

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 109

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1367A, IDAHO
2 CODE, TO ADD AN ADDITIONAL TEMPORARY TOTAL UNEMPLOYMENT RATE INDICATOR
3 FOR EXTENDED BENEFITS THAT QUALIFY FOR FEDERAL FUNDS AND TO MAKE TECHNICAL
4 CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE AP-
5 PPLICATION.
6

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

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

10 72-1367A. EXTENDED BENEFITS. The extended benefits program shall be
11 administered pursuant to the provisions of this section.

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

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

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

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

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

21 2. The thirteenth consecutive week of such period;

22 provided, that no extended benefit period may begin by reason of a state
23 "on" indicator before the fourteenth week following the end of a prior
24 extended benefit period which was in effect with respect to this state.

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

30 1. Equaled or exceeded one hundred twenty percent (120%)
31 of the average of such rates for the corresponding thirteen
32 (13) week period ending in each of the preceding two (2) cal-
33 endar years and equaled or exceeded five percent (5%); or

34 2. Equaled or exceeded six percent (6%).

35 (ii) With respect to weeks of unemployment beginning on or af-
36 ter February 1, 2009, and ending four (4) weeks prior to the last
37 week for which federal sharing is authorized by section 2005(a)
38 ("full federal funding of extended unemployment compensation for
39 a limited period") of division B, title II, the assistance for
40 unemployed workers and struggling families act, of the American
41 recovery and reinvestment act of 2009, ~~public law P.L. 111-5~~, as
42 amended, there is a state "on" indicator for any week if the direc-

1 tor determines, in accordance with the regulations of the United
2 States secretary of labor that:

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

9 2. The average rate of seasonally adjusted total unemploy-
10 ment in the state, as determined by the United States secre-
11 tary of labor, for the three (3) month period referred to in
12 subsection (1) (b) (ii) 1. equals or exceeds one hundred ten
13 percent (110%) of such average for either or both of the cor-
14 responding three (3) month periods ending in the two (2) pre-
15 ceding calendar years.

16 3. With respect to weeks of unemployment beginning on or
17 after January 1, 2011, and ending on December 31, 2011, or
18 the expiration date in section 502 of the tax relief, un-
19 employment insurance reauthorization and job creation act
20 of 2010, P.L. 111-312, as amended, whichever is later, the
21 average rate of seasonally adjusted total unemployment in
22 the state, as determined by the United States secretary of
23 labor, for the three (3) month period referred to in subsec-
24 tion (1) (b) (ii) 1. equals or exceeds one hundred ten percent
25 (110%) of such average for any and all of the corresponding
26 three (3) month periods ending in the three (3) preceding
27 calendar years.

28 (c) There is a state "off" indicator for any week if the director deter-
29 mines, in accordance with the regulations of the United States secre-
30 tary of labor, that for the period consisting of such week and the imme-
31 diately preceding twelve (12) weeks:

32 (i) The rate of insured unemployment (not seasonally adjusted)
33 was less than six percent (6%) and was less than one hundred twenty
34 percent (120%) of the average of such rates for the corresponding
35 thirteen (13) week period ending in each of the preceding two (2)
36 calendar years; or

37 (ii) The rate of insured unemployment (not seasonally adjusted)
38 was less than five percent (5%); or

39 (iii) The option specified in subsection (1) (b) (ii) does not re-
40 sult in an "on" indicator.

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

43 (i) The average weekly number of individuals filing claims for
44 regular compensation in this state for weeks of unemployment for
45 the most recent thirteen (13) consecutive week period, as deter-
46 mined by the director on the basis of his reports to the United
47 States secretary of labor; by

48 (ii) The average monthly employment covered under this chapter
49 for the first four (4) of the most recent six (6) completed calen-

1 dar quarters ending before the end of such thirteen (13) week pe-
2 riod.

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

7 (f) "Extended benefits" means benefits (including benefits payable to
8 federal civilian employees and to ex-servicemen pursuant to 5 U.S.C.
9 chapter 85) payable to an individual under the provisions of this sec-
10 tion for weeks of unemployment in his eligibility period.

11 (g) "Eligibility period" of an individual means the period consisting
12 of the weeks in his benefit year which begin in an extended benefit pe-
13 riod and, if his benefit year ends within such extended benefit period,
14 any weeks thereafter which begin in such period. Eligibility period
15 of an individual also means the period consisting of weeks which begin
16 in his extended benefit period, without regard to his benefit year end
17 date, if the individual qualifies for one hundred percent (100%) fed-
18 erally financed federal-state extended benefits and the one hundred
19 percent (100%) federally financed federal-state extended benefit pay-
20 ment period began on or before the individual exhausted his rights to
21 benefits under the federal emergency unemployment compensation program
22 of 2008.

