

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 335

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO UNEMPLOYMENT BENEFITS; AMENDING SECTION 72-1367A, IDAHO CODE, TO PROVIDE FOR A STATE "ON" INDICATOR RELATING TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, TO PROVIDE CRITERIA, TO REVISE PROVISIONS RELATING TO A STATE "OFF" INDICATOR, TO PROVIDE AN ADDITIONAL CRITERION FOR A STATE "OFF" INDICATOR, TO REVISE A DEFINITION, TO PROVIDE FOR TOTAL EXTENDED BENEFIT AMOUNTS IN HIGH UNEMPLOYMENT PERIODS, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-1367A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1367A. EXTENDED BENEFITS. The extended benefits program shall be administered pursuant to the provisions of this section.

(1) Definitions. As used in this section, unless the context clearly requires otherwise:

(a) "Extended benefit period" means a period which:

(i) Begins with the third week after a week for which there is a state "on" indicator; and

(ii) Ends with either of the following weeks, whichever occurs later:

1. The third week after the first week for which there is a state "off" indicator; or

2. The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(b) (i) There is a state "on" indicator for any week if the director determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (not seasonally adjusted):

(i) ~~1.~~ Equaled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding thirteen (13) week period ending in each of the preceding two (2) calendar years and equaled or exceeded five percent (5%); or

(ii) ~~2.~~ Equaled or exceeded six percent (6%).

(ii) With respect to weeks of unemployment beginning on or after February 1, 2009, and ending four (4) weeks prior to the last week for which federal sharing is authorized by section 2005(a) ("full federal funding of extended unemployment compensation for a limited period") of division B, title II, the assistance for

1 unemployed workers and struggling families act, of the American recovery
 2 and reinvestment act of 2009, public law 111-5, as amended, there is a state
 3 "on" indicator for any week if the director determines, in accordance with the
 4 regulations of the United States secretary of labor that:

5 1. The average rate of seasonally adjusted total unemployment, as
 6 determined by the United States secretary of labor, for the period consisting
 7 of the most recent three (3) months for which data for all states are
 8 published before the close of such week equals or exceeds six and
 9 five-tenths percent (6.5%); and

10 2. The average rate of seasonally adjusted total unemployment in the
 11 state, as determined by the United States secretary of labor, for the three
 12 (3) month period referred to in subsection (1)(b)(ii)1. equals or exceeds
 13 one hundred ten percent (110%) of such average for either or both of the
 14 corresponding three (3) month periods ending in the two (2) preceding
 15 calendar years.

16 (c) There is a state "off" indicator for any week if the director determines, in accordance
 17 with the regulations of the United States secretary of labor, that for the period consisting
 18 of such week and the immediately preceding twelve (12) weeks, ~~the rate of insured~~
 19 ~~unemployment (not seasonally adjusted):~~

20 (i) ~~Was~~ The rate of insured unemployment (not seasonally adjusted) was less
 21 than six percent (6%) and was less than one hundred twenty percent (120%) of
 22 the average of such rates for the corresponding thirteen (13) week period ending in
 23 each of the preceding two (2) calendar years; or

24 (ii) ~~Was~~ The rate of insured unemployment (not seasonally adjusted) was less than
 25 five percent (5%); or

26 (iii) The option specified in subsection (1)(b)(ii) does not result in an "on"
 27 indicator.

28 (d) "Rate of insured unemployment," for purposes of paragraphs (b) and (c) of this
 29 subsection, means the percentage derived by dividing:

30 (i) The average weekly number of individuals filing claims for regular
 31 compensation in this state for weeks of unemployment for the most recent thirteen
 32 (13) consecutive week period, as determined by the director on the basis of his
 33 reports to the United States secretary of labor; by

34 (ii) The average monthly employment covered under this chapter for the first four
 35 (4) of the most recent six (6) completed calendar quarters ending before the end of
 36 such thirteen (13) week period.

37 (e) "Regular benefits" means benefits payable to an individual under this chapter or
 38 under any other state law (including benefits payable to federal civilian employees and
 39 to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

40 (f) "Extended benefits" means benefits (including benefits payable to federal civilian
 41 employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual
 42 under the provisions of this section for weeks of unemployment in his eligibility period.

43 (g) "Eligibility period" of an individual means the period consisting of the weeks in
 44 his benefit year which begin in an extended benefit period and, if his benefit year ends
 45 within such extended benefit period, any weeks thereafter which begin in such period.
 46 Eligibility period of an individual also means the period consisting of weeks which

1 begin in his extended benefit period, without regard to his benefit year end date, if
 2 the individual qualifies for one hundred percent (100%) federally financed federal-state
 3 extended benefits and the one hundred percent (100%) federally financed federal-state
 4 extended benefit payment period began on or before the individual exhausted his rights to
 5 benefits under the federal emergency unemployment compensation program of 2008.

