LEGISLATURE OF THE STATE OF IDAHO  
Sixty-fourth Legislature  
Second Regular Session - 2018  

IN THE HOUSE OF REPRESENTATIVES  

HOUSE BILL NO. 432  

BY COMMERCE AND HUMAN RESOURCES COMMITTEE  

AN ACT  
RELATING TO THE WORKFORCE DEVELOPMENT COUNCIL; AMENDING TITLE 72, IDAHO  
CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 72, IDAHO CODE, TO  
CREATE THE WORKFORCE DEVELOPMENT COUNCIL, TO PROVIDE COMPOSITION AND  
APPOINTMENT AND TO PROVIDE FOR AN EXECUTIVE DIRECTOR, TO PROVIDE FOR  
YOUTH EMPLOYMENT AND JOB TRAINING PROGRAMS AND TO PROVIDE FOR CREATION  
of the Workforce Development Training Fund; Amending Section 72-1333,  
Idaho Code, To Remove Employees of the Idaho Career Information Sys-  

tem As Exempt Employees and To Make Technical Corrections; Repealing  
Section 72-1336, Idaho Code, Relating To the Advisory Body and Special  
Committees; Repealing Section 72-1336A, Idaho Code, Relating To Youth  
Employment and Job Training Programs; Repealing Section 72-1345A,  
Idaho Code, Relating to the Idaho Career Information System; Repealing  
Section 72-1347B, Idaho Code, Relating to the Workforce Development  
Training Fund; Amending Section 72-1347A, Idaho Code, To Remove Obso- 

lete Language, To Remove a Provision Regarding Approval of an Advisory  
Council and To Make Technical Corrections; Amending Section 72-1348,  
Idaho Code, To Remove a Code Reference and to Make Technical Correc- 

tions; and Declaring an Emergency.  

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

SECTION 1. That Title 72, Idaho Code, be, and the same is hereby amended  
by the addition thereto of a NEW CHAPTER, to be known and designated as Chap- 

ter 12, Title 72, Idaho Code, and to read as follows:  

CHAPTER 12  
WORKFORCE DEVELOPMENT COUNCIL  

72-1201. CREATION OF WORKFORCE DEVELOPMENT COUNCIL -- COMPOSITION --  
APPOINTMENT -- EXECUTIVE DIRECTOR. (1) There is hereby established in the  
executive office of the governor the workforce development council. Members  
of the council and an executive director shall be appointed by and serve at  
the pleasure of the governor. The governor shall prescribe the structure,  
duties and functions of the council, which shall include but not be limited  
to the following:  
(a) To serve as the state's coordinating body on matters related to  
workforce development policy and programs;  
(b) To develop and provide oversight of procedures, criteria and per- 
formance measures for the workforce development training fund estab- 
lished under section 72-1203, Idaho Code; and  
(c) To serve as the state workforce investment board in accordance with  
section 101 of the federal workforce innovation and opportunity act, 29  
U.S.C. 3101 et seq., as amended, and federal regulations promulgated  
thereunder.
(2) The council may appoint special committees in connection with this section.
(3) The council may apply for and accept grants and contributions of funds from any public or private source.
(4) The executive director is authorized to hire and supervise support staff consistent with the mission and priorities of the council. The executive director shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. Support staff shall be classified employees under the provisions of chapter 53, title 67, Idaho Code.
(5) Members of the council and any special committees who are not state employees shall be compensated for actual and necessary expenses as provided by section 59-509(b), Idaho Code.

72-1202. YOUTH EMPLOYMENT AND JOB TRAINING PROGRAMS. (1) Subject to the availability of funds from public and private sources, the council shall develop and implement youth employment and job training programs to increase employment opportunities for Idaho's youth.
(2) The council shall establish eligibility criteria for participants. At a minimum, participants shall be lawful residents of the United States and the state of Idaho, and eligibility criteria shall not render employment and job training programs ineligible for federal funding.
(3) To the extent practicable, the council shall enlist state and federal agencies, local governments, nonprofit organizations, private businesses and any combination of such entities to act as sponsors for programs administered pursuant to this section. Selection of sponsors shall be based on criteria that include the availability of other resources on a matching basis, including contributions from private sources, other federal, state and local agencies, and moneys available through the federal workforce innovation and opportunity act, 29 U.S.C. 3101 et seq., as amended.
(4) Participants in youth employment and job training programs under this section shall not be employees of the state of Idaho entitled to personnel benefits under the state personnel system, chapter 53, title 67, Idaho Code.

