

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 13

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE STATE EMPLOYEE PERSONNEL SYSTEM; AMENDING SECTION 67-5302,  
2 IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS;  
3 AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE FOR A DEPARTMENT DI-  
4 RECTOR AND AN APPOINTING AUTHORITY AND TO REMOVE SURPLUS VERBIAGE AND  
5 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5309, IDAHO CODE,  
6 TO REVISE PROVISIONS REGARDING RULES OF THE DIVISION AND TO MAKE TECH-  
7 NICAL CORRECTIONS; AMENDING SECTION 67-5311, IDAHO CODE, TO REMOVE THE  
8 TERM "CLASSIFIED"; AMENDING SECTION 67-5312, IDAHO CODE, TO CLARIFY  
9 LANGUAGE; AMENDING SECTION 67-5328, IDAHO CODE, TO REMOVE OBSOLETE PRO-  
10 VISIONS REGARDING COMPENSATORY TIME AND TO MAKE TECHNICAL CORRECTIONS;  
11 AMENDING SECTION 67-5333, IDAHO CODE, TO PROVIDE FOR BENEFITED CREDITED  
12 STATE SERVICE AND TO PROVIDE FOR THE FORFEITURE OF CERTAIN UNUSED SICK  
13 TIME AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 67-5333B,  
14 IDAHO CODE, RELATING TO SICK LEAVE TRANSFERRED, FORMER EMPLOYEES OF  
15 SELLAND COLLEGE OF APPLIED TECHNOLOGY AT BOISE STATE UNIVERSITY, AND  
16 STATE EMPLOYMENT; AMENDING SECTION 67-5340, IDAHO CODE, TO CLARIFY TER-  
17 MINOLOGY AND TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL  
18 CORRECTIONS; AMENDING SECTION 59-1607, IDAHO CODE, TO REMOVE OBSOLETE  
19 PROVISIONS REGARDING COMPENSATORY TIME AND TO MAKE TECHNICAL CORREC-  
20 TIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
21

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

23 SECTION 1. That Section 67-5302, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25 67-5302. DEFINITIONS. As used in this chapter, and other applicable  
26 sections of the Idaho Code, each of the terms defined in this section shall  
27 have the meaning given in this section unless a different meaning is clearly  
28 required by the context. Such terms and their definitions are:

29 (1) "Administrative employee" means any person, nonclassified or clas-  
30 sified, appointed to a position that meets the criteria set forth in the fed-  
31 eral fair labor standards act, 29 U.S.C. 201 et seq. Final designation of  
32 a classified position as "administrative" within this definition shall be  
33 made by the administrator of the division of human resources. Exceptions to  
34 this designation that do not violate the federal fair labor standards act, 29  
35 U.S.C. 201 et seq., may be made by the administrator.

36 (2) "Administrator" means the administrator of the division of human  
37 resources in the governor's office.

38 (3) "Appointing authority" means the officer, board, commission, per-  
39 son or group of persons authorized by statute or lawfully delegated author-  
40 ity to make appointments to or employ personnel in any department.

41 (4) "Class" means a group of positions sufficiently similar as to the  
42 duties performed, degree of supervision exercised or required, minimum re-

1 requirements of training, experience or skill, and other characteristics that  
 2 the same title, the same tests of fitness and the same schedule of compensa-  
 3 tion may be applied to each position in the group.

4 (5) "Classified officer" or "classified employee" means any person ap-  
 5 pointed to or holding a position in any department of the state of Idaho,  
 6 which position is subject to the provisions of the merit examination, selec-  
 7 tion, retention, promotion and dismissal requirements of section 67-5309,  
 8 Idaho Code.

9 (6) "Commission" means the Idaho personnel commission.

10 (7) "Compensatory time" means approved time off from duty provided in  
 11 compensation for overtime hours worked.

12 (8) "Computer worker" means any person, nonclassified or classified,  
 13 appointed to a position that meets the criteria set forth in the federal fair  
 14 labor standards act, 29 U.S.C. 201 et seq. Final designation of a classified  
 15 position as "computer worker" within this definition shall be made by the ad-  
 16 ministrator of the division of human resources. Exceptions to this designa-  
 17 tion that do not violate the federal fair labor standards act, 29 U.S.C. 201  
 18 et seq., may be made by the administrator.

19 (9) "Department" means any department, agency, institution or office  
 20 of the state of Idaho.

21 (10) "Disabled veteran" is as defined in section 65-502, Idaho Code.

22 (11) "Eligible" means a person who has been determined to be qualified  
 23 for a classified position and whose name has been placed on the register of  
 24 eligibles.

25 (12) (a) "Executive employee" means any person, nonclassified or clas-  
 26 sified, appointed to a position equivalent to a bureau chief or above  
 27 as provided in section 67-2402, Idaho Code, or any employee ~~meeting the~~  
 28 ~~following criteria:~~

29 ~~(a) An individual whose primary duty is management of a department, di-~~  
 30 ~~vision or bureau; and:~~

31 ~~(b) (i) Who customarily and regularly directs the work of at least~~  
 32 ~~two (2) or more other employees therein; and~~

33 ~~(c) (ii) Who has the authority to hire and fire, or to recommend~~  
 34 ~~hiring and firing; or whose recommendation on these and other ac-~~  
 35 ~~tions affecting employees is given particular weight; and~~

36 ~~(d) (iii) Who customarily and regularly exercises discretionary~~  
 37 ~~powers; and.~~

38 ~~(e) Who is classified to a position allocated to the pay grade equiva-~~  
 39 ~~lent to two hundred sixty (260) points or higher pursuant to the rating~~  
 40 ~~system established by rule.~~

41 ~~(f) (b) Final designation of a classified position as "executive" in~~  
 42 ~~this definition shall be made by the administrator. Exceptions to this~~  
 43 ~~designation that do not violate the federal fair labor standards act, 29~~  
 44 ~~U.S.C. 201 et seq., may be made by the administrator.~~

45 (13) "Exempt employee" means any employee, classified or nonclassi-  
 46 fied, who is determined to be an executive, professional or administrative  
 47 employee as defined herein, or who qualifies for any other exemption from  
 48 cash compensation for overtime under applicable federal law. Final designa-  
 49 tion of a classified position as exempt shall be made by the administrator.

