fund advisory council deems most appropriate. Further providing that no construction or alteration by inmate labor shall be authorized, unless plans and specifications for such construction have been accomplished by a licensed architect or engineer appointed at the direction of the council, and such final plans and specifications approved by the council. Further providing that such construction or alteration shall be performed under the direct charge and supervision of the administrator of the division of public works.

[67-5713, added 1978, ch. 375, sec. 2, p. 981.]

67-5722. DECLARATION OF SURPLUS PROPERTY. In accordance with the internal management policies, guidelines or instructions of the board of ex-

aminers, the head of any agency may declare as surplus any item of personal property.

[67-5722, added 1975, ch. 254, sec. 2, p. 686; am. 1991, ch. 158, sec. 1, p. 374; am. 2000, ch. 5, sec. 1, p. 9; am. 2001, ch. 36, sec. 6, p. 61; am. 2016, ch. 289, sec. 17, p. 819.]

67-5732A. DISPOSAL OF SURPLUS PERSONAL PROPERTY AUTHORIZED. Whenever the head of any commission, board, council, task force, committee or department of state government, or any institution of the state, or any elected state official, has under their jurisdiction or control, any personal property belonging to the state which, in their judgment, is of no further use to the state or to such commission, board, council, task force, committee, department, institution or state office, they may sell, transfer, recycle or discard such personal property in the name of the state and in accordance with the internal management policies and procedures of the board of examiners. The board of examiners shall adopt internal management policies and procedures for the disposal of state surplus personal property to efficiently dispose of surplus personal property, to allow conveyance of surplus personal property to other state, federal and local agencies, to offer state surplus personal property for sale to the public at large and to provide for maximum value received by the state of Idaho with attendant benefits to its citizens. Provided that when sales will be offered to the public and sold to the highest responsible bidder, notice of such sale shall be published in at least a newspaper of general circulation in accordance with section [60-106](#), Idaho Code, for at least two (2) weeks prior to such offering.

[67-5732A, added 1991, ch. 158, sec. 7, p. 377; am. 2003, ch. 31, sec. 3, p. 115; am. 2011, ch. 59, sec. 1, p. 123.]

67-5732B. GOVERNOR'S HOUSING COMMITTEE PERSONAL PROPERTY EXEMPT FROM ACT. Section [67-5732A](#), Idaho Code, shall not apply to personal property if acquired by or on behalf of the governor's housing committee pursuant to section [67-455](#) or [67-455A](#), Idaho Code, as the same now exists or may from time to time be amended. This section shall apply to all personal property acquired pursuant to section [67-455](#) or [67-455A](#), Idaho Code, before or after the effective date of this section.

[67-5732B, added 1999, ch. 336, sec. 4, p. 915.]

67-5737. SEVERABILITY. Insofar as a provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.

[67-5737, added 1975, ch. 254, sec. 2, p. 686; am. 2016, ch. 289, sec. 18, p. 819.]

67-5740. ADDITIONAL AUTHORITY AND DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF PURCHASING. (a) The administrator of the division of purchasing is authorized and empowered (1) to acquire from the United States of America under and in conformance with the provisions of section 203(j) [40 U.S.C. sec. 484(j)] of the Federal Property and Administrative Services Act of

1949, as amended, hereinafter referred to as the "Act," such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for purposes of education, public health or civil defense, including research for any such purpose, and for such other purposes as may now or hereafter be authorized by federal law; (2) to warehouse such property; and (3) to distribute such property within the state to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, and universities within the state, to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which have been held exempt from taxation under section 501(c)(3) [26 U.S.C. sec. 501(c)(3)] of the United States Internal Revenue Code of 1954, to civil defense organizations of the state, or political subdivisions and instrumentalities thereof, which are established pursuant to state law, and to such other types of institutions or activities as may now be or hereafter become eligible under federal law to acquire such property.

(b) The administrator is hereby authorized to receive applications from eligible institutions for the acquisition of federal surplus real property, investigate the same, obtain expression of views respecting such applications from the appropriate health or educational authorities of the state, make recommendations regarding the need of such applicant for the property, the merits of its proposed program of utilization, the suitability of the property for such purposes, and otherwise assist in the processing of such applications for acquisition of real and related personal property of the United States under section 203(k) [40 U.S.C. sec. 484(k)] of the act.

(c) For the purpose of executing its authority under this chapter, the administrator is authorized and empowered to adopt, amend, or rescind such rules and prescribe such requirements as may be deemed necessary and take such other action as is deemed necessary and suitable, in the administration of this chapter, to assure maximum utilization by and benefit to health, educational and civil defense and other eligible institutions and organizations within the state from property distributed under this chapter.

(d) The administrator, subject to approval of the director of administration, is authorized and empowered to appoint advisory boards or committees, who shall be compensated as provided by section [59-509](#)(b), Idaho Code, and to employ such personnel and to fix their compensation and prescribe their duties, as are deemed necessary and suitable for the administration of this chapter. Expenditures incurred hereunder shall be paid as are other claims against the state.

(e) The administrator is authorized and empowered to make such certifications, take such action, make such expenditures and enter into such contracts, agreements and undertakings for and in the name of the state (including cooperative agreements with any federal agencies providing for utilization by and exchange between them of the property, facilities, personnel and services of each by the other), require such reports and make such investigations as may be required by law or regulation of the United States of America in connection with the disposal of real property and the receipt, warehousing, and distribution of personal property received by him from the United States of America; provided, that all expenditures, contracts, agreements and undertakings for and in the name of the state shall have the approval of the state board of examiners.