6 (h) "Exhaustee" means an individual who, with respect to any week of unemployment in
 7 his eligibility period:

8 (i) Has received, prior to such week, all of the regular benefits that were
 9 available to him under this chapter or any regular or extended benefits available
 10 to him under any other state law (including benefits payable to federal civilian
 11 employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit
 12 year that includes such week; provided that for the purposes of this subparagraph,
 13 an individual shall be deemed to have received all of the regular benefits that were
 14 available to him although as a result of a pending appeal with respect to wages
 15 that were not considered in the original monetary determination in his benefit year,
 16 he may subsequently be determined to be entitled to added regular benefits; or

17 (ii) His benefit year having expired prior to such week, has no or insufficient
 18 wages on the basis of which he could establish a new benefit year that would
 19 include such week; and

20 (iii) Has no right to unemployment benefits or allowances under the railroad
 21 unemployment insurance act and such other federal laws as are specified in
 22 regulations issued by the United States secretary of labor; and has not received and
 23 is not seeking unemployment benefits under the unemployment insurance law of
 24 Canada; but if he is seeking such benefits and the appropriate agency determines
 25 that he is not entitled to benefits under such law he is considered an exhaustee.

26 (i) "State law" means the unemployment insurance law of any state approved by the
 27 United States secretary of labor under section 3304 of the Internal Revenue Code of 1954.

28 (j) For purposes of this section only, the term "suitable work" means, with respect to
 29 any individual, any work which is within such individual's capabilities; except that, if
 30 the individual furnishes evidence satisfactory to the department that such individual's
 31 prospects for obtaining work in his customary occupation within a reasonably short period
 32 are good, the determination of whether any work is suitable work with respect to such
 33 individual shall be made in accordance with applicable state law.

34 (2) Effect of state law provisions relating to regular benefits on claims for, and the
 35 payment of, extended benefits. Except when the result would be inconsistent with the other
 36 provisions of this section, the provisions of this chapter which apply to claims for, or the
 37 payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

38 (3) Eligibility requirements for extended benefits. An individual shall be eligible to
 39 receive extended benefits with respect to any week of unemployment in his eligibility period
 40 only if the director finds that with respect to such week:

41 (a) The claimant is an "exhaustee" as defined in subsection (1)(h) of this section;

42 (b) The claimant has satisfied the requirements of this chapter for the receipt of regular
 43 benefits that are applicable to individuals claiming extended benefits, including not being
 44 subject to a disqualification for the receipt of benefits;

45 (c) The claimant has had twenty (20) weeks of full-time employment for covered
 46 employers during his base period, or earned wages for services performed for covered

1 employers during his base period equal to at least one and one-half (1 1/2) times his high
 2 quarter wages, or has earned wages for services performed for covered employers during
 3 his base period equal to at least forty (40) times his most recent weekly benefit amount.

4 (d) (i) Notwithstanding the provisions of this section, payment of extended benefits
 5 under this chapter shall not be made to any individual for any week of
 6 unemployment in his eligibility period:

7 1. During which he fails to accept any offer of suitable work, as defined in
 8 subsection (1)(j) of this section, or fails to apply for any suitable work to
 9 which he was referred; or

10 2. During which he fails to actively engage in seeking work.

11 (ii) If any individual is ineligible for extended benefits for any week by reason
 12 of a failure described in subsection (3)(d)(i)1. or (3)(d)(i)2. of this section, the
 13 individual shall be ineligible to receive extended benefits for any week which
 14 begins during a period which:

15 1. Begins with the week following the week in which such failure occurs;
 16 and

17 2. Does not end until such individual has been employed during at
 18 least four (4) weeks which begin after such failure and the total of the
 19 remuneration earned by the individual for being so employed is not less
 20 than the product of four (4) multiplied by the individual's average weekly
 21 benefit amount.

22 (iii) Extended benefits shall not be denied under subsection (3)(d)(i)1. of this
 23 section to any individual for any week by reason of a failure to accept an offer of,
 24 or apply for, suitable work:

25 1. If the gross average weekly remuneration payable to such individual for
 26 the position does not exceed the sum of:

27 (A) The individual's average weekly benefit amount, as determined
 28 for purposes of subsection (b)(1)(C) of section 202 of the
 29 federal-state extended unemployment compensation act of 1970, for
 30 his benefit year; plus

31 (B) The amount, if any, of supplemental unemployment
 32 compensation benefits, as defined in section 501 (c)(17)(D) of
 33 the Internal Revenue Code of 1954, payable to such individual for
 34 such week.

35 2. If the position was not offered to such individual in writing or was not
 36 listed with the department;

37 3. If such failure would not result in a denial of benefits under the
 38 provisions of this chapter to the extent that such provisions are not
 39 inconsistent with the provisions of subsections (1)(j) and (3)(d)(iv) of this
 40 section; or

41 4. If the position pays wages less than the higher of:

42 (A) The minimum wage provided by section 6(a)(1) of the fair
 43 labor standards act of 1938, without regard to any exemption; or

44 (B) Any applicable state or local minimum wage.

45 (iv) For purposes of this paragraph, an individual shall be treated as actively
 46 engaged in seeking work during any week if:

1 1. The individual has engaged in a systematic and sustained effort to
2 obtain work during such week; and

3 2. The individual provides tangible evidence to the department that he has
4 engaged in such an effort during such week.