1 (14) "Full-time employee" means any employee working a forty (40) hour  
2 workweek.

3 (15) (a) ~~The term "holiday" shall mean~~ "Holiday" means any day so desig-  
4 nated by the president of the United States or the governor of this state  
5 for a public fast, thanksgiving or holiday. "Holidays" are enumerated  
6 in section 73-108, Idaho Code.

7 (b) In the event that a holiday occurs on a Saturday, the preceding Fri-  
8 day shall be a holiday, and if the holiday falls on a Sunday, the follow-  
9 ing Monday shall be a holiday.

10 (c) A holiday is a day of exemption from work granted to nonexecutive  
11 employees during which said employees shall be compensated as if they  
12 actually worked. Employees classified as executive exempt are entitled  
13 to eleven (11) paid holidays per year. If such an employee works on one  
14 (1) of the official holidays listed in this subsection, then such em-  
15 ployee may take an alternative day off but shall not receive additional  
16 compensation.

17 (16) "Hours worked" means those hours actually spent in the performance  
18 of the employee's job on any day including holidays and shall not include va-  
19 cation or sick leave or other approved leave of absence.

20 (17) "Nonclassified employee" means any person appointed to or holding  
21 a position in any department of the state of Idaho, which position is ex-  
22 empted from the merit provisions of section 67-5309(e), (f), (g), (j), (m),  
23 (o), (p), (w), and (x), Idaho Code.

24 (18) "Normal workweek" means any forty (40) hours worked during a par-  
25 ticular one hundred sixty-eight (168) hour period as previously established  
26 by the employee's appointing authority.

27 (19) "Open competitive examination" means an examination that may be  
28 taken by qualified applicants to compete on an equal basis for listing on the  
29 register of eligibles for a classified position.

30 (20) "Overtime work" means time worked on holidays and time worked in  
31 excess of forty (40) hours in a period of one hundred sixty-eight (168) con-  
32 secutive hours, except that in the case of those employees engaged in law  
33 enforcement, correctional, and fire protection activities characterized by  
34 irregular shift work schedules, time worked in excess of one hundred sixty  
35 (160) hours in a period of twenty-eight (28) consecutive days shall consti-  
36 tute overtime work within the meaning of this chapter. Such employees may  
37 also be paid overtime for specific hours worked in addition to their normal  
38 schedules upon emergency declaration by the governor or with the approval of  
39 the appointing authority and the board of examiners.

40 (21) "Participating department" means any department of the state of  
41 Idaho in the executive department reporting to the governor or a board or  
42 commission appointed by the governor.

43 (22) "Part-time employee" means any employee whose usually scheduled  
44 work is fewer than forty (40) hours in a period of one hundred sixty-eight  
45 (168) consecutive hours, and who shall not be entitled to sick leave accruals  
46 provided in section 67-5333, Idaho Code, vacation leave provided in section  
47 67-5334, Idaho Code, ~~nor~~ or holiday pay as defined in subsection (15) of this  
48 section, unless contributions are being made to the public employee retire-  
49 ment system in accordance with chapter 13, title 59, Idaho Code, and rules  
50 promulgated by the public employee retirement system board.

1 (23) "Personnel system" means the procedure for administering employ-  
2 ees in accordance with this chapter.

3 (24) "Political office" means a public office for which partisan poli-  
4 tics is a basis for nomination, election or appointment.

5 (25) "Political organization" means a party that sponsors candidates  
6 for election to political office.

7 (26) "Position" means a group of duties and responsibilities legally  
8 assigned or delegated by one (1) or more appointing authorities and requir-  
9 ing the employment of one (1) person.

10 (27) "Professional employee" means any person, nonclassified or clas-  
11 sified, appointed to a position that meets the criteria set forth in the fed-  
12 eral fair labor standards act, 29 U.S.C. 201 et seq. Final designation of a  
13 classified position as "professional" within this definition shall be made  
14 by the administrator. Exceptions to this designation that do not violate the  
15 federal fair labor standards act, 29 U.S.C. 201 et seq., may be made by the  
16 administrator.

17 (28) "Public education entity" means community colleges, public school  
18 districts, public charter schools and the Idaho digital learning academy.

19 (29) "Qualifying examination" means an examination or evaluation given  
20 to a selected person to determine eligibility for reclassification or ap-  
21 pointment to a position in a classification.

22 (30) "Register" means a list of names of persons who have been deter-  
23 mined to be eligible for employment in a classified position as determined on  
24 the basis of examination and merit factors as established by the administra-  
25 tor.

26 (31) "Seasonal appointment" means an appointment to a position that is  
27 permanent in nature but that has intermittent work periods throughout the  
28 year.

29 (32) "Service rating" means a recorded evaluation of work performance  
30 and promotional potential of an employee by his supervisor.

31 (33) "State educational agency" means the following state agencies and  
32 educational institutions under the governance of the Idaho state board of  
33 education:

- 34 (a) Boise state university;
- 35 (b) Idaho state university;
- 36 (c) University of Idaho;
- 37 (d) Lewis-Clark state college;
- 38 (e) Idaho public television;
- 39 (f) The division of vocational rehabilitation;
- 40 (g) The division of career technical education;
- 41 (h) The office of the state board of education;
- 42 (i) The state department of education; and
- 43 (j) The public charter school commission.

44 (34) "Temporary appointment" means appointment to a position that is  
45 not permanent in nature and in which employment will not exceed one thousand  
46 three hundred eighty-five (1,385) hours during any twelve (12) month period.  
47 No person holding a temporary appointment may work in excess of one thousand  
48 three hundred eighty-five (1,385) hours during a twelve (12) month period  
49 of time for any one (1) department, except, upon petition by the appointing  
50 authority of the department of lands that demonstrates good cause, the ad-

1 administrator of the division of human resources may extend the one thousand  
2 three hundred eighty-five (1,385) hour limit for employees of the department  
3 who are required to perform fire suppression activities.

