

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 54

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO EMPLOYMENT SECURITY LAW; AMENDING SECTION 45-617, IDAHO CODE,
2 TO REVISE PROVISIONS REGARDING DEPARTMENT PROCEDURES FOR WAGE CLAIMS;
3 AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
4 TION 72-1303A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING ABILITY
5 TO WORK AND AVAILABILITY FOR SUITABLE WORK; AMENDING SECTION 72-1304,
6 IDAHO CODE, TO REVISE PROVISIONS REGARDING AGRICULTURAL LABOR AND TO
7 MAKE A TECHNICAL CORRECTION; REPEALING SECTION 72-1306, IDAHO CODE,
8 RELATING TO THE DEFINITIONS OF BASE PERIOD AND ALTERNATE BASE PERIOD;
9 AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW
10 SECTION 72-1306, IDAHO CODE, TO DEFINE TYPES OF BASE PERIODS; AMEND-
11 ING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
12 72-1311A, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 72-1312A,
13 IDAHO CODE, TO REVISE PROVISIONS REGARDING ELIGIBILITY FOR CORPORATE
14 OFFICERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-1315,
15 IDAHO CODE, TO REVISE PROVISIONS REGARDING COVERED EMPLOYERS; AMENDING
16 SECTION 72-1316, IDAHO CODE, TO REVISE PROVISIONS REGARDING COVERED EM-
17 PLOYMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1316A,
18 IDAHO CODE, TO REVISE A PROVISION REGARDING EXEMPT EMPLOYMENT AND TO
19 MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE,
20 BY THE ADDITION OF A NEW SECTION 72-1316B, IDAHO CODE, TO ESTABLISH
21 PROVISIONS REGARDING FULL-TIME EMPLOYMENT; AMENDING SECTION 72-1319,
22 IDAHO CODE, TO REVISE PROVISIONS REGARDING ELIGIBLE EMPLOYERS; AMEND-
23 ING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
24 72-1326, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING REPORTABLE
25 INCOME; AMENDING SECTION 72-1327A, IDAHO CODE, TO REVISE PROVISIONS RE-
26 GARDING A VALID CLAIM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-
27 TION 72-1328, IDAHO CODE, TO REVISE PROVISIONS REGARDING WAGES AND TO
28 MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE,
29 BY THE ADDITION OF A NEW SECTION 72-1328A, IDAHO CODE, TO ESTABLISH PRO-
30 VISIONS REGARDING BOARD, LODGING, AND MEALS; AMENDING CHAPTER 13, TITLE
31 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1330A, IDAHO CODE, TO
32 ESTABLISH PROVISIONS REGARDING WORKPLACE MISCONDUCT; AMENDING SECTION
33 72-1337, IDAHO CODE, TO REVISE PROVISIONS REGARDING EMPLOYER RECORDS
34 AND REPORTS; AMENDING SECTION 72-1342, IDAHO CODE, TO REVISE PROVISIONS
35 REGARDING CONFIDENTIALITY AND DISCLOSURE PROCEDURES; AMENDING SECTION
36 72-1349, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTRIBUTION PAY-
37 MENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1349B,
38 IDAHO CODE, TO REVISE PROVISIONS REGARDING PROFESSIONAL EMPLOYER ORGA-
39 NIZATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-1350,
40 IDAHO CODE, TO REVISE A PROVISION REGARDING TAXABLE WAGE BASE; AMENDING
41 SECTION 72-1351, IDAHO CODE, TO REVISE PROVISIONS REGARDING EMPLOYER
42 EXPERIENCE RATINGS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
43 72-1351A, IDAHO CODE, TO REVISE PROVISIONS REGARDING EXPERIENCE RATING
44 RECORDS; AMENDING SECTION 72-1352A, IDAHO CODE, TO REVISE PROVISIONS
45

1 REGARDS CORPORATE OFFICERS EXEMPTED FROM COVERAGE; AMENDING SECTION
 2 72-1357, IDAHO CODE, TO REVISE PROVISIONS REGARDING ADJUSTMENTS AND
 3 REFUNDS; AMENDING SECTION 72-1365, IDAHO CODE, TO REVISE A PROVISION
 4 REGARDING INDIVIDUAL WITHHOLDING ELECTIONS AND TO MAKE TECHNICAL COR-
 5 RECTIONS; AMENDING SECTION 72-1366, IDAHO CODE, TO REVISE PROVISIONS
 6 REGARDING PERSONAL ELIGIBILITY CONDITIONS AND TO MAKE TECHNICAL COR-
 7 RECTIONS; AMENDING SECTION 72-1367, IDAHO CODE, TO REVISE A PROVISION
 8 REGARDING THE BENEFIT FORMULA; AMENDING SECTION 72-1367A, IDAHO CODE,
 9 TO REVISE PROVISIONS REGARDING EXTENDED BENEFITS; AMENDING SECTION
 10 72-1368, IDAHO CODE, TO REVISE PROVISIONS REGARDING APPELLATE PRO-
 11 CEDURES FOR BENEFIT CLAIMS; AMENDING SECTION 72-1374, IDAHO CODE, TO
 12 REVISE PROVISIONS REGARDING UNAUTHORIZED DISCLOSURES OF INFORMATION;
 13 AMENDING SECTION 72-1346A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-
 14 ENCE; AMENDING SECTION 72-1372, IDAHO CODE, TO PROVIDE A CORRECT CODE
 15 REFERENCE; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN
 16 IDAPA 09.01.01 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT; PROVID-
 17 ING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN IDAPA 09.01.08 SHALL
 18 BE NULL, VOID, AND OF NO FORCE AND EFFECT; PROVIDING THAT CERTAIN ADMIN-
 19 ISTRATIVE RULES CONTAINED IN IDAPA 09.01.30 SHALL BE NULL, VOID, AND OF
 20 NO FORCE AND EFFECT; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CON-
 21 TAINED IN IDAPA 09.01.35 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT;
 22 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

24 SECTION 1. That Section 45-617, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 45-617. ADMINISTRATIVE PROCEEDINGS FOR WAGE CLAIMS. (1) Wage claims
 27 filed with the department, excluding potential penalties, are limited by the
 28 same dollar amount that limits actions before the small claims department of
 29 the magistrate division of the district court.