72-1203. WORKFORCE DEVELOPMENT TRAINING FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the workforce development training fund, hereinafter "training fund." Except as provided herein, all proceeds from the training tax defined in subsection (7) of this section shall be paid into the training fund. The state treasurer shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the council.
(2) All moneys in the training fund are appropriated to the council for expenditure in accordance with the provisions of this section. The purpose of the training fund is to provide or expand training and retraining opportunities in an expeditious manner that would not otherwise exist for Idaho's workforce. The training fund is intended to supplement but not to supplant
or compete with moneys available through existing training programs. The moneys in the training fund shall be used for the following purposes:

(a) To provide training and retraining for skills necessary for specific economic opportunities and industrial expansion initiatives;
(b) To provide innovative training solutions to meet industry-specific workforce needs or local workforce challenges;
(c) To provide public information and outreach on career education and workforce training opportunities, including existing education and training programs and services not funded by the training fund; and
(d) For all administrative expenses incurred by the council, including those expenses associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(3) Expenditures from the training fund for purposes authorized in paragraphs (a), (b) and (c) of subsection (2) of this section shall be approved by the council based on procedures, criteria and performance measures established by the council.

(4) Expenditures from the training fund for purposes authorized in paragraph (d) of subsection (2) of this section shall be approved by the executive director. The executive director shall pay all approved expenditures as long as the training fund has a positive balance.

(5) The activities funded by the training fund will be coordinated with similar activities funded by the state division of career technical education.

(6) The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(7) A training tax is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, with the exception of deficit-rated employers who have been assigned a taxable wage rate from rate class six pursuant to section 72-1350, Idaho Code. The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible standard-rated and deficit-rated employer. The training tax shall be due and payable at the same time and in the same manner as contributions.

(8) The provisions of chapter 13, title 72, Idaho Code, which apply to the payment and collection of contributions, also apply to the payment and collection of the training tax, including the same calculations, assessments, methods of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. The director of the department of labor is granted all rights, authority and prerogatives necessary to administer the provisions of this subsection. Moneys collected from an employer delinquent in paying the training tax shall first be applied to any penalties and interest imposed pursuant to the provisions of chapter 13, title 72, Idaho Code, and then pro rata to the training fund established in subsection (1) of this section. Any penalties and interest collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any penalties or interest refunded under this subsection shall be paid from that same fund. Training taxes paid pursuant to this section shall not be
credited to the employer's experience rating account and may not be deducted by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund. The director of the department of labor may authorize refunds of training taxes erroneously collected and deposited in the training fund.

SECTION 2. That Section 72-1333, Idaho Code, be, and the same is hereby amended to read as follows:

72-1333. DEPARTMENT OF LABOR -- AUTHORITY AND DUTIES OF THE DIRECTOR. (1) The director shall administer the employment security law, chapter 13, title 72, Idaho Code, the minimum wage law, chapter 15, title 44, Idaho Code, the provisions of chapter 6, title 45, Idaho Code, relating to claims for wages, the provisions of section 44-1812, Idaho Code, relating to minimum medical and health standards for paid firefighters, the disability determinations service established pursuant to 42 U.S.C. 421, and shall perform such other duties relating to labor and workforce development as may be imposed upon him by law. The director shall be the successor in law to the office enumerated in section 1, article XIII, of the constitution of the state of Idaho. The director shall have the authority to employ individuals, make expenditures, require reports, make investigations, perform travel and take other actions deemed necessary. The director shall organize the department of labor, which is hereby created, and which shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government. The director shall have an official seal, which shall be judicially noticed.

(2) The director shall have the authority pursuant to chapter 52, title 67, Idaho Code, to adopt, amend, or rescind rules as he deems necessary for the proper performance of all duties imposed upon him by law.

(3) Subject to the provisions of chapter 53, title 67, Idaho Code, the director is authorized and directed to provide for a merit system for the department covering all persons, except the director, the division administrators, employees of the Idaho career information system, and two (2) exempt positions to serve at the pleasure of the director.

(4) The director shall make recommendations for amendments to the employment security law and other laws he the director is charged to implement as he deems deemed proper.

(5) The director shall have all the powers and duties as may have been or could have been exercised by his predecessors in law, except those powers and duties granted and reserved to the director of the department of commerce in titles 39, 49 and 67, Idaho Code, and he shall be the successor in law to all contractual obligations entered into by his predecessors in law, except for those contracts of the department of commerce, or contracts pertaining to any power or duty granted and reserved to the director of the department of commerce in titles 39, 49 and 67, Idaho Code.

(6) The director shall provide administrative support for the commission on human rights pursuant to section 67-5905, Idaho Code.
SECTION 3. That Sections 72-1336, 72-1336A, 72-1345A and 72-1347B, Idaho Code, be, and the same are hereby repealed.

SECTION 4. That Section 72-1347A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347A. EMPLOYMENT SECURITY RESERVE FUND -- SPECIAL ADMINISTRATION FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the employment security reserve fund, hereinafter "reserve fund." Except as provided herein, all proceeds from the reserve tax defined in subsection (2) of this section shall be paid into the reserve fund. The moneys in the reserve fund may be used by the director for loans to the employment security fund, section 72-1346, Idaho Code, as security for loans from the federal unemployment insurance trust fund, and for the repayment of any interest-bearing advances, including interest, made under title XII of the social security act, 42 U.S.C. 1321 through 1324, and shall be available to the director for expenditure in accordance with the provisions of this section. The state treasurer shall be the custodian of the reserve fund and shall invest said moneys in accordance with law. The state treasurer shall disburse the moneys from the reserve fund in accordance with the directions of the director.

