

IN THE SENATE

SENATE BILL NO. 1269

BY SCHROEDER

AN ACT

1 RELATING TO INSTITUTIONS OF HIGHER EDUCATION; AMENDING CHAPTER 37, TITLE 33,  
2 IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 33-3726, 33-3727, 33-3728,  
3 33-3729, 33-3730 AND 33-3731, IDAHO CODE, TO PROVIDE FOR A NEGOTIATION  
4 AGREEMENT, TO DEFINE TERMS, TO PROVIDE FOR NEGOTIATIONS, TO PROVIDE FOR  
5 THE APPOINTMENT OF MEDIATORS AND FOR COMPENSATION, TO PROVIDE FOR THE  
6 APPOINTMENT OF FACT-FINDERS AND FOR A REPORT AND TO PROVIDE FOR RESERVED  
7 POWERS, DUTIES AND RESPONSIBILITIES.  
8

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

10 SECTION 1. That Chapter 37, Title 33, Idaho Code, be, and the same  
11 is hereby amended by the addition thereto of NEW SECTIONS, to be known and  
12 designated as Sections 33-3726, 33-3727, 33-3728, 33-3729, 33-3730 and  
13 33-3731, Idaho Code, and to read as follows:

14 33-3726. NEGOTIATION AGREEMENT. The administration of each  
15 institution of higher education is hereby empowered to and shall, upon  
16 its own initiative or upon the request of a local faculty organization  
17 representing professional employees, enter into a negotiation agreement  
18 with the local faculty organization and negotiate with such party in  
19 good faith on matters of wages, hours of employment and other terms and  
20 conditions of employment. A request for negotiations may be initiated by  
21 either party to such negotiation agreement. Accurate records or minutes  
22 of the proceedings shall be kept and be available for public inspection at  
23 the offices of the state board of education during normal business hours.  
24 Joint ratification of all final offers of settlement shall be made in open  
25 meetings.

26 33-3727. DEFINITIONS. For the purposes of sections 33-3726 through  
27 33-3731, Idaho Code:

28 (1) "Administration" means the person, or such person's designee,  
29 authorized to act on behalf of the institution of higher education under the  
30 laws of this state.

31 (2) "Institution of higher education" means the university of Idaho,  
32 Idaho state university, Boise state university, Lewis-Clark state college,  
33 eastern Idaho technical college, north Idaho college, college of southern  
34 Idaho, western Idaho college or any other public institution of higher  
35 education created by the legislature or formed pursuant to chapter 21, title  
36 33, Idaho Code.

37 (3) "Local faculty organization" means any local organization duly  
38 chosen and selected by a majority of the professional employees employed at  
39 the institution of higher education as their representative organization  
40 for negotiations under sections 33-3726 through 33-3731, Idaho Code.

1 (4) "Negotiations" means meeting and conferring in good faith by  
2 the administration and the authorized local faculty organization for the  
3 purpose of reaching an agreement upon matters and conditions subject to  
4 negotiations, as specified in a negotiation agreement between said parties.

5 (5) "Professional employee" means any professor, adjunct, instructor,  
6 lecturer and graduate teaching assistant in that institution of  
7 higher education; provided however, that those individuals with the  
8 responsibilities of dean or above may be excluded from the professional  
9 employee group if a negotiation agreement between the administration and the  
10 local faculty organization so specifies.

11 33-3728. NEGOTIATIONS. The local faculty organization shall  
12 be the exclusive representative for all professional employees in  
13 that institution of higher education for purposes of negotiations.  
14 The individual or individuals selected to negotiate on behalf of the  
15 professional employees shall be a member of the organization designated  
16 to represent the professional employees and shall be a professional  
17 employee of the institution of higher education. However, in the event  
18 the administration chooses to designate any individual or individuals,  
19 other than an employee of the institution of higher education as its  
20 representative for negotiations, the local educational organization is  
21 authorized to designate any individual or individuals of its choosing  
22 to act as its representative for negotiations. The administration or  
23 its designated representative(s) shall negotiate matters covered by a  
24 negotiation agreement only with the local faculty organization or its  
25 designated representative(s). For purposes of negotiations there shall be  
26 four (4) separate units: one (1) for tenured, tenure-track faculty, senior  
27 instructors and other instructors with renewable contracts; one (1) for law  
28 school faculty; one (1) for instructors, lecturers and adjuncts without  
29 renewable contracts; and one (1) for graduate teaching assistants.

30 33-3729. APPOINTMENT OF MEDIATORS -- COMPENSATION. In the event the  
31 parties in negotiations are not able to come to an agreement upon items  
32 submitted for negotiations under a negotiation agreement between the  
33 parties, upon agreement of the parties one (1) or more mediators may be  
34 appointed. The issue or issues in dispute shall be submitted to mediation  
35 at the request of either party in an effort to induce the administration and  
36 the local faculty organization to resolve the conflict. The procedures for  
37 appointment of and compensation for the mediators shall be determined by  
38 both parties.

39 33-3730. APPOINTMENT OF FACT-FINDERS -- REPORT. (1) If mediation  
40 fails to bring agreement on all negotiable issues, the issues that remain in  
41 dispute may be submitted to fact-finding by request of either party. One (1)  
42 or more fact-finders shall be appointed by the parties by mutual agreement.  
43 If such agreement cannot be reached within thirty (30) days of the request  
44 for such appointment, the executive director of the state board of education  
45 shall make such appointment. The fact-finder shall have authority to  
46 establish procedural rules, conduct investigations and hold hearings during

1 which each party to the dispute shall be given an opportunity to present its  
2 case with supporting evidence.

3 (2) Within thirty (30) days following designation of the fact-finder,  
4 he shall submit a report in writing to the administration and the  
5 professional employees, setting forth findings of fact and recommendations  
6 on the issues submitted.

7 33-3731. RESERVED POWERS, DUTIES AND RESPONSIBILITIES. Nothing  
8 contained herein is intended to or shall conflict with, or abrogate the  
9 powers, duties and responsibilities vested in the legislature, state  
10 board of education and the boards of trustees of the institutions of  
11 higher education by the laws of the state of Idaho. The administration of  
12 each institution of higher education is entitled, without negotiation or  
13 reference to any negotiated agreement, to take action that may be necessary  
14 to carry out its responsibility due to situations of emergency or acts of  
15 God.