30 (2) The contested case provisions of the Idaho administrative proce-
 31 dure act, chapter 52, title 67, Idaho Code, are inapplicable to proceedings
 32 involving wage claims under this chapter.

33 (3) Once a wage claim has been properly filed with the department, the
 34 provisions of this section shall provide the exclusive remedy for resolving
 35 the wage claim. If at any time after the filing of the wage claim the depart-
 36 ment determines that it lacks jurisdiction over the wage claim, the depart-
 37 ment shall provide written notification of its determination to the claimant
 38 and the employer. The claimant may then assert the wage claim in any court
 39 of competent jurisdiction. In the event the department determines that it
 40 lacks jurisdiction over the wage claim, the limitation periods provided for
 41 in section 45-614, Idaho Code, shall be tolled from the date the wage claim
 42 was filed with the department until the date notice that the department lacks
 43 jurisdiction is mailed to the claimant, as provided in subsection ~~(5)~~ (8) of
 44 this section.

45 (4) A department compliance officer shall examine wage claims filed
 46 with the department and, on the basis of the facts found, shall determine
 47 whether the wage claimant is entitled to an award for unpaid wages and penal-
 48 ties. If the compliance officer is unable to determine whether wages and

1 penalties are owed, the claim may be referred to a hearing officer for a
2 determination. The department may adjust the amount of penalties awarded
3 for an employer's failure to comply with the requirements of section 45-606,
4 Idaho Code. The department may award no penalty or may award a penalty in any
5 amount up to the maximum amount allowed under section 45-607, Idaho Code. No
6 penalty shall be awarded by the department unless a specific finding is made
7 that wages were withheld willfully, arbitrarily and without just cause. The
8 department's determination shall include findings of fact and conclusions
9 of law. Before the determination becomes final or an appeal is filed, the
10 compliance or hearing officer that issued the determination may, on his own
11 motion, issue a revised determination. ~~The determination or revised deter-~~
12 ~~mination shall become a final determination unless, within fourteen (14)~~
13 ~~days after notice, as provided in subsection (5) of this section, an appeal~~
14 ~~is filed by the claimant or the employer in accordance with the department's~~
15 ~~rules. If an appeal is not timely filed, the amount awarded by a final deter-~~
16 ~~mination shall become immediately due and payable to the department. A final~~
17 ~~determination may be enforced by the department in accordance with section~~
18 ~~45-618, Idaho Code.~~

19 ~~(5) The claimant and the employer shall be entitled to prompt service~~
20 ~~of notice of determinations and decisions. Notice shall be deemed served if~~
21 ~~delivered to the person being served, if mailed to the person's last known~~
22 ~~address, or if electronically transmitted to the claimant at the claimant's~~
23 ~~request and with the department's approval. Service by electronic transmis-~~
24 ~~sion shall be deemed complete on the date notice is electronically transmit-~~
25 ~~ted. The date indicated on determinations or decisions as the "date of ser-~~
26 ~~vice" or "date of mailing" shall be presumed to be the date of service unless~~
27 ~~otherwise shown by a preponderance of competent evidence.~~

28 (5) The department may dismiss wage claims without prejudice when a
29 claimant fails to respond within thirty (30) days to written notice from
30 the department that additional action is required on the claimant's part to
31 prosecute the claim. The thirty (30) day period for a response begins the
32 date the notice is mailed to the wage claimant's last known address. Mailed
33 responses from claimants are deemed received the date they are postmarked.
34 A wage claim dismissed for lack of prosecution may be refiled with the de-
35 partment subject to the limitation periods provided in section 45-614, Idaho
36 Code.

37 (6) The determinations and revised determinations shall include find-
38 ings of fact and conclusions of law and contain provisions advising the
39 claimant and employer of their rights to appeal the determination within
40 fourteen (14) days from the date of mailing or the date of electronic trans-
41 mission in a manner approved by the department.

42 (7) The timely filing of an appeal is mandatory and jurisdictional. The
43 determination or revised determination shall become a final determination
44 unless an appeal is filed by the claimant or the employer in accordance with
45 this chapter and the department's rules within fourteen (14) days after no-
46 tice provided pursuant to subsection (8) of this section. Provided, how-
47 ever, if a party establishes by a preponderance of the evidence that, because
48 of delay or error by the United States postal service or because of error on
49 the part of the department, a determination or revised determination was not
50 delivered to the party's last known address or transmitted electronically in

1 a manner approved by the department within fourteen (14) days of the date of
2 mailing or service indicated on the determination or revised determination,
3 the period for filing a timely appeal to the department or the commission ex-
4 tends to fourteen (14) days from the date of receipt of notice. If an appeal
5 is not timely filed, the amount awarded by a determination or revised deter-
6 mination shall become immediately due and payable to the department and may
7 be enforced by the department in accordance with section 45-618, Idaho Code.

