

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 63

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1336, IDAHO
2 CODE, TO PROVIDE REFERENCE TO THE FEDERAL WORKFORCE INNOVATION AND
3 OPPORTUNITY ACT; AMENDING SECTION 72-1336A, IDAHO CODE, TO PROVIDE REF-
4 ERENCE TO THE FEDERAL WORKFORCE INNOVATION AND OPPORTUNITY ACT AND TO
5 MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-1366, IDAHO CODE,
6 TO PROVIDE REFERENCE TO THE FEDERAL WORKFORCE INNOVATION AND OPPORTU-
7 NITY ACT AND TO MAKE TECHNICAL CORRECTIONS.
8

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

10 SECTION 1. That Section 72-1336, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 72-1336. ADVISORY BODY AND SPECIAL COMMITTEES. (1) The governor shall
13 appoint a workforce development council in accordance with section ~~111 101~~
14 of the federal workforce investment innovation and opportunity act of 1998,
15 ~~as amended~~ (29 U.S.C. ~~2821 3101~~ et seq., as amended) and federal regulations
16 promulgated thereunder. Members of the body shall serve at the pleasure of
17 the governor and shall be reimbursed for ordinary and actual expenses. The
18 governor shall prescribe the duties and functions of the workforce develop-
19 ment council which shall include, but not be limited to, the following:

20 (a) To serve as an advisory body to the department on matters related to
21 workforce development policy and programs;

22 (b) To approve and provide oversight of department expenditures from
23 the employment security special administration fund established under
24 section 72-1347A, Idaho Code;

25 (c) To develop and provide oversight of procedures, criteria and per-
26 formance measures for the workforce development training fund estab-
27 lished under section 72-1347B, Idaho Code; and

28 (d) To serve as the state workforce investment board in accordance
29 with section ~~111 101~~ of the federal workforce investment act of 1998, as
30 ~~amended,~~ innovation and opportunity act and federal regulations pro-
31 mulgated thereunder.

32 (2) The director may appoint special committees in connection with the
33 administration of this chapter.

34 SECTION 2. That Section 72-1336A, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 72-1336A. YOUTH EMPLOYMENT AND JOB TRAINING PROGRAMS. (1) Subject to
37 the availability of funds from public and private sources and in consulta-
38 tion with the workforce development council, the director shall develop and
39 implement youth employment and job training programs to increase employment
40 opportunities for Idaho's youth.

1 (2) The director shall establish eligibility criteria for partici-
 2 pants. At a minimum, participants shall be lawful residents of the United
 3 States and the state of Idaho, and eligibility criteria shall not render
 4 employment and job training programs ineligible for federal funding.

5 (3) The director may apply for and accept grants or contributions of
 6 funds from any public or private source.

7 (4) To the extent practicable, the director shall enlist state and
 8 federal agencies, local governments, nonprofit organizations, private
 9 businesses, and any combination of such entities to act as sponsors for pro-
 10 grams administered pursuant to this section. Selection of sponsors shall
 11 be based on criteria that include the availability of other resources on a
 12 matching basis, including contributions from private sources, other fed-
 13 eral, state and local agencies, and moneys available through the federal
 14 workforce ~~investment act of 1998~~ innovation and opportunity act, 29 U.S.C.
 15 ~~section 2801, 3101 et seq.~~, as amended.

16 (5) Programs developed and implemented under this section shall:

17 (a) Result in an increase in employment opportunities for youth that
 18 would not otherwise be available;

19 (b) Not result in the displacement or partial displacement of currently
 20 employed workers;

21 (c) Not impair existing contracts for services or result in the substi-
 22 tution of funds available under this section for other funds in connec-
 23 tion with work that would otherwise be performed;

24 (d) Not substitute jobs that are assisted pursuant to this section for
 25 existing federally assisted jobs;

26 (e) Not employ any person when any other person is on layoff by an em-
 27 ployer from the same or any substantially equivalent job in the same
 28 area; and

29 (f) Not be used to employ any person to fill a job opening created by the
 30 act of an employer in laying off or terminating employment of any regu-
 31 lar employee in anticipation of filling the vacancy by hiring a person
 32 to be supported pursuant to this section.

33 (6) Participants in youth employment and job training programs under
 34 this section shall not be employees of the state of Idaho entitled to person-
 35 nel benefits under the state personnel system, chapter 53, title 67, Idaho
 36 Code.