4 (35) "Vacation leave" means a period of exemption from work granted to  
5 employees during which time said employees shall be compensated. The term  
6 shall not include compensatory time for overtime work.

7 (36) "Veteran" is as defined in section 65-203, Idaho Code.

8 SECTION 2. That Section 67-5303, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state  
11 of Idaho and all employees in such departments, except those employees  
12 specifically defined as nonclassified, shall be classified employees who  
13 are subject to this chapter and to the system of personnel administration  
14 it prescribes. All nonclassified employees are subject to conformity with  
15 classified positions as set forth in section 59-1603, Idaho Code. Nonclas-  
16 sified employees shall be:

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

20 (b) Members of statutory boards and commissions and heads of depart-  
21 ments appointed by and serving at the pleasure of the governor, deputy di-  
22 rectors appointed by the director of a department, and members of advisory  
23 boards and councils appointed by the departments.

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

29 (d) Except as otherwise provided by law, ~~not more than one (1) declared~~  
30 ~~position for each board or commission and/or head~~ designated by the appoint-  
31 ing authority of a participating department, in addition to those declared  
32 to be nonclassified by other provisions of law.

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

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

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

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

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

42 (j) Officers, members of the teaching staffs of state higher educa-  
43 tional institutions, the professional staffs of the office of the state  
44 board of education and the Idaho department of education administered by  
45 the board of regents and the board of education, all professional staff of  
46 the public charter school commission, and the professional staffs of the  
47 Idaho division of career technical education and vocational rehabilitation  
48 administered by the state board for career technical education. "Teach-  
49 ing staff" includes teachers, coaches, resident directors, librarians and

1 those principally engaged in academic research. The word "officer" means  
 2 presidents, vice presidents, deans, directors, or employees in positions  
 3 designated by the state board who receive an annual salary of not less than  
 4 step "A" of the pay grade equivalent to three hundred fifty-five (355) Hay  
 5 points in the state compensation schedule. In consultation with the Idaho  
 6 division of human resources, the state board of education shall implement  
 7 policies and procedures for nonclassified employees to conform with section  
 8 59-1603, Idaho Code. ~~onetime~~

9 (k) Employees of the military division.

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

11 (m) Temporary employees.

12 (n) All employees and officers of the following named commodity commis-  
 13 sions, and all employees and officers of any commodity commission created  
 14 hereafter: the Idaho potato commission, as provided in chapter 12, title 22,  
 15 Idaho Code; the Idaho honey commission, as provided in chapter 28, title 22,  
 16 Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22,  
 17 Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, ti-  
 18 tle 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33,  
 19 title 22, Idaho Code; the Idaho pea and lentil commission, as provided in  
 20 chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in  
 21 chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in  
 22 chapter 37, title 22, Idaho Code; the Idaho mint commission, as provided in  
 23 chapter 38, title 22, Idaho Code; the Idaho sheep and goat health board, as  
 24 provided in chapter 1, title 25, Idaho Code; the state brand inspector, and  
 25 all district supervisors, as provided in chapter 11, title 25, Idaho Code;  
 26 the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and  
 27 the Idaho dairy products commission, as provided in chapter 31, title 25,  
 28 Idaho Code.

29 (o) All inspectors of the fresh fruit and vegetable inspection service  
 30 of the Idaho department of agriculture, except those positions involved in  
 31 the management of the program.

32 (p) All employees of correctional industries within the department of  
 33 correction.

34 (q) All deputy administrators and wardens employed by the department of  
 35 correction. Deputy administrators are defined as only the deputy adminis-  
 36 trators working directly for the nonclassified division administrators un-  
 37 der the director of the department of correction.

38 (r) All public information positions, with the exception of secretar-  
 39 ial positions, in any department.

40 (s) Any division administrator.

41 (t) Any regional administrator or division administrator in the de-  
 42 partment of environmental quality.

43 (u) All employees of the division of financial management, all employ-  
 44 ees of the STEM action center, all employees of the office of species conser-  
 45 vation, all employees of the office of drug policy, and all employees of the  
 46 office of energy and mineral resources.

47 (v) All employees of the Idaho food quality assurance institute.

48 (w) The state appellate public defender, deputy state appellate public  
 49 defenders and all other employees of the office of the state appellate public  
 50 defender.

1 (x) All quality assurance specialists or medical investigators of the  
2 Idaho board of medicine.

3 (y) All pest survey and detection employees and their supervisors hired  
4 specifically to carry out activities under the Idaho plant pest act, chapter  
5 20, title 22, Idaho Code, including but not limited to pest survey, detec-  
6 tion, and eradication, except those positions involved in the management of  
7 the program.

8 (z) All medical directors employed by the department of health and  
9 welfare who are engaged in the practice of medicine, as defined by section  
10 54-1803, Idaho Code, at a state hospital or other treatment facility managed  
11 and operated by the department of health and welfare.

12 SECTION 3. That Section 67-5309, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL  
15 COMMISSION. The administrator of the division of human resources shall have  
16 the power and authority to adopt, amend, or rescind such rules as may be nec-  
17 essary for proper administration of this chapter. Such rules may include:

18 (a) A rule requiring the administrator, after consulting with each de-  
19 partment, to develop, adopt, and make effective a job classification system  
20 for positions covered by this chapter, based ~~upon~~ on an analysis of the du-  
21 ties and responsibilities of the positions. The job classification shall  
22 include an appropriate title for each class and a description of duties and  
23 responsibilities of positions in the classes and the requirements of minimum  
24 training, experience and other qualifications suitable for the performance  
25 of duties of the position.

26 (b) A rule describing the relevant labor markets and benchmark job  
27 classifications used in the administrator's salary surveys.

28 (c) A rule requiring that all classes of positions ~~which~~ that are common  
29 to the departments concerned shall have the same titles, minimum require-  
30 ments and compensation ranges.

31 (d) A rule providing for review by the administrator of the personnel  
32 system, including classifications and compensation policies and procedures  
33 of state classified and nonclassified employees.