8 (8) The claimant and the employer shall be entitled to prompt service
9 of notice of determinations and revised determinations. Notice shall be
10 deemed served if delivered to the person being served, if mailed to the per-
11 son's last known address, or if electronically transmitted to the claimant
12 at the claimant's request and with the department's approval. Service by
13 electronic transmission shall be deemed complete on the date notice is elec-
14 tronically transmitted. The date indicated on determinations or revised
15 determinations as the date of service or date of mailing shall be presumed to
16 be the date of service unless otherwise shown by a preponderance of competent
17 evidence.

18 ~~(6)~~ (9) An appeal from a wage claim determination or revised determina-
19 tion shall be in writing, signed by the appellant or the appellant's repre-
20 sentative and shall contain words that, by fair interpretation, request the
21 appeal process for a specific determination of the department. The appeal
22 may be filed by personal delivery, by mail, by electronic transmission, or by
23 fax to the wage and hour section of the department at the address indicated on
24 the wage claim determination. The date of personal delivery shall be noted
25 on the appeal and shall be deemed the date of filing. If mailed, the appeal
26 shall be deemed to be filed on the date of mailing as determined by the post-
27 mark. A faxed or electronically transmitted appeal shall be deemed filed on
28 the date received by the wage and hour section. A faxed or electronically
29 transmitted appeal received by the wage and hour section on a weekend or hol-
30 iday shall be deemed filed on the next business day.

31 ~~(7)~~ (10) To hear and decide appeals from determinations, the director
32 shall appoint appeals examiners who have been specifically trained to hear
33 wage claims. Unless the appeal is withdrawn, the appeals examiner shall af-
34 firm, modify, set aside or reverse the determination involved, after afford-
35 ing the claimant and the employer reasonable opportunity for a fair hear-
36 ing, or may refer a matter back to the compliance or hearing officer for fur-
37 ther action. The appeals examiner shall notify the claimant and the employer
38 of his decision by serving notice in the same manner as provided in subsec-
39 tion ~~(5)~~ (8) of this section. The decision shall set forth findings of fact
40 and conclusions of law. The appeals examiner may, upon application for re-
41 hearing by the claimant, the employer, or on his own motion, rehear, affirm,
42 modify, set aside or reverse any prior decision on the basis of the evidence
43 previously submitted or on the basis of additional evidence; provided, that
44 such application or motion be made within ten (10) days after the date of
45 service of the decision. A complete record shall be kept of all proceed-
46 ings in connection with an appealed wage claim. All testimony at any hear-
47 ing shall be recorded. Witnesses subpoenaed by the appeals examiner shall be
48 allowed fees at a rate prescribed by the director. If the claimant or the em-
49 ployer formally requests the appeals examiner to issue a subpoena for a wit-
50 ness whose evidence is deemed necessary, the appeals examiner shall promptly

1 issue the subpoena, unless such request is determined to be unreasonable.
 2 Unless the claimant or the employer, within fourteen (14) days after service
 3 of the decision of the appeals examiner, seeks judicial review pursuant to
 4 section 45-619, Idaho Code, or unless an application or motion is made for a
 5 rehearing of such decision, the decision of the appeals examiner shall be-
 6 come final and the amount awarded by the decision shall become immediately
 7 due and payable to the department. A decision that has become final may be
 8 enforced by the department according to section 45-618, Idaho Code.

9 ~~(8)~~ (11) No person acting on behalf of the director shall participate in
 10 any case in which he has a direct or indirect personal interest.

11 ~~(9)~~ (12) (a) Any right, fact, or matter in issue, directly based upon or
 12 necessarily involved in a determination or decision of the appeals ex-
 13 aminer that has become final, shall be conclusive for all the purposes
 14 of this chapter as between the claimant and the employer who had notice
 15 of such determination or decision. Subject to judicial review as set
 16 forth in this chapter, any determination or decision shall be conclu-
 17 sive for all purposes of this chapter and shall not be subject to collat-
 18 eral attack irrespective of notice.

19 (b) No finding of fact or conclusion of law contained in a determination
 20 or decision rendered pursuant to this chapter by an appeals examiner, a
 21 court, or any other person authorized to make such determinations shall
 22 have preclusive effect in any other action or proceeding, except pro-
 23 ceedings that are brought:

24 (i) Pursuant to this chapter;

25 (ii) To collect wage claims; or

26 (iii) To challenge the constitutionality of provisions of this
 27 chapter or administrative proceedings under this chapter.

28 SECTION 2. That Chapter 13, Title 72, Idaho Code, be, and the same is
 29 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 30 ignated as Section 72-1303A, Idaho Code, and to read as follows:

31 72-1303A. ABLE TO WORK -- AVAILABLE FOR SUITABLE WORK. (1) "Able to
 32 work" means having the physical and mental ability to perform work for which
 33 a claimant is qualified under conditions ordinarily existing during a normal
 34 workweek. It does not mean that a person must be able to perform work in his
 35 customary occupation or the same kind of work he last performed. A person
 36 who is able to work only part of the workday or part of the workweek is not
 37 considered able to work.

38 (2) An individual with a disability under the Americans with disabili-
 39 ties act, 42 U.S.C. 12112, as defined by 29 CFR 1630.2(g), whose disability
 40 prevents the claimant from working full time or during particular shifts is
 41 not deemed unable to work or unavailable for work for as long as the claimant
 42 demonstrates he is able to perform some work and remains available for work
 43 to the full extent of his ability. A qualified claimant with a disability who
 44 is able to work with or without a reasonable accommodation will be considered
 45 as having complied with the requirement of being available for work when the
 46 claimant is willing to work the maximum number of hours the claimant is able
 47 to work. Qualified claimants with disabilities must meet all other eligi-
 48 bility requirements, including the illness provisions of this section.