37 SECTION 3. That Section 72-1366, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 72-1366. PERSONAL ELIGIBILITY CONDITIONS. The personal eligibility
 40 conditions of a benefit claimant are that:

41 (1) The claimant shall have made a claim for benefits and provided all
 42 necessary information pertinent to eligibility.

43 (2) The claimant shall have registered for work and thereafter reported
 44 to a job service office or other agency in a manner prescribed by the direc-
 45 tor.

46 (3) The claimant shall have met the minimum wage requirements in his
 47 base period as provided in section 72-1367, Idaho Code.

48 (4) (a) During the whole of any week with respect to which he claims ben-
 49 efits or credit to his waiting period, the claimant was:

1 (i) Able to work, available for suitable work, and seeking work;
 2 provided, however, that no claimant shall be considered ineligi-
 3 ble for failure to comply with the provisions of this subsection
 4 if:

5 1. Such failure is due to the claimant's illness or disabil-
 6 ity ~~which that~~ occurs after he has filed a claim and during
 7 such illness or disability, the claimant does not refuse or
 8 miss suitable work that would have provided wages greater
 9 than one-half (1/2) of the claimant's weekly benefit amount;
 10 or

11 2. Such failure is due to compelling personal circum-
 12 stances, provided that such failure does not exceed a minor
 13 portion of the claimant's workweek and during which time
 14 the claimant does not refuse or miss suitable work that
 15 would have provided wages greater than one-half (1/2) of the
 16 claimant's weekly benefit amount; and

17 (ii) Living in a state, territory, or country that is included in
 18 the interstate benefit payment plan or that is a party to an agree-
 19 ment with the United States or the director with respect to unem-
 20 ployment insurance.

21 (b) If a claimant who is enrolled in an approved job training course
 22 pursuant to subsection (8) of this section fails to attend or otherwise
 23 participate in the job training course during any week with respect to
 24 which he claims benefits or credit to his waiting period, the claimant
 25 shall be ineligible for that week if he was not able to work nor avail-
 26 able for suitable work, to be determined as follows: The claimant shall
 27 be ineligible unless he is making satisfactory progress in the training
 28 and his failure to attend or otherwise participate was due to:

29 (i) The claimant's illness or disability ~~which that~~ occurred af-
 30 ter he had filed a claim and the claimant missed fewer than one-
 31 half (1/2) of the classes available to him that week; or

32 (ii) Compelling personal circumstances, provided that the
 33 claimant missed fewer than one-half (1/2) of the classes available
 34 to him that week.

35 (c) A claimant shall not be denied regular unemployment benefits under
 36 any provision of this chapter relating to availability for work, active
 37 search for work or refusal to accept work, solely because the claimant
 38 is seeking only part-time work, if the department determines that a ma-
 39 jority of the weeks of work in the claimant's base period were for less
 40 than full-time work. For the purpose of this subsection, "seeking only
 41 part-time work" is defined as seeking work that has comparable hours
 42 to the claimant's part-time work experience in the base period, except
 43 that a claimant must be available for at least twenty (20) hours of work
 44 per week.

45 (5) The claimant's unemployment is not due to the fact that he left his
 46 employment voluntarily without good cause connected with his employment, or
 47 that he was discharged for misconduct in connection with his employment.

48 (6) The claimant's unemployment is not due to his failure without good
 49 cause to apply for available suitable work or to accept suitable work when

1 offered to him. The longer a claimant has been unemployed, the more willing
2 he must be to seek other types of work and accept work at a lower rate of pay.

3 (7) In determining whether or not work is suitable for an individual,
4 the degree of risk involved to his health, safety, morals, physical fitness,
5 experience, training, past earnings, length of unemployment and prospects
6 for obtaining local employment in his customary occupation, the distance of
7 the work from his residence, and other pertinent factors shall be consid-
8 ered. No employment shall be deemed suitable and benefits shall not be de-
9 nied to any otherwise eligible individual for refusing to accept new work or
10 to hold himself available for work under any of the following conditions:

11 (a) If the vacancy of the position offered is due directly to a strike,
12 lockout, or other labor dispute;

13 (b) If the wages, hours, or other conditions of the work offered are
14 below those prevailing for similar work in the locality of the work of-
15 ferred;

16 (c) If, as a condition of being employed, the individual would be re-
17 quired to join a company union or to resign from or refrain from joining
18 any bona fide labor organization.