34 (e) A rule that, notwithstanding the procedure for examination and  
35 ranking of eligible applicants on a register provided in subsection (f) of  
36 this section, ~~an agency may appoint an individual directly into an entrance  
37 or promotional probation if the division of vocational rehabilitation,  
38 Idaho commission for the blind and visually impaired or the industrial  
39 commission certifies, with the concurrence of division of human resources  
40 staff, that the individual: (1) has a disability or handicap as defined un-  
41 der state or federal law; (2) is qualified to perform the essential functions  
42 of a particular classified position with or without reasonable accommoda-  
43 tion; and (3) lacks competitiveness in the examination process due to the  
44 disability or handicap. The probationary period as provided in subsection  
45 (j) of this section shall be the sole examination for such individuals offers  
46 an alternative application process for persons with disabilities.~~

47 (f) A rule requiring fair and impartial selection of appointees to all  
48 positions, other than those defined as nonclassified in this chapter, on the  
49 basis of open competitive merit examinations or evaluations. An applica-

1 tion for an examination will be accepted after the closing date of the exam-  
2 ination from a person who was serving in the armed forces or undergoing ser-  
3 vice-connected hospitalization up to one (1) year following discharge. The  
4 application must be submitted within one hundred twenty (120) days of separa-  
5 tion from the armed forces or hospitalization and prior to the expiration  
6 of the register established as a result of the examination. A disabled vet-  
7 eran may file an application at any time up until a selection has been made  
8 for any position for which the division maintains a register as a source for  
9 future job openings or for which a register is about to be established, pro-  
10 vided he or she has not already been examined twice for the same position and  
11 grade for which application is made, does not have current eligibility on  
12 that register, or is not serving in a competitive position in the same grade  
13 for which application is made. Examinations may be assembled or unassembled  
14 and may include various examining techniques such as rating of training and  
15 experience, written tests, oral interviews, recognition of professional li-  
16 censing, performance tests, investigations and any other measure of abil-  
17 ity to perform the duties of the position. Examinations shall be scored ob-  
18 jectively. Five (5) points shall be added to the earned rating of any vet-  
19 eran as defined in section 65-203, Idaho Code, and the widow or widower of  
20 any veteran as defined in section 65-203, Idaho Code, as long as he or she  
21 remains unmarried. Pursuant to section 65-504, Idaho Code, ten (10) points  
22 shall be added to the earned rating of any disabled veteran as defined in sec-  
23 tion 65-502, Idaho Code, the widow or widower of any disabled veteran as long  
24 as he or she remains unmarried, or the spouse of any eligible disabled vet-  
25 eran who cannot qualify for any public employment because of a service-con-  
26 nected disability. Employment registers shall be established in order of  
27 final score except that the names of all five (5) and ten (10) point prefer-  
28 ence eligibles resulting from any merit system or civil service examination  
29 shall be placed on the register in accordance with their augmented rating.  
30 ~~Certification of eligibility for appointment to vacancies shall be in ac-~~  
31 ~~cordance with a formula that limits selection by the hiring department from~~  
32 ~~among the twenty-five (25) top ranking available eligibles plus the names~~  
33 ~~of all individuals with scores identical to the twenty-fifth ranking eligi-~~  
34 ~~ble on the register. A register with at least five (5) eligibles shall be~~  
35 ~~adequate. Selective certification shall be permitted when justified by the~~  
36 ~~hiring department, under rules to be made by the division defining adequate~~  
37 ~~justification based on the duties and requirements of the positions. Such~~  
38 ~~examinations need not be held until after the rules have been adopted, the~~  
39 ~~service classified, and a pay plan established, but shall be held not later~~  
40 ~~than one (1) year after departments commence participation in the personnel~~  
41 ~~system.~~

42 (g) A rule that, whenever practicable, a vacancy in a classified posi-  
43 tion shall be filled by the promotion of a qualified employee of the agency  
44 in which the vacancy occurs. An interagency promotion shall be made through  
45 competitive examination and all qualified state employees shall have the  
46 opportunity to compete for such promotions. If an employee's name appears  
47 within certifiable range on a current register for a higher class of posi-  
48 tion, he shall be eligible for a transfer and promotion.

49 (h) A rule for development and maintenance of a system of service rat-  
50 ings and the use of such ratings by all departments in connection with pro-



1 motions, demotions, retentions, separations and reassignments. The rule  
 2 shall require that an evaluation of each classified employee shall be made  
 3 after each two thousand eighty (2,080) hour period of credited state service  
 4 and that a copy of the evaluation shall be filed with the division.

5 (i) A rule prohibiting disqualification of any person from taking an  
 6 examination, from appointment to a position, from promotion, or from holding  
 7 a position because of race or national origin, color, sex, age, political or  
 8 religious opinions or affiliations, and providing for right of appeal.

9 (j) A rule establishing a probation period not to exceed one thousand  
 10 forty (1,040) hours of credited state service for all classified appoint-  
 11 ments and promotions, except that peace officers as defined in section  
 12 19-5101, Idaho Code, shall be subject to a probation period of two thou-  
 13 sand eighty (2,080) hours of credited state service, and for the appointing  
 14 authority to provide the employee and the administrator a performance eval-  
 15 uation indicating satisfactory or unsatisfactory performance ~~not later~~  
 16 ~~than thirty (30) days after the expiration of the probationary period.~~  
 17 ~~The rule shall provide that if the appointing authority fails to provide~~  
 18 ~~a performance evaluation within thirty (30) days after the expiration of~~  
 19 ~~the probationary period, the employee shall be deemed to have satisfacto-~~  
 20 ~~rily completed the probation unless. The employee shall be deemed to have~~  
 21 satisfactorily completed the probation unless, prior to one thousand forty  
 22 (1,040) hours, or two thousand eighty (2,080) hours for peace officers, the  
 23 appointing authority receives approval from the administrator to extend the  
 24 probationary period for good cause for an additional specified period not  
 25 to exceed one thousand forty (1,040) hours of credited state service. If an  
 26 employee is performing in an unsatisfactory manner during the entrance pro-  
 27 bationary period, the appointing authority shall ask the employee to resign  
 28 and, if no resignation is submitted, shall terminate the employment of such  
 29 employee without the right of grievance or appeal.