1 (3) (a) A claimant who withdraws from the labor market because of ill-
2 nesses or injury prior to filing a claim is not eligible for unemployment
3 benefits until he is able and available for work; provided, no claimant
4 shall be considered ineligible with respect to any week of unemployment
5 for failure to comply with this section if the failure is due to an ill-
6 nesses or disability that commences after applying for unemployment bene-
7 fits and no work that would have been suitable prior to the beginning of
8 the illness or injury has been offered the claimant.

9 (b) A person who claims benefits under this illness provision must re-
10 main available for job referral by the department; however, he may leave
11 the area for treatment of his illness and continue to be eligible under
12 the provisions of this section.

13 (4) "Available for suitable work" means remaining within and actively
14 seeking suitable work in a locality in which the individual has earned wages
15 subject to the provisions of this chapter during the individual's base pe-
16 riod or, if the individual moves his permanent residence outside of that lo-
17 cality, then in a locality where suitable work normally is performed. Being
18 available for suitable work encompasses a readiness, ability, and willing-
19 ness to work and to find a job, including the possibility of marketing the
20 claimant's services in the claimant's area of availability. The type of work
21 for which the claimant is available must exist in the claimant's area to the
22 extent that a normal unemployed person would generally find work within a
23 reasonable period of time.

24 (5) For the purposes of this section, "workweek" means:

25 (a) For an employer-attached or union-attached classification, the
26 claimant's normal workweek as defined by the employer or union;

27 (b) For a work-seeking classification, Monday through Friday, 8:00
28 a.m. to 5:00 p.m.; or

29 (c) For an approved training classification, regular class hours.

30 (6) Claimant work availability requirements are waived on Independence
31 Day, Thanksgiving Day, Christmas Day, and New Year's Day.

32 (7) A claimant seeking work must be willing to travel the distance nor-
33 mally traveled by other workers in his area and occupation.

34 (8) An individual who restricts availability to part-time work pur-
35 suant to section 72-1366(4) (d), Idaho Code, is considered fully employed and
36 ineligible to receive benefits if the individual works hours comparable to
37 the part-time work experience in the individual's base period. A claimant
38 must be available for a full workweek and a full, normal workday unless the
39 claimant establishes that the majority of weeks worked during the claimant's
40 base period were for less than full-time work, which is established where the
41 total base period wages divided by the claimant's last regular rate of pay
42 does not exceed two thousand seventy-nine (2,079) hours.

43 (9) A claimant who is incarcerated for any part of the workweek is not
44 eligible for benefits for that week, unless the claimant can establish he has
45 work release privileges that would provide him a reasonable opportunity to
46 meet his work search requirements and obtain full-time employment.

47 (10) A claimant who moves to a remote locality where there is little pos-
48 sibility of obtaining suitable work is not eligible for benefits.

49 (11) A public official who receives pay and performs full-time service
50 is considered employed and not eligible for benefits. Part-time officials,

1 even though receiving pay, may be considered available for work the same as
2 any other individual employed on a part-time basis.

3 (12) Performing public service, including voluntary non-remunerated
4 service, does not disqualify an individual for benefits as long as he meets
5 the other requirements of this section.

6 (13) A claimant who restricts his availability to only work done within
7 the home in a manner that severely limits the work available to him is not
8 eligible for benefits, unless the claimant works in an industry where tele-
9 working is common.

10 (14) A person who is attending school or a training course not approved
11 by the department pursuant to section 72-1366(8), Idaho Code, may be eligi-
12 ble for benefits if attendance does not conflict with that person's avail-
13 ability for work or for seeking work and if he will discontinue attendance
14 upon receipt of an offer of employment that creates a conflict between em-
15 ployment and the schooling or training.

16 (15) All claimants, regardless of their attachment to an industry or em-
17 ployer, must meet the same standard of remaining within their local labor
18 market area during the workweek in order to be considered available for work,
19 unless the primary purpose of a temporary absence is to seek work in another
20 labor market. Claimants otherwise eligible to receive benefits while par-
21 ticipating in an approved training program or course are not deemed ineli-
22 gible when the training or course occurs outside of their local labor market
23 due to the unavailability of similar programs or courses within their local
24 labor market.

25 (16) To remain eligible for benefits, claimants must remain within a
26 state, territory, or country included in the United States department of
27 labor's interstate benefit payment plan.

28 (17) A claimant who places unreasonable restrictions on working condi-
29 tions that significantly hinder his availability and search for work is not
30 eligible for benefits.

31 (18) A person on a vacation approved by his employer during time when
32 work is available is not eligible for benefits.

33 (19) A claimant is eligible for benefits if the wages or other condi-
34 tions of available work are substantially less favorable to the claimant
35 than those prevailing for similar work in the local area.

36 (20) A claimant is not eligible for benefits if he unduly restricts his
37 availability for work by insisting on a wage rate that is higher than the pre-
38 vailing wage for similar work in that area.

39 (21) The claimant's prior earnings and past experience are considered
40 in determining whether work is suitable.