(f) The administrator is authorized and empowered to act as a clearing house of information for the public and private nonprofit institutions, or-

organizations and agencies referred to in subparagraph (a), and other institutions eligible to acquire federal surplus real property, to locate both real and personal property available for acquisition from the United States of America, to ascertain the terms and conditions under which such property may be obtained, to receive requests from the above mentioned institutions, organizations and agencies and to transmit to them all available information in reference to such property, and to aid and assist such institutions, organizations and agencies in every way possible in the consummation of acquisitions or transactions hereunder.

(g) The administrator, in the administration of this chapter, shall cooperate to the fullest extent consistent with the provisions of the act, with the departments or agencies of the United States of America and shall file a state plan of operation, operate in accordance therewith, and take such action as may be necessary to meet the minimum standard prescribed in accordance with the act, and make such reports in such form and containing such information as the United States of America or any of its departments or agencies may from time to time require, and it shall comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use or accounting for, property donable or donated to the state.

(h) The administrator, with approval of the board of examiners, is authorized to contract with agencies of other states responsible for the handling of surplus property for:

(1) The acquisition, warehousing, and distribution of surplus property on behalf of the state of Idaho and the delivery of surplus property within the state of Idaho; and

(2) The acquisition, warehousing, and distribution of surplus property on behalf of other states and the delivery of surplus property in other states; provided, that any contract negotiated under the authority of this subparagraph (2) shall obligate the other states to pay the cost of the surplus property and the administrative costs incurred in the acquisition, warehousing, and distribution of the surplus property; and

(3) The furnishing of any services to the state of Idaho concerning the acquisition, warehousing, and distribution of surplus property, and the sorting, dividing into lots, crating, preparing for shipment, and any other handling of surplus property for the state of Idaho.

[67-5740, added I.C., sec. 67-5740, as added by 1974, ch. 34, sec. 2, p. 988; am. 1980, ch. 247, sec. 90, p. 652; am. 1994, ch. 176, sec. 8, p. 410.]

67-5741. DELEGATION OF DUTIES -- BONDING OF AGENCY PERSONNEL. The director of the department of administration may delegate to any employees of the division of purchasing such authority as he deems reasonable and proper for the effective administration of this act. The director may utilize the services of officers and employees of any of the state departments and any other governmental agencies of the state receiving surplus property under the provisions of this act, and all such departments and agencies are hereby authorized to assist and cooperate with the director in the administration of this act. Any person in the employ of the division of purchasing agency may in the discretion of the governor be required to execute and deliver to the governor a bond payable to the state in such amount as may be fixed by the governor, conditioned upon the proper care, disbursement, and accounting of all funds and the proper care, distribution, and accounting of all property

received from the United States under the authority of this act; provided, however, the governor may accept an adequate indemnity bond covering all or part of the persons so accountable and responsible.

[67-5741, added I.C., sec. 67-5741, as added by 1974, ch. 34, sec. 2, p. 988.]

67-5742. DELEGATION OF AUTHORITY TO ACQUIRE SURPLUS PROPERTY. Any provision of law to the contrary notwithstanding, the governing board, or in case there be none, the executive head, of any state department, instrumentality, or agency or of any county, city, school district or other political subdivision may by order or resolution confer upon any officer or employee thereof continuing authority from time to time to secure the transfer to it of surplus property under this act and to obligate the state or political subdivision to the extent necessary to comply with the terms and conditions of such transfers. The authority conferred upon any such officer or employee by any such order or resolution shall remain in effect unless and until the order or resolution is duly revoked and written notice of such revocation shall have been received by the administrator of the division of purchasing.

[67-5742, added I.C., sec. 67-5742, as added by 1974, ch. 34, sec. 2, p. 988.]

67-5743. TRANSFER CHARGES. The administrator of the division of purchasing is hereby authorized to make charges and to assess fees from the recipient of any surplus property acquired and distributed under this act. Any charges made or fees assessed by the administrator for the acquisition, warehousing, distribution, or transfer of any property of the United States of America for educational, public health or civil defense purposes, including research, shall be limited to those reasonably related to the costs of care and handling in respect to its acquisition, receipt, warehousing, distribution or transfer by the surplus property agency and, in the case of real property, such charges and fees shall be limited to the reasonable administrative costs of the division incurred in effecting transfer.

[67-5743, added I.C., sec. 67-5743, as added by 1974, ch. 34, sec. 2, p. 988.]

67-5744. SURPLUS PROPERTY FUND MAINTAINED -- CHARGES AND FEES, DEPOSITION. The surplus property revolving fund, as created by chapter 161, laws of 1957, is hereby maintained and continued to carry out the provisions of sections [67-5740](#)--[67-5744](#), Idaho Code. The charges or fees received by the division of purchasing for acquisition, warehousing, distribution or transfer of surplus property shall be deposited and credited to the said surplus property revolving fund, which fund shall be available for expenditure in administering the provisions of sections [67-5740](#)--[67-5744](#), Idaho Code, including payment of the actual expenses of current operations and the purchase of necessary equipment, and the acquisition and maintenance of a working capital reserve within the surplus property revolving fund. Any prior appropriation made to the revolving fund is hereby declared to be exempt from the provisions of the Standard Appropriations Act of 1945.