30 (k) A rule concerning temporary appointments.

31 (l) A rule governing the employment of consultants and persons retained  
 32 under independent contract.

33 (m) A rule for the disciplinary dismissal, demotion, suspension or  
 34 other discipline of classified employees only for cause with reasons given  
 35 in writing. Such rule shall provide that any of the following reasons shall  
 36 be proper cause for the disciplinary dismissal, demotion or suspension of  
 37 any employee in the state classified service:

38 1. Failure to perform the duties and carry out the obligations imposed  
 39 by the state constitution, state statutes and rules of the employee's  
 40 department, or rules of the administrator or the division.

41 2. Inefficiency, incompetency, or negligence in the performance of du-  
 42 ties; or job performance that fails to meet established performance  
 43 standards.

44 3. Physical or mental incapability for performing assigned duties.

45 4. Refusal to accept a reasonable and proper assignment from an autho-  
 46 rized supervisor.

47 5. Insubordination or conduct unbecoming a state employee or conduct  
 48 detrimental to good order and discipline in the employee's department.

49 6. Intoxication on duty.

- 1 7. Careless, negligent, or improper use or unlawful conversion of state  
2 property, equipment or funds.
- 3 8. Use of any influence that violates the principles of the merit system  
4 in an attempt to secure a promotion or privileges for individual advan-  
5 tage.
- 6 9. Conviction of official misconduct in office, or conviction of any  
7 crime that is deemed relevant in accordance with section 67-9411(1),  
8 Idaho Code.
- 9 10. Acceptance of gifts in exchange for influence or favors given in the  
10 employee's official capacity.
- 11 11. Habitual pattern of failure to report for duty at the assigned place  
12 and time.
- 13 12. Habitual improper use of sick leave privileges.
- 14 13. Unauthorized disclosure of confidential information from official  
15 records.
- 16 14. Unapproved aAbsence without leave.
- 17 15. Misstatement or deception in the application for the position.
- 18 16. Failure to obtain or maintain a current license or certificate law-  
19 fully required as a condition for performing the duties of the job.
- 20 17. Prohibited participation in political activities.
- 21 (n) A rule to establish procedures for maintenance of a record of the  
22 employment history and appropriate information relating to performance of  
23 all classified and nonclassified employees under the personnel system. For  
24 the purposes of this rule, the state shall be considered one (1) employer.
- 25 (o) Rules to provide for recruitment programs in cooperation with de-  
26 partment heads ~~and the employment security agency~~ in keeping with current  
27 employment conditions and labor market trends.
- 28 (p) Rules to establish procedures for classified position examinations  
29 as necessary for the purpose of maintaining current registers from which to  
30 fill employment vacancies.
- 31 (q) Other rules not inconsistent with the foregoing provisions of this  
32 section as may be necessary and proper for the administration and enforce-  
33 ment of this chapter.
- 34 (r) Rules relating to leave for state employees from official duties  
35 including, but not limited to, sick leave, military leave, jury duty, leaves  
36 of absence without compensation and such other forms of absence from perfor-  
37 mance of duties in the course of state employment as may be necessary.
- 38 (s) A rule providing up to twenty-five percent (25%) shift differential  
39 pay based on local market practices.
- 40 (t) A rule to establish guidelines for awarding employee suggestion  
41 awards set forth in sections 59-1603 and 67-5309D, Idaho Code.
- 42 (u) A rule to establish the reimbursement of moving expenses for a cur-  
43 rent or newly hired state employee.
- 44 (v) A rule to allow, at the request of the hiring agency, temporary ser-  
45 vice time to count toward fulfilling entrance probationary requirements as  
46 established in subsection (j) of this section.
- 47 (w) A rule to allow, at the request of the hiring agency, acting ap-  
48 pointment service time to count toward fulfilling promotional probationary  
49 requirements as established in subsection (j) of this section.

1 SECTION 4. That Section 67-5311, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 67-5311. LIMITATION OF POLITICAL ACTIVITY. (1) No ~~classified~~ employee  
4 of a state department covered by this act shall:

5 (a) Use his official authority or influence for the purpose of inter-  
6 fering with an election to or a nomination for office, or affecting the  
7 result thereof;

8 (b) Directly or indirectly coerce, attempt to coerce, command, or  
9 direct any other such officer or employee to pay, lend, or contribute  
10 any part of his salary or compensation or anything else of value to any  
11 party, committee, organization, agency, or person for political pur-  
12 poses; or

13 (c) Be a candidate and hold elective office in any partisan election.

14 (2) All such employees shall retain the right to:

15 (a) Register and vote in any election;

16 (b) Express an opinion as an individual privately and publicly on po-  
17 litical subjects and candidates;

18 (c) Display a political picture, sticker, badge, or button;

19 (d) Participate in the nonpartisan activities of a civic, community,  
20 social, labor, or professional organization, or of a similar organiza-  
21 tion;

22 (e) Be a member of a political party or other political organization and  
23 participate in its activities;

24 (f) Attend a political convention, rally, fund-raising function, or  
25 other political gathering;

26 (g) Sign a political petition as an individual;

27 (h) Make a financial contribution to a political party or organization;

28 (i) Take an active part, in support of a candidate, in an election;

29 (j) Be politically active in connection with a question which is not  
30 specifically identified with a political party, such as a constitu-  
31 tional amendment, referendum, approval of a municipal ordinance or any  
32 other question or issue of a similar character;

33 (k) Serve as an election judge or clerk, or in a similar position to per-  
34 form nonpartisan duties as prescribed by state or local law;

35 (l) Be a candidate and hold elective office in any nonpartisan elec-  
36 tion;

37 (m) Take an active part in political organization management; and

38 (n) Otherwise participate fully in public affairs, except as prohib-  
39 ited by law, in a manner which does not materially compromise the neu-  
40 trality, efficiency, or integrity of the employee's administration of  
41 state functions.