41 (22) For the purpose of approving a waiver of the two (2) year limitation
42 on school or training courses specified by section 72-1366(8) (c) (ii), Idaho
43 Code, for claimants who lack skills to compete in the labor market, the fol-
44 lowing criteria must be met:

45 (a) The claimant must demonstrate a workable financial plan for com-
46 pleting the school or training course after his benefits have been ex-
47 hausted;

48 (b) The claimant must establish there is a demand for the occupation in
49 which the claimant will be trained. An occupation is considered in de-

1 mand when work opportunities are available and there is not a surplus of
2 qualified applicants; and

3 (c) At the time that the claimant applies for the waiver, the usual du-
4 ration of the school or training course is no longer than two (2) years.

5 SECTION 3. That Section 72-1304, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 72-1304. AGRICULTURAL LABOR.

8 (1) (a) "Agricultural labor" means all services performed:

9 ~~(a)~~ (i) On a farm, in the employ of any person in connection with
10 cultivating the soil, or raising or harvesting any agricultural,
11 aquacultural or horticultural commodities, including the rais-
12 ing, shearing, feeding, caring for, training, and management of
13 livestock, bees, fish, poultry, furbearers, and wildlife;

14 ~~(b)~~ (ii) In the employ of the owner or tenant or other operator of a
15 farm in connection with the operation, management, conservation,
16 improvement, or maintenance of such farm and its tools and equip-
17 ment, or in salvaging timber or clearing land of brush and other
18 debris left by a hurricane if the major part of such service is per-
19 formed on a farm;

20 ~~(c)~~ (iii) In connection with the operation or maintenance of
21 ditches, canals, reservoirs, or waterways not owned or operated
22 for profit and used exclusively for supplying and storing water,
23 at least ninety percent (90%) of which was ultimately delivered
24 for agricultural purposes during the preceding calendar year; and

25 ~~(d)~~ (iv) In the employ of any farm operator or group of operators,
26 organized or unorganized, in handling, planting, drying, packing,
27 packaging, eviscerating, processing, freezing, grading, storing,
28 or delivering to storage or to market or to a carrier for trans-
29 portation to market in its unmanufactured state any agricultural,
30 aquacultural or horticultural commodities, if such operator or
31 group, in both the current and preceding calendar years, produced
32 more than one-half (1/2) of the commodities with respect to which
33 such service is performed.

34 (b) Whether a farm operator described in subsection (1) (a) (iv) of this
35 section produced more than one-half (1/2) of the commodities with re-
36 spect to services performed shall be determined based on:

37 (i) Quantity, where only one (1) commodity is processed; or

38 (ii) Wages, where multiple commodities are processed. The pro
39 rata share of wages paid for processing commodities raised by the
40 farm operator compared to the total wages paid for processing all
41 commodities shall determine whether a farm operator produced more
42 than one-half (1/2) of the commodities processed.

43 (c) This subsection is not applicable to services performed in commer-
44 cial canning, freezing, or dehydrating, or in connection with any agri-
45 cultural, aquacultural or horticultural commodity after its delivery
46 to a terminal market for distribution for consumption.

47 (2) "Custom farming" means "agricultural labor" for the purposes of
48 this chapter.

1 (3) "Farm" includes stock, dairy, fish, poultry, fruit, furbearer and
2 truck farms, plantations, ranches, nurseries, hatcheries, ranges, green-
3 houses or other similar structures used primarily for the raising of agri-
4 cultural, aquacultural or horticultural commodities, and orchards.

5 (4) "Unmanufactured state" means retention of its original form and
6 substance.

7 (5) "Terminal market" means a place of business to which products are
8 shipped in a sorted, graded, packaged condition, ready for immediate sale.

9 SECTION 4. That Section [72-1306](#), Idaho Code, be, and the same is hereby
10 repealed.

11 SECTION 5. That Chapter 13, Title 72, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 72-1306, Idaho Code, and to read as follows:

14 72-1306. BASE PERIODS. (1) "Regular base period" means the first four
15 (4) of the last five (5) completed calendar quarters immediately preceding
16 the beginning of a benefit year.

17 (2) "Alternate base period" means the last four (4) completed calen-
18 dar quarters immediately preceding the beginning of a benefit year. If a
19 claimant has insufficient wages in the regular base period to establish eli-
20 gibility for unemployment benefits, the alternate base period shall be used.

21 (3) "Total temporary disability base period" means the first four (4)
22 of the last five (5) completed calendar quarters immediately prior to the
23 Sunday of the week in which a medically verifiable temporary total disabil-
24 ity has occurred. A claimant who has or has had a medically verifiable tem-
25 porary total disability and insufficient wages in the regular or alternate
26 base periods to establish eligibility for unemployment benefits shall use
27 the total temporary disability base period. To use the total temporary dis-
28 ability base period, a claimant must file for benefits within three (3) years
29 of the beginning of the temporary total disability and no later than six (6)
30 months after the end of the temporary total disability.

31 SECTION 6. That Chapter 13, Title 72, Idaho Code, be, and the same is
32 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
33 ignated as Section 72-1311A, Idaho Code, and to read as follows:

34 72-1311A. COMPELLING PERSONAL CIRCUMSTANCES. (1) "Compelling per-
35 sonal circumstances," for the purpose of section 72-1366(4), Idaho Code,
36 means:

37 (a) The serious illness, necessary treatment by a health care provider,
38 death, or funeral of an immediate family member;

39 (b) The wedding of the claimant or an immediate family member;

40 (c) The birth of the claimant's child;

41 (d) Sincerely held religious beliefs that do not allow working on a cer-
42 tain day;

43 (e) Travel not exceeding twenty-four (24) hours necessary to obtain es-
44 sential goods and services not available in the claimant's locality; or

45 (f) Required service for jury duty or attendance at court proceedings
46 or depositions pursuant to a lawfully issued subpoena.