19 (8) No claimant who is otherwise eligible shall be denied benefits for
20 any week due to an inability to comply with the requirements contained in
21 subsections (4) (a) (i) and (6) of this section, if:

22 (a) The claimant is a participant in a program sponsored by title I of
23 the workforce ~~investment~~ innovation and opportunity act (29 U.S.C. 3101
24 et seq., as amended) and attends a job training course under that pro-
25 gram; or

26 (b) The claimant attends a job training course authorized pursuant to
27 the provisions of section 236(a) (1) of the trade act of 1974 or the North
28 American free trade agreement implementation act.

29 (c) The claimant lacks skills to compete in the labor market and attends
30 a job training course with the approval of the director. The director
31 may approve job training courses that meet the following criteria:

32 (i) The purpose of the job training is to teach the claimant
33 skills that will enhance the claimant's opportunities for employ-
34 ment; and

35 (ii) The job training can be completed within two (2) years, ex-
36 cept that this requirement may be waived pursuant to rules that the
37 director may prescribe.

38 This subsection shall apply only if the claimant submits with each claim
39 report a written certification from the training facility that the claimant
40 is attending and satisfactorily completing the job training course. If
41 the claimant fails to attend or otherwise participate in the job training
42 course, it must be determined whether the claimant is able to work and avail-
43 able for suitable work as provided in subsection (4) (b) of this section.

44 (9) No claimant who is otherwise eligible shall be denied benefits
45 under subsection (5) of this section for leaving employment to attend job
46 training pursuant to subsection (8) of this section, provided that the
47 claimant obtained the employment after enrollment in or during scheduled
48 breaks in the job training course, or that the employment was not suitable.
49 For purposes of this subsection, the term "suitable employment" means work
50 of a substantially equal or higher skill level than the individual's past

1 employment, and wages for such work are not less than eighty percent (80%) of
2 the average weekly wage in the individual's past employment.

3 (10) A claimant shall not be eligible to receive benefits for any week
4 with respect to which it is found that his unemployment is due to a labor dis-
5 pute; provided, that this subsection shall not apply if it is shown that:

6 (a) The claimant is not participating, financing, aiding, abetting, or
7 directly interested in the labor dispute; and

8 (b) The claimant does not belong to a grade or class of workers with mem-
9 bers employed at the premises at which the labor dispute occurs, who are
10 participating in or directly interested in the dispute.

11 (11) A claimant shall not be entitled to benefits for any week with re-
12 spect to which or a part of which he has received or is seeking benefits un-
13 der an unemployment insurance law of another state or of the United States;
14 provided, that if the appropriate agency of such other state or of the United
15 States shall finally determine that he is not entitled to such unemployment
16 compensation or insurance benefits, he shall not by the provisions of this
17 subsection be denied benefits. For purposes of this section, a law of the
18 United States providing any payments of any type and in any amounts for pe-
19 riods of unemployment due to involuntary unemployment shall be considered an
20 unemployment insurance law of the United States.

21 (12) A claimant shall not be entitled to benefits for a period of
22 fifty-two (52) weeks if it is determined that he has willfully made a false
23 statement or willfully failed to report a material fact in order to obtain
24 benefits. The period of disqualification shall commence the week the deter-
25 mination is issued. The claimant shall also be ineligible for waiting week
26 credit and shall repay any sums received for any week for which the claimant
27 received waiting week credit or benefits as a result of having willfully
28 made a false statement or willfully failed to report a material fact. The
29 claimant shall also be ineligible for waiting week credit or benefits for any
30 week in which he owes the department an overpayment, civil penalty, or inter-
31 est resulting from a determination that he willfully made a false statement
32 or willfully failed to report a material fact.

33 (13) A claimant shall not be entitled to benefits if his principal occu-
34 pation is self-employment.

35 (14) A claimant who has been found ineligible for benefits under the
36 provisions of subsection (5), (6), (7) or (9) of this section shall reestab-
37 lish his eligibility by having obtained bona fide work and received wages
38 therefor in an amount of at least fourteen (14) times his weekly benefit
39 amount.

40 (15) Benefits based on service in employment defined in sections
41 72-1349A and 72-1352(3), Idaho Code, shall be payable in the same amount, on
42 the same terms and subject to the same conditions as benefits payable on the
43 basis of other service subject to this act.