The amount of the working capital reserve in any fiscal year shall be determined by the director of the department of administration and shall not exceed an amount equivalent to the estimated cost of operation of the sur-

plus property function of the division for the next succeeding fiscal year; provided, however, that accounts receivable which are uncollectible and all liabilities incurred in the performance of sections 67-5740--67-5744, Idaho Code, including the unrepaid balance of the amount heretofore appropriated to the surplus property revolving fund from the general fund of the state of Idaho, shall be deducted from current assets in determining, as of the end of any fiscal year, the amount of working capital reserve for the next succeeding fiscal year.

In any fiscal year the director of administration may transfer from the surplus property revolving fund to the general fund of the state of Idaho any sum not exceeding the unrepaid balance of the amount heretofore appropriated to the surplus property revolving fund. Upon termination or repeal of sections 67-5740--67-5744, Idaho Code, any balance remaining in said revolving fund not exceeding the unrepaid balance of the amount heretofore appropriated to the surplus property revolving fund is hereby transferred to and made a part of the general fund of the state, and any balance remaining in the said revolving fund in excess of the said unrepaid balance shall be disposed for the benefit of qualified public health, educational, civil defense, and other organizations or institutions within the state of Idaho in accordance with the requirements of federal law.

[67-5744, added I.C., sec. 67-5744, as added by 1974, ch. 34, sec. 2, p. 988; am. 1994, ch. 176, sec. 9, p. 412.]

67-5746. INVENTORY OF CHATTELS -- CONTENTS -- DUTIES OF OFFICERS AND EMPLOYEES -- RECORDING -- ANNUAL REVISION -- OPEN TO INSPECTION. All agency directors shall develop and maintain an inventory system, meeting minimum requirements as set forth by the department of administration, for all personal property which the agency owns or is responsible for whether under terms of any contract, grant, or otherwise.

To maintain uniformity among the various agency property inventory systems, the department of administration shall develop and distribute to each agency minimum requirements for each inventory system. Each agency shall feel free to add additional functions beyond those minimums to meet their requirements. The inventory shall be recorded in a permanent record to be kept for that purpose, showing as a minimum a description of the property, where located, acquisition cost or estimated fair market value, and date of acquisition, its estimated current replacement cost, and the account or unit within the responsible agency. Each agency may add additional functions beyond these minimums to meet their agency requirements.

Each state agency director shall be accountable for the maintenance, security, and efficient economic use, as well as the verification of physical location and condition of all personal property belonging to that agency.

The agency director shall be responsible for conducting an annual inventory of all personal property by no later than the first day of March of each fiscal year. Further, each agency director shall make a written report to the director of the department of administration that the inventory has been completed by the end of the first week of March of each year on a form developed by and under such guidelines as are issued by the department of administration.

The department of administration shall provide all agencies with an inflation factor for property in early January of each year to assist agency directors in discharging the responsibility set forth herein.

Each agency director may appoint a property control officer who shall be responsible for conducting the annual inventory of agency property. The property control officer shall also be responsible for ensuring the prompt recording of newly acquired property and the economical disposition of surplus property in a timely manner. The property control officer shall periodically review the values of property for reasonableness.

The agency director shall have the authority to dispose of surplus property in accordance with the provisions of section [67-5732A](#), Idaho Code.

[67-5746, added I.C., sec. 67-5746, as added by 1974, ch. 34, sec. 2, p. 988; am. 1976, ch. 27, sec. 1, p. 62; am. 1979, ch. 23, sec. 1, p. 34; am. 1983, ch. 28, sec. 1, p. 78; am. 1991, ch. 158, sec. 11, p. 379.]

67-5748. TRANSFER OF FUNDS, EQUIPMENT, FACILITIES, AND EMPLOYEES. In order to provide for the orderly implementation of this chapter and to provide an economical, efficient, and effective system of information technology and telecommunications for the state, the board of examiners may order such transfer of appropriated funds, custody and control of equipment and facilities, and employees to the department of administration as may be necessary to carry out the purposes of this act.

[67-5748, added I.C., sec. 67-5748, as added by 1974, ch. 34, sec. 2, p. 988; am. 1993, ch. 221, sec. 6, p. 750; am. 1996, ch. 115, sec. 3, p. 426.]

67-5749. CENTRAL POSTAL SYSTEM. There is hereby created the central postal system under the direction of the department of administration. The central postal system shall be under the supervision of a central postal system head who shall cause to be distributed all incoming mail and process all outgoing mail for all departments, agencies, institutions and offices of the state of Idaho which are housed and located within the capitol mall.

The department of administration is authorized to add such personnel and to acquire such postal equipment as may be necessary to efficiently operate the central postal system.

[67-5749, added I.C., sec. 67-5749, as added by 1974, ch. 34, sec. 2, p. 988.]

67-5750. POSTAGE APPROPRIATIONS -- RECORDS OF DEPARTMENTAL MAIL KEPT THROUGH CENTRAL POSTAL SYSTEM -- EXCEPTION. The central postal system chief, under the direction of the department of administration, shall cause to be metered all such outgoing mail and shall be responsible for the keeping of records and costs thereof, and shall be able to at least monthly certify to the state controller the amount expended on behalf of each department, agency or institution directly utilizing the central postal system, which amount shall be charged against the funds of such department, agency or institution and continually appropriated to the account of the department of administration for the operation of the central postal system. Those agencies which expend funds for stamps and metered postage directly shall make expenditure reports available to the department of administration at least semiannually. The department of administration shall annually submit in the department budget request an accounting of the total cost of postage to the state, as well as the calculated savings and the methods through which such savings were derived. The central postal system chief is

hereby directed to evaluate materials to be mailed and shall cause mail to be properly prepared utilizing the lowest practical and most feasible rate of postage. Provided, however, that each member of the legislature of the state of Idaho shall be issued United States postage for each session attended, in an amount determined by each session of the legislature to be charged to the legislative expense appropriation.