23 (h) "Exhaustee" means an individual who, with respect to any week of un-
24 employment in his eligibility period:

25 (i) Has received, prior to such week, all of the regular ben-
26 efits that were available to him under this chapter or any regu-
27 lar or extended benefits available to him under any other state
28 law (including benefits payable to federal civilian employees and
29 ex-servicemen under 5 U.S.C. chapter 85) in his current benefit
30 year that includes such week; provided that for the purposes of
31 this subparagraph, an individual shall be deemed to have received
32 all of the regular benefits that were available to him although as
33 a result of a pending appeal with respect to wages that were not
34 considered in the original monetary determination in his benefit
35 year, he may subsequently be determined to be entitled to added
36 regular benefits; or

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

40 (iii) Has no right to unemployment benefits or allowances under
41 the railroad unemployment insurance act and such other federal
42 laws as are specified in regulations issued by the United States
43 secretary of labor; and has not received and is not seeking unem-
44 ployment benefits under the unemployment insurance law of Canada;
45 but if he is seeking such benefits and the appropriate agency de-
46 termines that he is not entitled to benefits under such law he is
47 considered an exhaustee.

48 (i) "State law" means the unemployment insurance law of any state ap-
49 proved by the United States secretary of labor under section 3304 of the
50 Internal Revenue Code of 1954.

1 (j) For purposes of this section only, the term "suitable work" means,
2 with respect to any individual, any work which is within such individ-
3 ual's capabilities; except that, if the individual furnishes evidence
4 satisfactory to the department that such individual's prospects for ob-
5 taining work in his customary occupation within a reasonably short pe-
6 riod are good, the determination of whether any work is suitable work
7 with respect to such individual shall be made in accordance with appli-
8 cable state law.

9 (2) Effect of state law provisions relating to regular benefits on
10 claims for, and the payment of, extended benefits. Except when the result
11 would be inconsistent with the other provisions of this section, the provi-
12 sions of this chapter which apply to claims for, or the payment of, regular
13 benefits shall apply to claims for, and the payment of, extended benefits.

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

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

20 (b) The claimant has satisfied the requirements of this chapter for the
21 receipt of regular benefits that are applicable to individuals claim-
22 ing extended benefits, including not being subject to a disqualifica-
23 tion for the receipt of benefits;

24 (c) The claimant has had twenty (20) weeks of full-time employment for
25 covered employers during his base period, or earned wages for services
26 performed for covered employers during his base period equal to at least
27 one and one-half (1 1/2) times his high quarter wages, or has earned
28 wages for services performed for covered employers during his base pe-
29 riod equal to at least forty (40) times his most recent weekly benefit
30 amount.

31 (d) (i) Notwithstanding the provisions of this section, payment of ex-
32 tended benefits under this chapter shall not be made to any indi-
33 vidual for any week of unemployment in his eligibility period:

34 1. During which he fails to accept any offer of suitable
35 work, as defined in subsection (1) (j) of this section, or
36 fails to apply for any suitable work to which he was re-
37 ferred; or

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

39 (ii) If any individual is ineligible for extended benefits for any
40 week by reason of a failure described in subsection (3) (d) (i)1. or
41 (3) (d) (i)2. of this section, the individual shall be ineligible
42 to receive extended benefits for any week which begins during a pe-
43 riod which:

44 1. Begins with the week following the week in which such
45 failure occurs; and

46 2. Does not end until such individual has been employed dur-
47 ing at least four (4) weeks which begin after such failure
48 and the total of the remuneration earned by the individual
49 for being so employed is not less than the product of four

1 (4) multiplied by the individual's average weekly benefit
2 amount.

3 (iii) Extended benefits shall not be denied under subsection
4 (3) (d) (i) 1. of this section to any individual for any week by rea-
5 son of a failure to accept an offer of, or apply for, suitable work:
6 1. If the gross average weekly remuneration payable to such
7 individual for the position does not exceed the sum of:
8 (A) The individual's average weekly benefit amount,
9 as determined for purposes of subsection (b) (1) (C) of
10 section 202 of the federal-state extended unemployment
11 compensation act of 1970, for his benefit year; plus
12 (B) The amount, if any, of supplemental unemploy-
13 ment compensation benefits, as defined in section
14 501(c) (17) (D) of the Internal Revenue Code of 1954,
15 payable to such individual for such week.