42 SECTION 5. That Section 67-5312, Idaho Code, be, and the same is hereby  
43 amended to read as follows:

44 67-5312. VIOLATIONS. Any person ~~wilfully~~ willfully violating any of  
45 the provisions of this act or of the rules or regulations established there-  
46 under shall be guilty of a misdemeanor.

1 SECTION 6. That Section 67-5328, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 67-5328. HOURS OF WORK AND OVERTIME. (1) It is hereby declared to be  
4 the policy of the legislature of the state of Idaho that all state employees  
5 shall be treated substantially similar with reference to hours of employ-  
6 ment. The policy of this state as declared in this act shall not restrict the  
7 extension of regular work hour schedules on an overtime basis in those ac-  
8 tivities and duties where such extension is necessary and authorized, pro-  
9 vided that overtime work performed under such extension is compensated for  
10 as hereinafter provided.

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

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

17 (a) Classified and nonclassified officers and employees who fall  
18 within one (1) or more of the following categories are ineligible for  
19 cash compensation or compensatory time for overtime work:

20 (i) Elected officials; or

21 (ii) Those included in the definition of section 67-5303(j),  
22 Idaho Code.

23 (b) Classified and nonclassified employees who are designated as ex-  
24 ecutive, as provided in section 67-5302, Idaho Code, and who are not  
25 included in the definition of ~~subsection (3)(a) of this paragraph (a)~~  
26 of this subsection, shall be ineligible for compensatory time or cash  
27 compensation for overtime work. Such salaried employees shall report  
28 absences in excess of one-half (1/2) day. ~~Unused compensatory time~~  
29 ~~balances in excess of two hundred forty (240) hours as of the date of~~  
30 ~~enactment of this act shall be forfeited on December 31, 2008. Unused~~  
31 ~~compensatory time balances of two hundred forty (240) hours or less~~  
32 ~~shall be forfeited on December 31, 2006.~~ Employees who become execu-  
33 tives within their current agency as set forth in section 67-5302(12),  
34 Idaho Code, shall have twelve (12) months from the date of this act or of  
35 appointment, whichever is later, to use any compensatory time balance.  
36 After twelve (12) months, any remaining compensatory time will be for-  
37 feited. Compensatory time is not transferable, and shall be forfeited  
38 at the time of transfer to another appointing authority or upon separa-  
39 tion from state service.

40 (c) Classified and nonclassified employees who are designated as ad-  
41 ministrative or professional, as provided in the federal fair labor  
42 standards act, 29 U.S.C. ~~section 201~~, et seq., or who are designated as  
43 exempt under any other complete exemption in federal law, and who are  
44 not included in the definition of ~~either subsection (3)(a) or (3)(b) of~~  
45 this paragraph (a) or (b) of this subsection, shall be ineligible for  
46 cash compensation for overtime work unless cash payment is authorized  
47 by the state board of examiners for overtime accumulated during unusual  
48 or emergency situations, but such classified and nonclassified employ-  
49 ees shall be allowed compensatory time off from duty for overtime work.

1 Such compensatory time shall be earned and allowed on a ~~one (1) hour for~~  
2 ~~one (1) hour-for-hour~~ basis, shall not be transferable, and shall be  
3 forfeited at the time of transfer to another appointing authority or  
4 upon separation from state service. Compensatory time may be accrued  
5 and accumulated up to a maximum of two hundred forty (240) hours. Ef-  
6 fective with the first pay period in July, 2008 (beginning date June  
7 15, 2008), compensatory time balances in excess of two hundred forty  
8 (240) hours will not continue to accrue until the balance is below the  
9 maximum. ~~After the last pay period in June, 2009 (ending date June 13,~~  
10 ~~2009), balances in excess of two hundred forty (240) hours shall be for-~~  
11 ~~feited.~~

12 (d) Classified and nonclassified employees who are not designated as  
13 executive, administrative or professional as provided in this section  
14 and who are not included in the definition of ~~subsection (3) (a) of this~~  
15 ~~paragraph (a) of this subsection~~ or who are not designated as exempt  
16 under any other complete exemption in federal law, shall be eligible for  
17 cash compensation or compensatory time off from duty for overtime work,  
18 subject to the restrictions of applicable federal law. Compensatory  
19 time off may be provided in lieu of cash compensation at the discretion  
20 of the appointing authority after consultation, in advance, with the  
21 employee. Compensatory time off shall be paid at the rate of one and  
22 one-half (1 1/2) hours for each overtime hour worked. Compensatory time  
23 off ~~which that~~ has been earned during any one-half (1/2) fiscal year  
24 but not taken by the end of the succeeding one-half (1/2) fiscal year,  
25 shall be paid in cash on the first payroll following the close of such  
26 succeeding one-half (1/2) fiscal year. Compensatory time not taken at  
27 the time of transfer to another appointing authority or upon separation  
28 from state service shall be liquidated at the time of such transfer or  
29 separation by payment in cash.

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

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

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

43 (6) At the request of the administrator of the division of human re-  
44 sources, agencies in the executive department shall conduct a review and co-  
45 operate with the division of human resources to ensure all fair labor stan-  
46 dards act requirements are appropriately implemented for all positions and  
47 provide the report to the division of human resources.

48 SECTION 7. That Section 67-5333, Idaho Code, be, and the same is hereby  
49 amended to read as follows:

1 67-5333. SICK LEAVE. (1) Sick leave shall be computed as follows:

2 (a) The rate per hour at which sick leave shall accrue to eligible clas-  
3 sified and nonclassified officers and employees earning credited state  
4 service shall be at the rate represented by the proportion 96/2080.  
5 Sick leave shall accrue without limit and shall be transferable from  
6 department to department.

7 (b) Sick leave shall not accrue to any officer or employee on any kind  
8 of leave of absence without pay, suspension without pay, or layoff.  
9 Sick leave shall accrue while an officer or employee is on approved  
10 leave with pay, on approved vacation leave, on approved military leave  
11 with pay, and on approved sick leave, but not when compensatory time is  
12 taken.