[67-5750, added I.C., sec. 67-5750, as added by 1974, ch. 34, sec. 2, p. 988; am. 1974, ch. 192, sec. 1, p. 1500; am. 1980, ch. 45, sec. 1, p. 75; am. 1981, ch. 77, sec. 2, p. 110; am. 1994, ch. 180, sec. 223, p. 559.]

67-5760. INSURANCE MANAGEMENT. The director of the department of administration shall be responsible for life, medical, disability, property, casualty, and other insurance as may be determined to be in the best interest of the state of Idaho by the department of administration. The director may employ additional personnel as may be necessary and may contract for professional or technical services or assistance when necessary and desirable.

[67-5760, added 1980, ch. 106, sec. 9, p. 234; am. 1993, ch. 221, sec. 7, p. 751.]

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

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

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

(c) Determine the nature and extent of needs for group life insurance, group annuities, group disability insurance, and group health care service coverages with respect to personnel, including elected or appointed officers and employees, of all offices, departments, divisions, boards, commissions, institutions, agencies and operations of the government of the state of Idaho and retired personnel, the premiums or prepayments for which are payable in whole or in part from funds of the state. "Disability" insurance includes all personal accident, health, hospital, surgical, and medical coverages, and "health care service" includes all services rendered for maintenance of good health and diagnosis, relief, or treatment of any injury, ailment, or bodily condition.

(d) Determine the types, terms, conditions, and amounts of group insurance, group annuities, or group coverage by health care service organizations, as the case may be, required by such needs.

(e) Negotiate and contract for, and have placed or continued in effect all such insurance and coverages as may reasonably be obtainable from insurers and health care service organizations, as the case may be, duly authorized to transact such business in this state. The director may negotiate deductibles to any group plan or coverage. Alternatively, the director may self-insure any insurance or coverage and may contract

with any insurance company or third party administrator duly authorized to transact business in this state or administer such plan.

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

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

(i) Enrollment and reporting to the insurer or health care service organization of individuals eligible for coverage and covered under particular policies or contracts, and termination of such enrollment upon termination of eligibility;

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

(iii) Establishment of reasonable procedures for handling claims arising under such coverage, policies and contracts, and rendering assistance to claimants, as may be required in the presentation and consideration of claims;

(iv) Effectuation of changes in such coverage, policies and contracts and renewal or termination thereof;

(v) Making and settlement of claims.

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

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

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

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

(c) Any person who is eligible for health care service coverage as a retired person prior to June 30, 2009, remains eligible for coverage subject to the conditions of subsections (3)(a) and (b) of this section.

(d) No personnel, including elected or appointed officers and employees, of all offices, departments, divisions, boards, commissions, agencies and operations of the government of the state of Idaho, who begin service or employment after June 30, 2009, shall be provided or be eligible for any retired personnel health care service coverage, unless such personnel have credited state service of at least twenty thousand eight hundred (20,800) hours before June 30, 2009, and subsequent to reemployment, election or reappointment on or after July 1, 2009, accu-

mulate an additional six thousand two hundred forty (6,240) continuous hours of credited state service, and who are otherwise eligible for coverage.

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

(f) The Idaho department of administration shall assist medicare eligible retirees in transitioning to a medicare supplement plan in accordance with procedures established by the advisory committee.

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

[(67-5761) 1974, ch. 253, sec. 2, p. 1656; am. 1980, ch. 106, redesignated sec. 67-5761, I.C., sec. 10, p. 235; am. 1983, ch. 148, sec. 1, p. 401; am. 1986, ch. 150, sec. 1, p. 435; am. 1988, ch 292, sec. 1, p. 930; am. 1990, ch. 117, sec. 1, p. 263; am. 1993, ch. 221, sec. 8, p. 751; am. 1998, ch. 185, sec. 1, p. 678; am. 2009, ch. 164, sec. 2, p. 493.]

67-5761A. MENTAL HEALTH PARITY IN STATE GROUP INSURANCE. (1) It is the policy of the state of Idaho that state employees and their spouses with serious mental illnesses and state employees whose children have been diagnosed with serious emotional disturbances must not be discriminated against in group health care service coverages. Such coverages must provide for the treatment of serious mental illnesses and serious emotional disturbances in a manner that is equitable and commensurate with that provided for other major physical illnesses.

(2) For the purposes of this section:

(a) "Serious mental illness" means any of the following psychiatric illnesses as defined by the American psychiatric association in the diagnostic and statistical manual of mental disorders (DSM-IV-TR):

- (i) Schizophrenia;
- (ii) Paranoia and other psychotic disorders;
- (iii) Bipolar disorders (mixed, manic and depressive);
- (iv) Major depressive disorders (single episode or recurrent);
- (v) Schizoaffective disorders (bipolar or depressive);
- (vi) Panic disorders; and
- (vii) Obsessive-compulsive disorders.

(b) "Serious emotional disturbance" means "serious emotional disturbance" as defined in section [16-2403](#), Idaho Code.