1 (2) For purposes of this section, "immediate family member" means a
 2 claimant's spouse, child, foster child, parent, brother, sister, grandpar-
 3 ent, grandchild, or the same relation by marriage.

4 SECTION 7. That Section 72-1312A, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 72-1312A. CORPORATE OFFICER -- EMPLOYMENT. (1) A bona fide corporate
 7 officer meeting the requirements of section ~~72-1312~~ 72-1352A, Idaho Code,
 8 whose claim for benefits is based on any wages with a corporation in which the
 9 corporate officer or a family member of the corporate officer has an owner-
 10 ship interest shall be:

11 (a) Not "unemployed" and thus ineligible for benefits in any week dur-
 12 ing the corporate officer's term of office with the corporation, even if
 13 wages are not being paid.

14 (b) "Unemployed" in any week the corporate officer is not employed by
 15 the corporation for a period of indefinite duration because of circum-
 16 stances beyond the control of the corporate officer or a family member
 17 of the corporate officer with an ownership interest in the corporation,
 18 and the period of "unemployment" extends at least through the corporate
 19 officer's benefit year end date. If at any time during the benefit year
 20 the corporate officer resumes or returns to work for the corporation,
 21 it shall be a rebuttable presumption that the corporate officer's unem-
 22 ployment was due to circumstances within the corporate officer's con-
 23 trol or the control of a family member with an ownership interest in the
 24 corporation, and all benefits paid to the corporate officer during the
 25 benefit year shall be considered an overpayment for which the corporate
 26 officer shall be liable for repayment.

27 (2) For purposes of this section, "family member" is a person related
 28 by blood or marriage as parent, stepparent, grandparent, spouse, brother,
 29 sister, child, stepchild, adopted child or grandchild.

30 (3) Circumstances beyond a corporate officer's control or the control
 31 of a family member with an ownership interest in the corporation are circum-
 32 stances that last through the corporate officer's benefit year end date and
 33 include, without limitation, the following:

34 (a) Unemployment due to the corporate officer's removal from the corpo-
 35 ration under circumstances that satisfy the personal eligibility con-
 36 ditions of section 72-1366, Idaho Code;

37 (b) Unemployment due to dissolution of the corporation; or

38 (c) Unemployment due to the sale of the corporation to an unrelated
 39 third party.

40 SECTION 8. That Section 72-1315, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 72-1315. COVERED EMPLOYER. (1) "Covered employer" means:

43 ~~(1)~~ (a) Any person who, in any calendar quarter in either the current or
 44 preceding calendar year, paid for services in covered employment wages
 45 of one thousand five hundred dollars (\$1,500) or more, or, for some por-
 46 tion of a day in each of twenty (20) different calendar weeks, whether or
 47 not consecutive, in either the current or preceding calendar year, em-

1 employed at least one (1) individual, irrespective of whether the same in-
2 dividual was in employment in each such day. For purposes of this sub-
3 section there shall not be taken into account any wages paid to, or in
4 employment of, an employee performing domestic services referred to in
5 ~~subsection (8)~~ paragraph (h) of this subsection.

6 ~~(2)~~ (b) All individuals performing services within this state for an
7 employer who maintains two (2) or more separate establishments within
8 this state shall be deemed to be performing services for a single em-
9 ployer.

10 ~~(3)~~ (c) Each individual engaged to perform or assist in performing the
11 work of any person in the service of an employer shall be deemed to be
12 employed by such employer for all the purposes of this chapter, whether
13 such individual was engaged or paid directly by such employer or by such
14 person, provided the employer had actual or constructive knowledge of
15 the work.

16 ~~(4)~~ (d) Any employer, whether or not an employer at the time of acqui-
17 sition, who acquires the organization, trade, or business or substan-
18 tially all the assets thereof, of another who at the time of such acqui-
19 sition was a covered employer.

20 ~~(5)~~ (e) In the case of agricultural labor, any person who:

21 ~~(a)~~ (i) During any calendar quarter in the calendar year or the
22 preceding calendar year paid wages in cash of twenty thousand dol-
23 lars (\$20,000) or more for agricultural labor; or

24 ~~(b)~~ (ii) On each of some twenty (20) days during the calendar year
25 or during the preceding calendar year, each day being in a differ-
26 ent calendar week, employed at least ten (10) individuals in em-
27 ployment in agricultural labor for some portion of the day.

28 ~~(c)~~ (iii) Such labor is not agricultural labor when it is performed
29 by an individual who is an alien admitted to the United States
30 to perform agricultural labor pursuant to sections 214(c) and
31 101(a) (15) (H) of the immigration and nationality act, unless the
32 individual is required to be covered by the federal unemployment
33 tax act.

34 ~~(6)~~ (f) A licensed farm labor contractor, as provided in chapter 16,
35 title 44, Idaho Code, who furnishes any individual to perform agricul-
36 tural labor for another person.

37 ~~(7)~~ (g) An unlicensed, nonexempt farm labor contractor, as provided
38 in chapter 16, title 44, Idaho Code, who furnishes any individual to
39 perform agricultural labor for another person not treated as a covered
40 employer under ~~subsection (5)~~ paragraph (e) of this subsection. If an
41 unlicensed, nonexempt farm labor contractor furnishes any individual
42 to perform agricultural labor for another person who is treated as a
43 covered employer under ~~subsection (5)~~ paragraph (e) of this subsection,
44 both such other person and the unlicensed, nonexempt farm labor con-
45 tractor shall be jointly and severally liable for any moneys due under
46 the provisions of this chapter.