13 (c) All accrued sick leave shall be forfeited at the time of separa-  
14 tion from state service and no officer or employee shall be reimbursed  
15 for accrued sick leave at the time of separation, except as provided in  
16 subsection (2) of this section. If such officer or employee returns to  
17 benefited credited state service within three (3) years of such separa-  
18 tion, all sick leave credits accrued at the time of separation shall be  
19 reinstated for use, except to the extent that unused sick leave was uti-  
20 lized for the purposes specified in subsection (2) of this section or  
21 transferred to a school district or charter district pursuant to sec-  
22 tion 33-1217, Idaho Code.

23 (d) Sick leave shall be taken on a workday basis. Regularly scheduled  
24 days off and officially designated holidays falling within a period of  
25 sick leave shall not be counted against sick leave. Sick leave shall not  
26 be taken in advance of being earned and shall only be taken in pay peri-  
27 ods subsequent to being earned.

28 (e) In cases where absences for sick leave exceed three (3) consecu-  
29 tive working days, the appointing authority may require verification by  
30 a physician or other authorized practitioner.

31 (f) If an absence for illness or injury extends beyond the sick leave  
32 accrued to the credit of the officer or employee, the officer or em-  
33 ployee may be granted leave without pay.

34 (g) The administrator shall prescribe additional requirements for  
35 sick leave for classified and nonclassified officers and employees on  
36 a part-time or irregular schedule, for maintaining sick leave records,  
37 for funeral leave and for such other applicable purposes as necessary.

38 (2) Unused sick leave may be used as follows:

39 (a) Upon separation from state employment by retirement in accordance  
40 with chapter 13, title 59, or chapter 1, title 33, Idaho Code, an em-  
41 ployee's unused sick leave shall be determined based on accumulated  
42 sick leave earned subsequent to July 1, 1976, and shall be reported by  
43 the employer to the public employee retirement system. Upon separa-  
44 tion from state employment by retirement in accordance with chapter  
45 20, title 1, Idaho Code, an employee's unused sick leave shall be de-  
46 termined based on accumulated sick leave earned subsequent to July 1,  
47 2000, and shall be reported by the employer to the public employee re-  
48 tirement system. A sum equal to one-half (1/2), or the maximum amount  
49 allowed by paragraph (b) of this subsection, whichever is the lesser,  
50 of the monetary value of such unused sick leave, calculated at the rate

1 of pay for such employee at the time of retirement, as determined by the  
2 retirement board, shall be transferred from the sick leave account pro-  
3 vided by paragraph (c) of this subsection and shall be credited to such  
4 employee's retirement account. The remaining one-half (1/2) balance  
5 shall be forfeited. Such sums shall be used by the Idaho public employee  
6 retirement board to pay premiums, as permitted by and subject to ap-  
7 plicable federal tax laws and limits, for such health, dental, vision,  
8 long-term care, prescription drug, and life insurance programs as may  
9 be maintained by the state, to the extent of the funds credited to the  
10 employee's account pursuant to this section. Upon an employee's death,  
11 any unexpended sums remaining in the account shall revert to the sick  
12 leave account.

13 (b) For the purposes of determining the monetary value of unused sick  
14 leave, the maximum unused sick leave ~~which~~ that may be considered shall  
15 be:

16 (i) During the first ten thousand four hundred (10,400) hours of  
17 credited state service, the maximum unused sick leave ~~which~~ that  
18 may be considered shall be four hundred twenty (420) hours;

19 (ii) During the second ten thousand four hundred (10,400) hours of  
20 credited state service, the maximum unused sick leave ~~which~~ that  
21 may be considered shall be four hundred eighty (480) hours;

22 (iii) During the third ten thousand four hundred (10,400) hours of  
23 credited state service, the maximum unused sick leave ~~which~~ that  
24 may be considered shall be five hundred forty (540) hours; and

25 (iv) Thereafter, the maximum unused sick leave ~~which~~ that may be  
26 considered shall be six hundred (600) hours; and

27 ~~(v)~~ For any employees of a state educational agency with unused sick  
28 leave that includes sick leave credited pursuant to section 33-1217,  
29 Idaho Code, the credited state service requirements of ~~subsection~~  
30 ~~(2) (b) (i) through (iv) of this section~~ subparagraphs (i) through (iv)  
31 of this paragraph shall not apply, but the maximum unused sick leave  
32 ~~which~~ that may be considered shall be six hundred (600) hours.

33 (c) Each employer in state government shall contribute to a sick leave  
34 account maintained by the public employee retirement system in trust  
35 exclusively for the purpose of the provisions of this section. The  
36 retirement board shall serve as trustee of the trust and shall be in-  
37 demnified to the same extent as provided in section 59-1305, Idaho  
38 Code. Assets in the trust shall not be assignable or subject to execu-  
39 tion, garnishment or attachment or to the operation of any bankruptcy  
40 or insolvency law. The rate of such contribution each pay period shall  
41 consist of a percentage of employees' salaries as determined by the  
42 board, and such rate shall remain in effect until next determined by the  
43 board. Any excess balance in the sick leave account shall be invested,  
44 and the earnings therefrom shall accrue to the sick leave account except  
45 the amount required by the board to defray administrative expenses.  
46 Assets of the trust may be commingled for investment purposes with other  
47 assets managed by the retirement board. All moneys payable to the sick  
48 leave account are hereby perpetually appropriated to the board and  
49 shall not be included in its departmental budget. The state insurance

1 fund and public health districts shall be considered employers in state  
2 government for purposes of participation under this section.

3 SECTION 8. That Section 67-5333B, Idaho Code, be, and the same is hereby  
4 repealed.

5 SECTION 9. That Section 67-5340, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7 67-5340. LEAVE OF ABSENCE WITH PAY IN LIEU OF ~~WORKMEN'S~~ WORKER'S COM-  
8 PENSATION BENEFITS. (1) Whenever any employee of the state of Idaho who is  
9 categorized as a police officer for retirement purposes pursuant to section  
10 ~~59-1302A~~ 59-1303, Idaho Code, is physically disabled by a serious injury  
11 arising out of and in the course of his duties, and the injury is induced by  
12 a second party, he shall be entitled, regardless of his period of service  
13 with the department, to a leave of absence while so disabled without loss of  
14 salary or benefits for a period of not more than one (1) year. Any ~~workmen's~~  
15 worker's compensation payments made to the employee shall revert back to  
16 the employee's department. For the purposes of this section, "serious in-  
17 jury" means an injury ~~which~~ that renders the police officer incapable of  
18 performing the regularly assigned duties of his regular employment position  
19 or office and "injury induced by a second party" means an injury induced by  
20 the negligent, malicious, or intentional act or omission of another person  
21 during a chargeable misdemeanor or felony.