(3) To be considered nondiscriminatory and equitable under this section, group health care service coverage shall provide benefits and cover services that are essential to the effective treatment of serious mental illnesses and serious emotional disturbances in a manner that:

- (a) Is not more restrictive or more generous than benefits and coverages provided for other major illnesses;
- (b) Provides clinical care, but does not require partial care, of serious mental illness or serious emotional disturbance; and
- (c) Is consistent with effective and common methods of controlling health care costs for other major illnesses.

[67-5761A, added 2006, ch. 97, sec. 2, p. 272.]

67-5761B. STATE CONTRIBUTION TO STATE EMPLOYEE HEALTH SAVINGS ACCOUNTS. (1) All state officers or employees may, for themselves and their eligible dependents, create and maintain a health savings account and choose a high deductible health plan in accordance with the provisions of this section.

(2) As used in this section:

(a) "Employer premium" means the costs to the state of Idaho for a policy of group insurance procured by the department of administration.

(b) "Health savings account" means an account at a financial institution that is designed to help individuals save for future health care expenses pursuant to 26 U.S.C. section 223.

(c) "High deductible health plan" means a health plan qualifying for use with a health savings account pursuant to 26 U.S.C. section 223, and offered by the department of administration to eligible state officers and employees.

(3) State officers or employees who choose a high deductible health plan for themselves and their eligible dependents shall qualify for the deposits provided for in subsection (4) of this section. Such officers or employees shall establish and create a health savings account and provide information concerning such account to their employer.

(4) For each pay period, the employer shall deposit the difference between the employer premium for a state of Idaho high deductible health plan and the employer premium of the lowest deductible group health plan offered by the department of administration in the health savings account established and created by an officer or employee enrolled in a state of Idaho high deductible health plan. Deposits made pursuant to this subsection shall not exceed the United States internal revenue service's maximum allowable contribution to a health savings account.

(5) Nothing in this section shall prohibit state officers or employees with a health savings account from contributing to such account of their own accord.

(6) The department of administration may promulgate rules to implement the provisions of this section.

[67-5761B, added 2013, ch. 213, sec. 2, p. 502.]

67-5761C. HEALTH REIMBURSEMENT ARRANGEMENTS FOR STATE EMPLOYEES. (1) The department of administration may offer a health reimbursement arrangement as an approved benefit for all state employees or officers whose employer chooses to offer such a benefit to its employees or officers. All state employees or officers shall, for themselves and their eligible dependents, participate in a health reimbursement arrangement if the employer of such employees and officers chooses to offer the health reimbursement arrangement.

(2) For purposes of this section:

(a) "Health reimbursement arrangement" means an arrangement whereby employees may reimburse themselves for health care costs approved by the internal revenue service from a tax-exempt employee benefit trust known as a voluntary employees' beneficiary association.

(b) "Voluntary employees' beneficiary association" (VEBA) means a tax-exempt employee benefit trust governed under section 501(c)(9) of the

Internal Revenue Code. A VEBA trust is managed by trustees elected by the employee members of the trust.

(3) The department of administration may promulgate rules to implement the provisions of this section.

[67-5761C, added 2014, ch. 94, sec. 1, p. 261.]

67-5762. OBJECTIVES AND CONSIDERATIONS. It shall be the director of the department of administration's objective to procure and maintain on behalf of officers and employees the most adequate group coverages reasonably obtainable for the money available for required premiums and prepayments. In the selection of insurers and health care service organizations to provide such coverages, the director shall give consideration to factors, other than lowest apparent premium or prepayment, such as risk retention, reserves, extent to which the insurer or organization will facilitate administration, and to its reputation and record for promptness and fairness in the treatment of claims, as well as to its financial dependability.

[(67-5762) 1974, ch. 253, sec. 5, p. 1656; am. and redesig. 1980, ch. 106, sec. 11, p. 236; am. 1993, ch. 221, sec. 9, p. 752.]

67-5763. GOVERNMENTAL BODY AUTHORIZED TO MAKE CONTRACTS FOR GROUP INSURANCE FOR OFFICERS AND EMPLOYEES. Any school district, municipality, county, or the state of Idaho, or other political subdivision of the state of Idaho, is hereby authorized to make contracts of group insurance and arrangements with prepayment plans, insuring and covering life, health, hospitalization, medical and surgical service and expense, accident insurance, contracts of annuities and pensions, or any one or more of such forms of insurance, annuities, pensions, or prepayment plans of coverage for the benefit of its elected or appointed officers and employees including life, hospitalization, medical and surgical expense insurance or prepayment plan coverage for dependents of such officers and employees.

[(67-5763) 1959, ch. 216, sec. 1, p. 471; am. 1974, ch. 253, sec. 10, p. 1656; am. and redesig 1980, ch. 106, sec. 12, p. 236.]

67-5764. PART PAYMENT OF PREMIUM COST BY GOVERNMENTAL BODY. Notwithstanding any other provision of law, any governmental body, department, commission, board, school district, college, university, hospital, or other institution operated by the state of Idaho, municipality, county, or other political subdivision or the state of Idaho, and supported in whole or in part by public funds, is hereby authorized to pay part of the cost of any such plan of insurance, annuity, pension, and/or prepayment plan, and may deduct from the officer's or employee's pay, salary, or compensation such part of the premium or charge payable by the officer or employee.