5 (v) For purposes of this section only, the department shall refer applicants for
6 extended benefits to any suitable work to which paragraphs 1., 2., 3. and 4. of
7 subsection (3)(d)(iii) of this section would not apply.

8 (4) (a) Except as provided in paragraph (b) of this subsection, payment of extended
9 benefits shall not be made to any individual for any week if:

10 (i) Extended benefits would, but for this subsection have been payable for such
11 week pursuant to an interstate claim filed in any state under the interstate benefit
12 payment plan; and

13 (ii) An extended benefit period is not in effect for such week in such state.

14 (b) Paragraph (a) of this subsection shall not apply with respect to the first two (2) weeks
15 for which extended benefits are payable, determined without regard to this subsection,
16 pursuant to an interstate claim filed under the interstate benefit payment plan to the
17 individual from the extended benefits account established for the benefit year.

18 (c) Section 3304 (a)(9)(A) of the Internal Revenue Code of 1954 shall not apply to any
19 denial of benefits required under this subsection.

20 (5) Weekly extended benefit amount. The weekly extended benefit amount payable to an
21 individual for a week of total unemployment in his eligibility period shall be an amount equal
22 to the weekly benefit amount payable to him during his applicable benefit year.

23 (6) (a) Total extended benefit amount. The total extended benefit amount payable to
24 an eligible individual with respect to his applicable benefit year shall be the least of the
25 following amounts:

26 ~~(a)~~ (i) Fifty percent (50%) of the total amount of regular benefits which were
27 payable to him under this chapter in his applicable benefit year;

28 ~~(b)~~ (ii) Thirteen (13) times his weekly benefit amount which was payable to him
29 under this chapter for a week of total unemployment in the applicable benefit year;

30 ~~(c)~~ (iii) Provided that the amount so determined shall be reduced by the total amount
31 of extended benefits paid, or being paid, to the individual for weeks of extended
32 unemployment in the individual's benefit year which began prior to the effective
33 date of the federal-state extended benefit period which is current in the week for
34 which the individual first claims such benefits.

35 ~~(d)~~ (iv) Notwithstanding any other provisions of this chapter, if the benefit year of
36 any individual ends within an extended benefit period, the remaining balance of
37 extended benefits that such individual would, but for the provisions of this section,
38 be entitled to receive in that extended benefit period, with respect to weeks of
39 unemployment beginning after the end of the benefit year, shall be reduced, but
40 not below zero, by the product of the number of weeks for which the individual
41 received any amounts as trade readjustment allowances within that benefit year,
42 multiplied by the individual's weekly benefit amount for extended benefits.

43 **(b) (i) Effective with respect to weeks beginning in a high unemployment period,**
44 **subsection (6)(a) of this section shall be applied by substituting:**

45 **1. "Eighty percent (80%)" for "fifty percent (50%)" in subsection (6)(a)(i)**
46 **of this section; and**

1 2. "Twenty (20)" for "thirteen (13)" in subsection (6)(a)(ii) of this section.

2 (ii) For purposes of subsection (6)(b)(i) of this section, the term "high
3 unemployment period" means any period during which an extended benefit period
4 would be in effect if subsection (1)(b)(ii) were applied by substituting "eight
5 percent (8%)" in subsection (1)(b)(ii)1. for "six and five-tenths percent (6.5%)."

6 (7) (a) Beginning and termination of extended benefit period. Whenever an extended
7 benefit period is to become effective in this state as a result of a state "on" indicator, or
8 an extended benefit period is to be terminated in this state as a result of a state "off"
9 indicator, the director shall make a public announcement.

10 (b) Computations required by the provisions of subsection (1)(d) of this section shall
11 be made by the director, in accordance with regulations prescribed by the United States
12 secretary of labor.

13 (8) Notwithstanding any other provisions of this chapter, none of the benefits paid
14 pursuant to the provisions of this section shall be charged to an employer's account for
15 purposes of experience rating.

16 (9) Whenever a program of unemployment benefits becomes available that is financed
17 entirely by the federal government, and such program will not allow payments to individuals
18 who are entitled to extended benefits pursuant to this section, the governor may, by executive
19 order, trigger off an extended benefit period as defined in subsection (1)(a) of this section in
20 order to provide payment of such federal benefits to individuals who have exhausted their right
21 to regular benefits. When the federal benefits are exhausted, or if the director determines that
22 payment of extended benefits would be more economically advantageous to the state of Idaho,
23 the governor shall, by executive order, trigger extended benefits on if the criteria of subsection
24 (1)(b) of this section are otherwise met.

25 (10) Until conformity with the federal-state extended unemployment compensation act
26 of 1970 requires otherwise, the eligibility requirements in subsections (1)(j) and (3)(d) of
27 this section are suspended. Except where inconsistent with the provisions of this section,
28 the eligibility requirements of section 72-1366, Idaho Code, applicable to claims for regular
29 benefits shall apply in lieu of the suspended provisions.

30 SECTION 2. An emergency existing therefor, which emergency is hereby declared to
31 exist, this act shall be in full force and effect on and after its passage and approval.