44 (a) If the services performed during one-half (1/2) or more of any con-
45 tract period by an individual for an educational institution as defined
46 in section 72-1322B, Idaho Code, are in an instructional, research, or
47 principal administrative capacity, all the services shall be deemed to
48 be in such capacity.

49 (b) If the services performed during less than one-half (1/2) of any
50 contract period by an individual for an educational institution are in

1 an instructional, research, or principal administrative capacity, none
2 of the service shall be deemed to be in such capacity.

3 (c) As used in this section, "contract period" means the entire period
4 for which the individual contracts to perform services, pursuant to the
5 terms of the contract.

6 (16) No claimant is eligible to receive benefits in two (2) successive
7 benefit years unless, after the beginning of the first benefit year during
8 which he received benefits, he performed service and earned an amount equal
9 to not less than six (6) times the weekly benefit amount established during
10 the first benefit year.

11 (17) (a) Benefits based on wages earned for services performed in an
12 instructional, research, or principal administrative capacity for an
13 educational institution shall not be paid for any week of unemployment
14 commencing during the period between two (2) successive academic years,
15 or during a similar period between two (2) terms, whether or not succes-
16 sive, or during a period of paid sabbatical leave provided for in the
17 individual's contract, to any individual who performs such services in
18 the first academic year (or term) and has a contract to perform services
19 in any such capacity for any educational institution in the second aca-
20 demic year or term, or has been given reasonable assurance that such a
21 contract will be offered.

22 (b) Benefits based on wages earned for services performed in any other
23 capacity for an educational institution shall not be paid to any indi-
24 vidual for any week ~~which~~ that commences during a period between two (2)
25 successive school years or terms if the individual performs such ser-
26 vices in the first school year or term, and there is a contract or rea-
27 sonable assurance that the individual will perform such services in the
28 second school year or term. If benefits are denied to any individual un-
29 der this paragraph ~~(b)~~ and the individual was not offered an opportunity
30 to perform such services for the educational institution for the second
31 academic year or term, the individual shall be entitled to a retroac-
32 tive payment of benefits for each week for which the individual filed a
33 timely claim for benefits and for which benefits were denied solely by
34 reason of this clause.

35 (c) With respect to any services described in paragraphs (a) and (b)
36 of this subsection ~~(17)~~, benefits shall not be paid nor "waiting week"
37 credit given to an individual for wages earned for services for any week
38 ~~which~~ that commences during an established and customary vacation pe-
39 riod or holiday recess if the individual performed the services in the
40 period immediately before the vacation period or holiday recess, and
41 there is a reasonable assurance the individual will perform such ser-
42 vices in the period immediately following such vacation period or holi-
43 day recess.

44 (d) With respect to any services described in paragraphs (a) and (b)
45 of this subsection ~~(17)~~, benefits shall not be payable on the basis of
46 services in any capacities specified in paragraphs (a), (b) and (c) of
47 this subsection ~~(17)~~ to any individual who performed such services in an
48 educational institution while in the employ of an educational service
49 agency. For purposes of this paragraph, the term "educational service
50 agency" means a governmental entity ~~which~~ that is established and oper-

1 ated exclusively for the purpose of providing such services to one (1)
2 or more educational institutions.

3 (18) Benefits shall not be payable on the basis of services ~~which that~~
4 substantially consist of participating in sports or athletic events or
5 training or preparing to participate, for any week which commences during
6 the period between two (2) successive sport seasons (or similar periods) if
7 the individual performed services in the first season (or similar period)
8 and there is a reasonable assurance that the individual will perform such
9 services in the later of such season (or similar period).

10 (19) (a) Benefits shall not be payable on the basis of services per-
11 formed by an alien unless the alien was lawfully admitted for permanent
12 residence at the time such services were performed, was lawfully
13 present for purposes of performing such services, or was permanently
14 residing in the United States under color of law at the time the ser-
15 vices were performed (including an alien who was lawfully present in
16 the United States as a result of the application of the provisions of
17 sections 207 and 208 or section 212(d) (5) of the immigration and nation-
18 ality act).

19 (b) Any data or information required of individuals applying for bene-
20 fits to determine eligibility under this subsection shall be uniformly
21 required from all applicants for benefits.

22 (c) A decision to deny benefits under this subsection must be based on a
23 preponderance of the evidence.