(2) A reserve tax is imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, except deficit-rated employers who have been assigned a taxable wage rate from deficit rate class six pursuant to section 72-1350(8)(a), Idaho Code. The reserve tax shall be due and payable at the same time and in the same manner as contributions. If the reserve fund is less than one percent (1%) of state taxable wages in the penultimate year as of September 30 of the preceding calendar year, the reserve tax rate for all eligible, standard-rated and deficit-rated employers shall be equal to the taxable wage rate then in effect less the assigned contribution rate and training tax rate. The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the reserve tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section and the collection of the reserve tax, the director is granted all rights, authority, and prerogatives granted the director under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions and reserve taxes shall first be applied to pay any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to pay delinquent contributions to the employment security fund, section 72-1346, Idaho Code, and delinquent reserve taxes to the reserve fund pursuant to this section. Any interest and penalties collected pursuant to this subsection shall be paid into the employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Reserve taxes paid pursuant to this subsection may not be deducted in whole or in part by any employer from the wages of individuals in its employ. All reserve taxes collected pursuant to this subsection shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for
clearance only and shall not become part of such fund. After clearance, the
moneys shall be deposited in the reserve fund established in subsection (1)
of this section. No reserve tax shall be imposed for any calendar year if, as
of September 30 of the preceding calendar year, the balance of the reserve
fund equals or exceeds one percent (1%) of the state taxable wages for the
penultimate calendar year, or exceeds forty-nine percent (49%) of the ac-
tual balance of the employment security fund, section 72-1346, Idaho Code.
Provided however, and notwithstanding any other provisions of this subsec-
tion, for calendar year 2006, the imposition of a reserve tax shall not be
precluded even if the balance of the reserve fund exceeds forty-nine percent
(49%) of the actual balance of the employment security fund.

(3) The interest earned from investment of the reserve fund shall be de-
posited in a fund established in the state treasurer's office, to be known as
the department of labor special administration fund, hereinafter "special
administration fund." The moneys in the special administration fund shall be
held separate and apart from all other public funds of this state. The state
treasurer shall be the custodian of this fund and may invest said moneys in
accordance with law. Any interest earned on said moneys shall be deposited
in the special administration fund. In the absence of a specific appropri-
ation, the moneys in the special administration fund are perpetually appro-
priated to the director and may be expended with the approval of the advisory
council appointed pursuant to section 72-1336, Idaho Code, for costs related
to programs administered by the department. The director shall report an-
ually to the joint finance appropriations committee and the advisory coun-
cil the expenditures and disbursements made from the fund during the preced-
ing fiscal year, and the expenditures and disbursements and commitments made
during the current fiscal year to date.

(4) Administrative costs related to the reserve fund and the special
administration fund shall be paid from federal administrative grants re-
ceived under title III of the social security act, to the extent permitted by
federal law, and then from the special administration fund.

SECTION 5. That Section 72-1348, Idaho Code, be, and the same is hereby
amended to read as follows:

72-1348. STATE EMPLOYMENT SECURITY ADMINISTRATIVE AND REIMBURSEMENT
FUND. (1) There is created in the state treasury the "State Employment
Security Administrative and Reimbursement Fund." Notwithstanding the
provisions of sections 72-1346 and 72-1347, Idaho Code, the fund shall con-
sist of:
(a) All penalties and all interest on judgments or accounts secured
by liens collected pursuant to the provisions of sections 72-1347A,
72-1347B and 72-1354 through 72-1364, Idaho Code, but only after such
interest and penalties have been deposited in the clearing account and
are thereafter transferred to this fund in such amounts as, in the dis-
ccretion of the director, will leave a sufficient balance of interest and
penalties in the clearing account to pay refunds; and
(b) Reed act moneys appropriated for the purchase of land and buildings
pursuant to section 72-1346 (5), Idaho Code.
(2) Moneys referred to in subsection (1) (a) of this section are perpet-
ually appropriated to the director and may be used upon written authoriza-
tion of the board of examiners for any lawful purpose, including, but not limited to:

(a) As a revolving fund to cover expenditures for which federal funds have been duly requested but not yet received, subject to reimbursement upon receipt of the federal funds;
(b) For the payment of costs of administration including costs not validly chargeable against federal grants;
(c) For the payment of refunds of penalties pursuant to section 72-1357, Idaho Code; and
(d) For the purchase of land and buildings for the purpose of providing office space for the department.

(3) Moneys referred to in subsection (1)(b) of this section may be used by the department to acquire for and in the name of the state by term purchase agreement lands and buildings for office space for the department at such places as the director finds necessary. An agreement made for the purchase of premises pursuant to this subsection shall be subject to the approval of the attorney general as to form and title. Premises purchased pursuant to this section shall be used for the department or, if it is desirable to move the department, similar space will be furnished by the state to the department without further payment therefor by the United States.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.