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

18 3. If such failure would not result in a denial of benefits
19 under the provisions of this chapter to the extent that such
20 provisions are not inconsistent with the provisions of sub-
21 sections (1) (j) and (3) (d) (iv) of this section; or

22 4. If the position pays wages less than the higher of:
23 (A) The minimum wage provided by section 6(a) (1) of the
24 fair labor standards act of 1938, without regard to any
25 exemption; or
26 (B) Any applicable state or local minimum wage.

27 (iv) For purposes of this paragraph, an individual shall be
28 treated as actively engaged in seeking work during any week if:
29 1. The individual has engaged in a systematic and sustained
30 effort to obtain work during such week; and
31 2. The individual provides tangible evidence to the depart-
32 ment that he has engaged in such an effort during such week.

33 (v) For purposes of this section only, the department shall re-
34 fer applicants for extended benefits to any suitable work to which
35 paragraphs 1., 2., 3. and 4. of subsection (3) (d) (iii) of this
36 section would not apply.

37 (4) (a) Except as provided in paragraph (b) of this subsection, payment
38 of extended benefits shall not be made to any individual for any week if:
39 (i) Extended benefits would, but for this subsection have been
40 payable for such week pursuant to an interstate claim filed in any
41 state under the interstate benefit payment plan; and
42 (ii) An extended benefit period is not in effect for such week in
43 such state.

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

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

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

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

8 (i) Fifty percent (50%) of the total amount of regular benefits
 9 which were payable to him under this chapter in his applicable ben-
 10 efit year;

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

14 (iii) Provided that the amount so determined shall be reduced by
 15 the total amount of extended benefits paid, or being paid, to the
 16 individual for weeks of extended unemployment in the individual's
 17 benefit year which began prior to the effective date of the fed-
 18 eral-state extended benefit period which is current in the week
 19 for which the individual first claims such benefits.

20 (iv) Notwithstanding any other provisions of this chapter, if the
 21 benefit year of any individual ends within an extended benefit pe-
 22 riod, the remaining balance of extended benefits that such indi-
 23 vidual would, but for the provisions of this section, be entitled
 24 to receive in that extended benefit period, with respect to weeks
 25 of unemployment beginning after the end of the benefit year, shall
 26 be reduced, but not below zero (0), by the product of the number of
 27 weeks for which the individual received any amounts as trade read-
 28 justment allowances within that benefit year, multiplied by the
 29 individual's weekly benefit amount for extended benefits.

30 (b) (i) Effective with respect to weeks beginning in a high unemploy-
 31 ment period, subsection (6) (a) of this section shall be applied by
 32 substituting:

33 1. "Eighty percent (80%)" for "fifty percent (50%)" in sub-
 34 section (6) (a) (i) of this section; and

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

37 (ii) For purposes of subsection (6) (b) (i) of this section, the
 38 term "high unemployment period" means any period during which
 39 an extended benefit period would be in effect if subsection
 40 (1) (b) (ii) were applied by substituting "eight percent (8%)"
 41 in subsection (1) (b) (ii) 1. for "six and five-tenths percent
 42 (6.5%)."

43 (7) (a) Beginning and termination of extended benefit period. Whenever
 44 an extended benefit period is to become effective in this state as a re-
 45 sult of a state "on" indicator, or an extended benefit period is to be
 46 terminated in this state as a result of a state "off" indicator, the di-
 47 rector shall make a public announcement.

48 (b) Computations required by the provisions of subsection (1) (d) of
 49 this section shall be made by the director, in accordance with regula-
 50 tions prescribed by the United States secretary of labor.

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

4 (9) Whenever a program of unemployment benefits becomes available that
5 is financed entirely by the federal government, and such program will not
6 allow payments to individuals who are entitled to extended benefits pur-
7 suant to this section, the governor may, by executive order, trigger off an
8 extended benefit period as defined in subsection (1) (a) of this section in
9 order to provide payment of such federal benefits to individuals who have
10 exhausted their right to regular benefits. When the federal benefits are
11 exhausted, or if the director determines that payment of extended benefits
12 would be more economically advantageous to the state of Idaho, the governor
13 shall, by executive order, trigger extended benefits on if the criteria of
14 subsection (1) (b) of this section are otherwise met.

15 (10) Until conformity with the federal-state extended unemployment
16 compensation act of 1970 requires otherwise, the eligibility requirements
17 in subsections (1) (j) and (3) (d) of this section are suspended. Except
18 where inconsistent with the provisions of this section, the eligibility re-
19 quirements of section 72-1366, Idaho Code, applicable to claims for regular
20 benefits shall apply in lieu of the suspended provisions.

21 SECTION 2. An emergency existing therefor, which emergency is hereby
22 declared to exist, this act shall be in full force and effect on and after its
23 passage and approval, and retroactively to January 1, 2011.