22 (2) It shall be the duty of the director of the applicable department to  
23 determine whether or not the disability referred to in subsection (1) of this  
24 section arose out of and in the course of duty. The director of the applica-  
25 ble department shall also determine when such disability ceases.

26 (3) Payment of salary pursuant to this section shall not preclude the  
27 disabled police officer from receiving regular medical, surgical or hospi-  
28 tal coverage as provided pursuant to section 67-5761, Idaho Code.

29 (4) If a police officer is disabled for more than one (1) year, then the  
30 regular disability insurance provisions of the Idaho Code shall apply to any  
31 period of disability beyond the one (1) year period of disability covered by  
32 this section.

33 (5) The provisions of this section shall not apply to periods of dis-  
34 ability ~~which~~ that occur subsequent to termination of employment by resigna-  
35 tion, retirement, or dismissal. When the provisions of this section do not  
36 apply, the employee shall be eligible for those benefits ~~which~~ that would ap-  
37 ply if this section had not been enacted.

38 SECTION 10. That Section 59-1607, Idaho Code, be, and the same is hereby  
39 amended to read as follows:

40 59-1607. HOURS OF WORK AND OVERTIME. (1) It is the policy of the legis-  
41 lature of the state of Idaho that all classified and nonclassified officers  
42 and employees of the executive branch of state government shall be treated  
43 substantially similar with reference to hours of employment, holidays and  
44 vacation leave, except as provided in this chapter. For wage, hour and  
45 working conditions, the supreme court and the legislative council shall  
46 prescribe rules for employees of the judicial branch and the legislative



1 branch, respectively. The policy of this state shall not restrict the ex-  
2 tension of regular work hour schedules on an overtime basis, which shall be  
3 the same for classified and nonclassified employees, in those activities and  
4 duties where such extension is necessary and authorized by the appointing  
5 authority.

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

10 (3) Classified and nonclassified officers and employees who fall  
11 within one (1) or more of the following categories are ineligible for cash  
12 compensation or compensatory time for overtime work:

13 (a) Elected officials; or

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

15 (4) Classified and nonclassified employees who are designated as exec-  
16 utive, as provided in section 67-5302, Idaho Code, and who are not included  
17 in the definition of subsection (3) of this section, shall be ineligible for  
18 compensatory time or cash compensation for overtime work. Such salaried  
19 employees shall report absences in excess of one-half (1/2) day. ~~Unused~~  
20 ~~compensatory time balances in excess of two hundred forty (240) hours as of~~  
21 ~~the date of enactment of this act shall be forfeited on December 31, 2008.~~  
22 ~~Unused compensatory time balances of two hundred forty (240) hours or less~~  
23 ~~shall be forfeited on December 31, 2006.~~ Employees who become executives  
24 within their current agency as set forth in section 67-5302(12), Idaho Code,  
25 shall have twelve (12) months from the date of this act or of appointment,  
26 whichever is later, to use any compensatory time balance. After twelve (12)  
27 months, any remaining compensatory time will be forfeited. Compensatory  
28 time is not transferable, and shall be forfeited at the time of transfer to  
29 another appointing authority or upon separation from state service.

30 (5) Classified and nonclassified officers and employees who are desig-  
31 nated as administrative or professional as provided in the federal fair la-  
32 bor standards act, or who are designated as exempt under any other complete  
33 exemption in federal law, and who are not included in the definition of sub-  
34 subsection (3) of this section, shall be ineligible for cash compensation for  
35 overtime work unless cash payment is authorized by the state board of exam-  
36 iners for overtime accumulated during unusual or emergency situations, but  
37 such classified and nonclassified officers and employees shall be allowed  
38 compensatory time off from duty for overtime work. Such compensatory time  
39 shall be earned and allowed on a ~~one (1) hour for one (1) hour-~~for-hour  
40 shall not be transferable, and shall be forfeited at the time of transfer to  
41 another appointing authority or upon separation from state service. Com-  
42 pensatory time may be accrued and accumulated up to a maximum of two hundred  
43 forty (240) hours. Effective with the first pay period in July, 2008 (begin-  
44 ning date June 15, 2008), compensatory time balances in excess of two hundred  
45 forty (240) hours will not continue to accrue until the balance is below the  
46 maximum. ~~After the last pay period in June, 2009 (ending date June 13, 2009),~~  
47 ~~balances in excess of two hundred forty (240) hours shall be forfeited.~~

48 (6) Classified and nonclassified officers and employees who are not  
49 designated as executive, administrative or professional as provided in this  
50 section, and who are not included in the definition of subsection (3) of

1 this section or who are not designated as exempt under any other complete  
2 exemption in federal law, shall be eligible for cash compensation or com-  
3 pensatory time off from duty for overtime work, subject to the restrictions  
4 of applicable federal law. Compensatory time off may be provided in lieu  
5 of cash compensation at the discretion of the appointing authority after  
6 consultation, in advance, with the employee. Compensatory time off shall  
7 be paid at the rate of one and one-half (1 1/2) hours for each overtime hour  
8 worked. Compensatory time off ~~which~~ that has been earned during any one-half  
9 (1/2) fiscal year but not taken by the end of the succeeding one-half (1/2)  
10 fiscal year, shall be paid in cash on the first payroll following the close of  
11 such succeeding one-half (1/2) fiscal year. Compensatory time not taken at  
12 the time of transfer to another appointing authority or upon separation from  
13 state service shall be liquidated at the time of such transfer or separation  
14 by payment in cash.

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

18 SECTION 11. An emergency existing therefor, which emergency is hereby  
19 declared to exist, this act shall be in full force and effect on and after  
20 July 1, 2023.