47 ~~(8)~~ (h) (i) In the case of domestic service ~~is performed in the~~
48 operation or maintenance of a private home, local college club, or
49 local chapter of a college fraternity or sorority, any person who
50 during any calendar quarter in the calendar year or the preceding

1 calendar year paid wages in cash of one thousand dollars (\$1,000)
 2 or more for such service. Domestic service includes, without
 3 limitation, services rendered as cooks, waiters, butlers, maids,
 4 janitors, handymen, gardeners, housekeepers, housemothers, and
 5 in-home caregivers, as distinguished from services as an employee
 6 in pursuit of an employer's trade, occupation, profession, enter-
 7 prise, or vocation.

8 (ii) A person treated as a covered employer under this subsection
 9 ~~(8)~~ paragraph shall not be treated as a covered employer with re-
 10 spect to wages paid for any service other than domestic service
 11 referred to in this subsection ~~(8)~~ paragraph unless such per-
 12 son is treated as a covered employer under subsection ~~(1)~~ or ~~(5)~~
 13 paragraphs (a) or (e) of this subsection, with respect to such
 14 other service.

15 ~~(9)~~ (i) Any governmental entity as defined in section 72-1322C, Idaho
 16 Code.

17 ~~(10)~~ (j) A nonprofit organization as defined in section 72-1322D, Idaho
 18 Code.

19 ~~(11)~~ (k) An employer who has elected coverage pursuant to the provi-
 20 sions of subsection (3) of section 72-1352, Idaho Code.

21 (2) For purposes of coverage under this chapter, a limited liability
 22 company shall have the same status as it elected for federal tax purposes, or
 23 as that status may be determined or required by the federal government. Any
 24 member of a limited liability company that has elected to be treated as a cor-
 25 poration for federal tax purposes shall be treated as a corporate officer un-
 26 der this chapter.

27 SECTION 9. That Section 72-1316, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 72-1316. COVERED EMPLOYMENT. (1) "Covered employment" means an indi-
 30 vidual's entire service performed by him for wages or under any contract of
 31 hire, written or oral, express or implied, for a covered employer or covered
 32 employers. Unless expressly exempted, services performed by corporate of-
 33 ficers are considered services in employment and are covered for purposes of
 34 this chapter.

35 (2) Notwithstanding any other provision of state law, services shall be
 36 deemed to be in covered employment if a tax is required to be paid or was re-
 37 quired to be paid the previous year on such services under the federal unem-
 38 ployment tax act or if the director determines that as a condition for full
 39 tax credit against the tax imposed by the federal unemployment tax act such
 40 services are required to be covered under this chapter as a condition for
 41 full tax credit against the tax imposed by the federal unemployment tax act.

42 (3) Services covered by an election pursuant to section 72-1352, Idaho
 43 Code, and services covered by an election approved by the director pursuant
 44 to section 72-1344, Idaho Code, shall be deemed to be covered employment dur-
 45 ing the effective period of such election.

46 (4) Services performed by an individual for remuneration shall, for the
 47 purposes of the employment security law, be covered employment unless it is
 48 shown:

- 1 (a) That the worker has been and will continue to be free from control
2 or direction in the performance of his work, both under his contract of
3 service and in fact; and
- 4 (b) That the worker is engaged in an independently established trade,
5 occupation, profession, or business.
- 6 (5) "Covered employment" shall include an individual's entire service,
7 performed within or both within and without this state:
- 8 (a) If the service is localized in this state; or
9 (b) If the service is not localized in any state but some of the service
10 is performed in this state, and:
- 11 (i) The individual's base of operations or the place from which
12 such service is directed or controlled is in this state; or
13 (ii) The individual's base of operations or place from which such
14 service is directed or controlled is not in any state in which some
15 part of the service is performed, but the individual's residence
16 is in this state.
- 17 (c) Service shall be deemed to be localized within a state if:
- 18 (i) The service is performed entirely within such state; or
19 (ii) The service is performed both within and without such state,
20 but the service performed without such state is incidental, tempo-
21 rary or transitory in nature or consists of isolated transactions,
22 as compared to the individual's service within the state.
- 23 (d) "Covered employment" shall include an individual's service, wher-
24 ever performed within the United States, or Canada, if:
- 25 (i) Such service is not covered under the unemployment compensa-
26 tion law of any other state, the Virgin Islands, or Canada; and
27 (ii) The place from which the service is directed or controlled is
28 in this state.
- 29 (6) "Covered employment" shall include the services of an individual
30 who is a citizen of the United States, performed outside the United States,
31 except in Canada, in the employ of an American employer, other than service
32 ~~which that~~ is deemed "covered employment" under the provisions of subsection
33 (5) of this section or the parallel provisions of another state's law, if:
- 34 (a) The employer's principal place of business in the United States is
35 located in this state; or
36 (b) The employer has no place of business in the United States; but
37 (i) Is an individual who is a resident of this state; or
38 (ii) Is a corporation ~~which that~~ is organized under the laws of
39 this state; or
40 (iii) Is a partnership or a trust and the number of the partners or
41 trustees who are residents of this state is greater than the number
42 who are residents of any other state; or
43 (c) None of the criteria of provision (a) or (b) of this subsection is
44 met but the employer has elected coverage in this state, or, the em-
45 ployer having failed to elect coverage in any state, the individual has
46 filed a claim for benefits based on such service, under the law of this
47 state;
- 48 (d) ~~An~~ "American employer" for purposes of this subparagraph means a
49 person who is:
- 50 (i) An individual who is a resident of the United States; or

1 (ii) A partnership if two-thirds (2/3) or more of the partners are
2 residents of the United States; or

3 (iii) A trust if all of the trustees are residents of the United
4 States; or

5 (iv) A corporation organized under the laws of the United States
6 or of any state.