[(67-5764) 1959, ch. 216, sec. 2, p. 471; am. and redesig. 1980, ch. 106, sec. 13, p. 236.]

67-5765. GOVERNMENT RETIREMENT PROGRAM OR GROUP INSURANCE PLANS IN EXISTENCE UNAFFECTED. The provisions of this act shall not affect the validity of any retirement program or contract of group insurance or arrangement for prepayment plan coverage previously entered into by any governmental body, or by any school, college, university, hospital or other institutions oper-

ated by any of the municipalities, counties, or other political subdivisions of the state and supported in whole or part by public funds.

[(67-5765) 1959, ch. 216, sec. 3, p. 471; am. and redesiɡ 1980, ch. 106, sec. 14, p. 237.]

67-5766. AUTHORITY CONFERRED ADDITIONAL ONLY. The authority hereby given shall be in addition to and not in derogation of any power existing in any governmental body, or in any school district, college, hospital, university or other institution operated by any of the municipalities or other political subdivisions of the state and supported in whole or in part by public funds, or in any municipality, school district, or political subdivision of the state under the provisions of any statute or any charter now in effect.

[(67-5766) 1959, ch. 216, sec. 4, p. 471; am. and redesiɡ. 1980, ch. 106, sec. 15, p. 237.]

67-5767. DIRECTOR MAY PROVIDE SERVICE TO SCHOOL DISTRICTS, PUBLIC COMMUNITY COLLEGES, PUBLIC COLLEGES, PUBLIC UNIVERSITIES OR OTHER POLITICAL SUBDIVISIONS. (1) Under terms and procedures mutually agreed upon by contract, the director of the department of administration may render the same services with respect to personnel of any school district, public community college, public college, public university, or other political subdivision of the state of Idaho. The cost of any group insurance, group annuity or health care service coverage so provided and of administration thereof shall be borne by the school district, public community college, public college, public university, or other political subdivision.

(2) Other political subdivision for the purpose of this section means any organization composed of units of government of Idaho or organizations funded only by government or government employee contributions or organizations who discharge governmental responsibilities that would otherwise be performed by government.

[(67-5767) 1974, ch. 253, sec. 3, p. 1656; am. 1978, ch. 161, sec. 1, p. 350; am. and redesiɡ. 1980, ch. 106, sec. 16, p. 237; am. 1993, ch. 221, sec. 10, p. 753; am. 2009, ch. 148, sec. 1, p. 438.]

67-5768. NOMINAL POLICYHOLDER -- NO OBLIGATION TO STATE. (1) In policies and contracts procured by the director of the department of administration under this act and covering personnel of any state office, department, division, board, commission, institution, agency and operation, the director of the department of administration shall be designated as the nominal policyholder or contract holder.

(2) No policy or contract shall create, or be deemed to constitute, any financial obligation on the part of the state of Idaho beyond the obligation, to contribute for or upon current premiums or prepayments thereof.

(3) Except as hereinafter provided, information obtained from any employee, dependent or retiree insured under this act shall be subject to disclosure according to [chapter 1, title 74](#), Idaho Code; provided however, that if the affected employee, dependent or retiree waives in writing the right to hold such information confidential, said information may be disclosed.

[67-5768, added 1974, ch. 253, sec. 4, p. 1656; am. and redesig. 1980, ch. 106, sec. 17, p. 237; am. 1983, ch. 29, sec. 1, p. 79; am. 1990, ch. 213, sec. 97, p. 557; am. 1993, ch. 221, sec. 11, p. 753.; am. 2015, ch. 141, sec. 181, p. 525.]

67-5769. INTER-DEPARTMENTAL TRANSACTIONS -- ADMINISTRATIVE CONTRIBUTION -- AMOUNTS -- LIMITS -- REFUNDS -- APPROPRIATION. (1) The director of the department of administration shall charge each office, department, division, board, commission, institution, agency and operation, personnel of which is currently covered under one or more group plans administered by the director, and receive payment in advance for its properly apportioned share of the cost thereof. To the amount otherwise so found due for payment of premiums and prepayments for coverages, the director shall add a separately stated administrative contribution of such percentage, rate, or proportionate amount as may reasonably be required to pay the costs of maintaining the office of group insurance, including personnel costs, operating expenditures, and expenditures for capital outlay items. The director shall allocate the apportioned share of the reasonable costs of administering this act to each participating state unit in the same proportion that the amount of employees of the unit, excluding temporary or part time, bears to the total number of employees, excluding temporary or part time, of all combined units covered by this act.

(2) As to a particular office, department, division, board, commission, institution, agency or operation, such charges and payments shall not exceed the sum of (a) appropriated funds currently available for the purpose, and (b) amounts currently deducted from the salaries and other compensation of covered personnel specifically for the insurance or coverage. On or before the first day of August of each year, the director shall furnish each department with an estimate of the cost of insurance or coverage for the upcoming fiscal year.

(3) Refunds on premiums or prepayments, profit sharing, experience savings and refunds and other contract returns received by the director on account of group policies and group contracts shall be retained by the director and used for application upon future premiums and prepayments as equitably apportioned by the director.

(4) Moneys received by the director under this section shall be deposited to the credit of the group insurance account in the agency asset fund, and are hereby continually appropriated for the uses for which charged and received, or as stated in subsection (3) of this section. Pending such use, such surplus moneys shall be invested by the state treasurer in the same manner as provided for under section [67-1210](#), Idaho Code, with respect to other idle moneys in the state treasury. All interest or other yield on such investments shall be credited to the respective group insurance account.