24 (20) An individual who has been determined to be likely to exhaust regu-
25 lar benefits and to need reemployment services pursuant to a profiling sys-
26 tem established by the director must participate in those reemployment ser-
27 vices unless:

28 (a) The individual has completed such services; or

29 (b) There is justifiable cause, as determined by the director, for the
30 claimant's failure to participate in such services.

31 (21) (a) A claimant:

32 (i) Who has been assigned to work for one (1) or more customers of
33 a staffing service; and

34 (ii) Who, at the time of hire by the staffing service, signed a
35 written notice informing him that completion or termination of an
36 assignment for a customer would not, of itself, terminate the em-
37 ployment relationship with the staffing service;

38 will not be considered unemployed upon completion or termination of an
39 assignment until such time as he contacts the staffing service to deter-
40 mine if further suitable work is available. If the claimant:

41 1. Contacts the staffing service and refuses a suitable work
42 assignment that is offered to him at that time, he will be
43 considered to have voluntarily quit that employment; or

44 2. Contacts the staffing service and the service does not
45 have a suitable work assignment for him, he will be consid-
46 ered unemployed due to a lack of work; or

47 3. Accepts new employment without first contacting the
48 staffing service for additional work, he will be considered
49 to have voluntarily quit employment with the staffing ser-
50 vice.

1 (b) For the purposes of this subsection, the term "staffing service"
 2 means any person who assigns individuals to work for its customers and
 3 includes, but is not limited to, professional employers, as defined in
 4 chapter 24, title 44, Idaho Code, and the employers of temporary employ-
 5 ees as defined in section 44-2403 (7), Idaho Code.

6 (22) (a) A claimant who is otherwise eligible for regular benefits as
 7 defined in section 72-1367A(1) (e), Idaho Code, shall be eligible for
 8 training extension benefits if the department determines that all of
 9 the following criteria are met:

10 (i) The claimant is unemployed;

11 (ii) The claimant has exhausted all rights to regular unem-
 12 ployment benefits as defined in section 72-1367A(1) (e), Idaho
 13 Code, and all rights to extended benefits as defined in section
 14 72-1367A(1) (f), Idaho Code, and all rights to benefits under sec-
 15 tion 2002 ("increase in unemployment compensation benefits") of
 16 division B, title II, the assistance for unemployed workers and
 17 struggling families act, of the American recovery and reinvest-
 18 ment act of 2009, public law 111-5, as enacted on February 17,
 19 2009;

20 (iii) The claimant is enrolled in a training program approved by
 21 the department or in a job training program authorized under the
 22 workforce ~~investment~~ innovation and opportunity act, as amended;
 23 except that the training program must prepare the claimant for
 24 entry into a high-demand occupation if the department determines
 25 that the claimant separated from a declining occupation or has
 26 been involuntarily and indefinitely separated from employment as
 27 a result of a permanent reduction of operations at the claimant's
 28 place of employment. For the purposes of this subsection, a "de-
 29 clining occupation" is one where there is a lack of sufficient
 30 current demand in the claimant's labor market area for the occupa-
 31 tional skills for which the claimant is qualified by training and
 32 experience or current physical or mental capacity and the lack of
 33 employment opportunities is expected to continue for an extended
 34 period of time, or the claimant's occupation is one for which
 35 there is a seasonal variation in demand in the labor market and the
 36 claimant has no other skills for which there is current demand.
 37 For the purposes of this subsection, a "high-demand occupation" is
 38 an occupation in a labor market area where work opportunities are
 39 available and qualified applicants are lacking as determined by
 40 the use of available labor market information;

41 (iv) The claimant is making satisfactory progress to complete the
 42 training as determined by the department; and

43 (v) The claimant is not receiving similar stipends or other
 44 training allowances for ~~non-training~~ nontraining costs. For the
 45 purposes of this subsection, "similar stipend" means an amount
 46 provided under a program with similar aims, such as providing
 47 training to increase employability, and in approximately the same
 48 amounts.

49 (b) The weekly training extension benefit amount shall equal the
 50 claimant's weekly benefit amount for the most recent benefit year less

1 any deductible income as determined by the provisions of this chapter.
2 The total amount of training extension benefits payable to a claimant
3 shall be equal to twenty-six (26) times the claimant's average weekly
4 benefit amount for the most recent benefit year. A claimant who is
5 receiving training extension benefits shall not be denied training ex-
6 tension benefits due to the application of subsections (4) (a) (i) and
7 (6) of this section and an employer's account shall not be charged for
8 training extension benefits paid to the claimant.