[(67-5769) 1974, ch. 253, sec. 6, p. 1656; am. 1975, ch. 55, sec. 1, p. 117; am. and redesig. 1980, ch. 106, sec. 18, p. 238; am. 1993, ch. 221, sec. 12, p. 753.]

67-5770. RETIREMENT SYSTEM NOT AFFECTED. Nothing in this act shall apply to or affect the public employee retirement system of Idaho as established under [chapter 13, title 59](#), Idaho Code, the policemen's retirement fund as established under [chapter 15, title 50](#), Idaho Code, the firemen's retirement fund as established under [chapter 14, title 72](#), Idaho Code, the judges retirement fund as established under [chapter 20, title 1](#), Idaho Code,

or the retirement system of the department of employment as established under [chapter 13, title 72](#), Idaho Code, as heretofore or hereafter amended or supplemented.

Provided, however, for the purpose of standardizing retirement benefits for all county employees, any county not participating in the public employee retirement system of Idaho on July 1, 1977 shall apply for membership in said system no later than July 1, 1978, in accordance with the provisions of section [59-1309](#), Idaho Code. Any existing retirement program, shall be terminated prior to the date of entry into the public employee retirement system of Idaho.

[(67-5770) 1974, ch. 253, sec. 7, p. 1656; am. 1977, ch. 161, sec. 1, p. 417; am. and redesig. 1980, ch. 106, sec. 19, p. 239.]

67-5771. GROUP INSURANCE ACCOUNT CREATED -- ADMINISTRATION -- PERPETUAL APPROPRIATION. There is hereby established in the agency asset fund in the state treasury a special account, the "Group Insurance Account," which shall be administered exclusively for the purposes of this act. This account shall consist of all contributions collected pursuant to this act, and all interest earned upon any moneys in the account.

[(67-5771) I.C., sec. 59-1213, as added by 1975, ch. 55, sec. 2, p. 117; am. and redesig. 1980, ch. 106, sec. 20, p. 239; am. 1981, ch. 99, sec. 1, p. 145; am. 1993, ch. 221, sec. 13, p. 754.]

67-5772. REMITTANCE OF CONTRIBUTIONS -- COLLECTION OF DELINQUENCIES. (1) Between the first and twentieth day of each month, each employer, or, where the employer's payroll is paid separately by departments, each department of each employer, shall remit to the director of the department of administration all contributions required of it and its employees on the basis of salaries paid by it during the previous month. These remittances shall be accompanied by such reports as required by rules of the director of the department of administration.

(2) If any employer shall fail or refuse to remit any such contributions within thirty (30) days after the date due, the director of the department of administration may certify to the state treasurer the fact of such failure or refusal and the amount of the delinquent contribution or contributions, together with a request that such amount be set over from funds of the delinquent employer to the credit of the group insurance fund. A copy of such certification and request shall be furnished the delinquent employer.

(3) Within ten (10) days after receipt of such request, the state controller shall draw his warrant for payment of such amount out of moneys in the state treasury allocated to the use of such employer during the current fiscal year. If such moneys are not so available, the director of the department of administration shall take any legal steps necessary to collect such amount.

[(67-5772) I.C., sec. 59-1214, as added by 1975, ch. 55, sec. 3, p. 117; am. and redesig. 1980, ch. 106, sec. 21, p. 240; am. 1993, ch. 221, sec. 14, p. 755; am. 1994, ch. 180, sec. 224, p. 560.]

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

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

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

(c) Within funds available therefor from each respective office, department, division, board, commission, institution, agency or operation with respect to coverage to be provided to it, negotiate for, procure, purchase, and have placed or continued in effect all such insurance coverages and services as may reasonably be obtainable, whether from insurers or brokers duly authorized to transact business in this state.

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

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

(f) Perform such other duties and exercise such other powers as are provided by law.

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

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

[(67-5773) I.C., sec. 67-5754, as added by 1974, ch. 252, sec. 3, p. 1647; I.C., sec. 67-5755, as corrected by 1975, ch. 195, sec. 2, p. 540; am. and redesign. 1980, ch. 106, sec. 22, p. 240; am. and redesign. 1993, ch. 221, sec. 15, p. 755.]

67-5774. POSITION OF RISK MANAGER CREATED -- APPOINTMENT -- EMPLOYMENT OF PERSONNEL. There is hereby created the position of risk manager in the department of administration. The risk manager shall be selected and retained subject to the provision of [chapter 53, title 67](#), Idaho Code. The risk manager may, with the agreement of the director, employ and fix the compensation of such additional personnel, and contract for such professional or technical services or assistance, as the manager may deem necessary or desirable for the performance of the duties of the position.

[(67-5774) I.C., sec. 67-5753, as added by 1974, ch. 252, sec. 2, p. 1647; I.C., sec. 67-5754, as corrected by 1975, ch. 195, sec. 1, p. 540; am. and redesign. 1980, ch. 106, sec. 23, p. 241; am. 1993, ch. 221, sec. 16, p. 756.]

67-5775. RISK MANAGEMENT GUIDELINES. In determining need for, form and amount of, procuring and administering insurance coverages, the director of the department of administration shall give due consideration to:

(1) omission of insurance policy coverage as to property and risks as to which insurance and claim administration costs may be disproportionately great in reference to the amount of risk;

(2) ultimate economies possible through use of reasonable deductions;

(3) use of comprehensive coverages and blanket coverages insuring property and risks of two (2) or more offices, departments, divisions, boards, commissions, institutions and agencies;

(4) reliability of and service provided by insurers to be selected as insurance carriers, as well as financial condition and competitive premium rate;

(5) means through which risks may be improved with ultimate savings to the state through reduction in insurance losses and costs.

[(67-5775) I.C., sec. 67-5755, as added by 1974, ch. 252, sec. 4, p. 1647; I.C., sec. 67-5756, as corrected by 1975, ch. 195, sec. 3, p. 540; am. and redeig. 1980, ch. 106, sec. 24, p. 241; am. 1993, ch. 221, sec. 17, p. 756.]

67-5776. RETAINED RISKS ACCOUNT -- PURPOSES -- AMOUNT -- LIMIT -- APPROPRIATION -- INVESTMENT. (1) There is hereby created an account in the agency asset fund in the state treasury to be designated the "retained risk account." The account shall be used solely for payment of premiums, costs of maintaining the operation of the risk management office, or upon losses not otherwise insured and suffered by the state as to property and risks which at the time of the loss were eligible for such payment under guidelines theretofore issued by the director of the department of administration.

(2) In addition to moneys, if any, appropriated to the account by the legislature, the director shall deposit with the state treasurer for credit to the retained risk account:

(a) the gross amount of all premiums and surcharges received under section [67-5777](#), Idaho Code;

(b) all refunds received on account of insurance policies canceled before expiration;

(c) all refunds or returns under experience rating arrangements with insurers;

(d) savings from amounts otherwise appropriated for the purchase of insurance or conduct of the risk management office operation;

(e) all net proceeds of the sale of salvage resulting from losses paid out of the retained risk account.

(3) The director may from time to time develop guidelines as to properties and risks eligible for payment out of the retained risk account, and as to making of claim and proof of loss.

(4) All moneys placed in the account are hereby perpetually appropriated for the purposes of this section. All expenditures from the account shall be paid out in warrants drawn by the state controller upon presentation of proper vouchers from the director of the department of administration.

(5) Pending such use, surplus moneys in the account shall be invested by the state treasurer in the same manner as provided under section [67-1210](#), Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the account.

[(67-5776) I.C., sec. 67-5756, as added by 1974, ch. 252, sec. 5, p. 1647; I.C., sec. 67-5757, as corrected by 1975, ch. 195, sec. 4, p. 540; am. and redesig. 1980, ch. 106, sec. 25, p. 242; am. 1981, ch. 99, sec. 2, p. 146; am. 1993, ch. 221, sec. 18, p. 757; am. 1994, ch. 180, sec. 225, p. 560.]

67-5777. INTERDEPARTMENTAL TRANSACTIONS -- PURPOSES -- APPROPRIATION. (1) The director of the department of administration shall charge each office, department, division, board, commission, institution, agency and operation for which the department provides insurance coverage and receive payment in advance for the reasonably apportioned share of the cost incurred. To the amount otherwise so found due for payment of premium to the insurer, the director shall add separately stated surcharges of such percentages, rates, or amounts as may reasonably be required:

(a) to pay the costs of maintaining the operation of the risk unit, including salaries, wages, travel and other current expenses;

(b) to provide for initial funding and maintenance thereafter of the retained risk account, as reasonably apportioned from time to time among those offices, departments, divisions, boards, commissions, institutions, agencies and operations sharing risk coverage by such account. The amount of this surcharge is subject to adjustment as required by subsection (4) of section [67-5776](#), Idaho Code.

(2) All such charges and payments shall not exceed the current appropriation or funds available for the purpose of the affected office, department, division, board, commission, institution, agency or operation. On or before the first day of August of each year, the director shall furnish each department with an estimate of the cost of insurance or coverage for the upcoming fiscal year.

(3) Funds received under the provisions of this section shall be deposited to the retained risk account and are hereby continually appropriated for payment of such salaries, wages, travel, premiums, losses, and other expenses.

[(67-5777) I.C., sec. 67-5757, as added by 1974, ch. 252, sec. 6, p. 1647; I.C., sec. 67-5758, as corrected by 1975, ch. 195, sec. 5, p. 540; am. and redesig. 1980, ch. 106, sec. 26, p. 243; am. 1993, ch. 221, sec. 19, p. 757.]

67-5778. COLLECTION OF DELINQUENT PAYMENTS. (1) If any office, department, division, board, commission, institution, agency, or operation of the government of the state of Idaho shall fail or refuse to remit any such payment as charged by the director of the department of administration within thirty (30) days after the date due when funds have been appropriated, the director may certify to the state treasurer the fact of such failure or refusal and the amount of the delinquent payment, together with the request that such amount be set over from funds of the delinquent department to the credit of the retained risk account. A copy of such certification and request shall be furnished the delinquent department.

(2) Within ten (10) days after receipt of such request, the state controller shall draw a warrant for payment of such amount out of moneys in the state treasury allocated to the use of such department during the current fiscal year. If such moneys are not so available, the director, department of administration shall take any legal steps necessary to collect such amount.

[(67-5778) I.C., sec. 67-5759, as added by 1975, ch. 195, sec. 6, p. 540; am. and redesign. 1980, ch. 106, sec. 27, p. 244; am. 1993, ch. 221, sec. 20, p. 758; am. 1994, ch. 180, sec. 226, p. 561.]