7 (e) For purposes of this subsection, "United States" means the states,
8 the District of Columbia, the Commonwealth of Puerto Rico, and the Vir-
9 gin Islands.

10 (7) Any employer claiming that services performed for the employer, or
11 remuneration paid by the employer, do not constitute covered employment or
12 covered wages under this chapter shall make a report to the department of all
13 pertinent facts on which said claim is based, which report shall be signed by
14 the employer or an authorized representative.

15 SECTION 10. That Section 72-1316A, Idaho Code, be, and the same is
16 hereby amended to read as follows:

17 72-1316A. EXEMPT EMPLOYMENT. "Exempt employment" means service per-
18 formed:

19 (1) By an individual in the employ of his spouse or child.

20 (2) By a person under the age of twenty-one (21) years in the employ of
21 his father or mother.

22 (3) By an individual under the age of twenty-two (22) years who is en-
23 rolled as a student in a full-time program at an accredited nonprofit or pub-
24 lic education institution for which credit at such institution is earned in a
25 program ~~which that~~ combines academic instruction with work experience. This
26 subsection shall not apply to service performed in a program established at
27 the request of an employer or group of employers.

28 (4) In the employ of the United States government or an instrumentality
29 of the United States exempt under the constitution of the United States from
30 the contributions imposed by this chapter.

31 (5) In the employ of a governmental entity in the exercise of duties:

32 (a) As an elected official;

33 (b) As a member of a legislative body, or a member of the judiciary, of a
34 state or political subdivision thereof;

35 (c) As a member of the state national guard or air national guard;

36 (d) As an employee serving on a temporary basis in case of fire, storm,
37 snow, earthquake, flood, or similar emergency;

38 (e) In a position ~~which that~~, pursuant to the laws of this state, is des-
39 ignated as: (i) a major nontenured policymaking or advisory position~~;~~
40 or (ii) a policymaking or advisory position ~~which that~~ ordinarily does
41 not require more than eight (8) hours per week; or

42 (f) As an election official or election worker, including~~;~~ but not lim-
43 ited to~~;~~ a poll worker, an election judge, an election clerk or any other
44 member of an election board, if the amount of remuneration received by
45 the individual during the calendar year for services as an election of-
46 ficial or election worker is less than one thousand dollars (\$1,000).

47 (6) By an inmate of a correctional, custodial or penal institution, if
48 such services are performed for or within such institution.

49 (7) In the employ of:

- 1 (a) A church or convention or association of churches; or
2 (b) An organization ~~which that~~ is operated primarily for religious pur-
3 poses and ~~which that~~ is operated, supervised, controlled, or princi-
4 pally supported by a church, or convention or association of churches;
5 or
6 (c) In the employ of an institution of higher education, if it is de-
7 voted primarily to preparation of a student for the ministry or training
8 candidates to become members of a religious order; or
9 (d) By a duly ordained, commissioned, or licensed minister of a church
10 in the exercise of his ministry or by a member of a religious order in the
11 exercise of duties required by such order.
- 12 (8) By a program participant in a facility that provides rehabilitation
13 for individuals whose earning capacity is impaired by age, physical or men-
14 tal limitation, or injury or provides remunerative work for individuals who,
15 because of their impaired physical or mental capacity, cannot be readily ab-
16 sorbed into the labor market.
- 17 (9) ~~As~~ By an individual receiving work relief or work training as part
18 of an unemployment work relief program or as part of an unemployment work
19 training program assisted or financed in whole or in part by any federal
20 agency or an agency of a state or political subdivision thereof, ~~by an indi-~~
21 ~~vidual receiving such work relief or work training.~~
- 22 (10) Service with respect to which unemployment insurance is payable
23 under an unemployment insurance system established by an act of congress
24 other than the social security act.
- 25 (11) As a student nurse in the employ of a hospital or nurses' training
26 school by an individual who is enrolled and is regularly attending courses in
27 a nurses' training school approved pursuant to state law, and service per-
28 formed as an intern in the employ of a hospital by an individual who has com-
29 pleted a course in a medical school approved pursuant to state law.
- 30 (12) By an individual under the age of eighteen (18) years in the deliv-
31 ery or distribution of newspapers or shopping news not including delivery or
32 distribution to any point for subsequent delivery or distribution.
- 33 (13) By an individual for a person as an insurance agent or as an insur-
34 ance solicitor, if all such service performed by such individual for such
35 person is performed for remuneration solely by way of commission.
- 36 (14) By an individual for a real estate broker as an associate real es-
37 tate broker or as a real estate salesman, if all such service performed by
38 such individual for such person is performed for remuneration solely by way
39 of commission.
- 40 (15) Service covered by an election approved by the agency charged with
41 the administration of any other state or federal unemployment insurance law,
42 in accordance with an arrangement pursuant to section 72-1344, Idaho Code.
- 43 (16) In the employ of a school or college by a student who is enrolled and
44 regularly attending classes at such school or college.
- 45 (17) In the employ of a hospital by a resident patient of such hospital.
- 46 (18) By a member of an AmeriCorps program.
- 47 (19) By an individual who is paid less than fifty dollars (\$50.00) per
48 calendar quarter for performing work that is not in the course of the em-
49 ployer's trade or business, or that does not promote or advance the trade or
50 business of the employer, and who is not regularly employed by such employer

1 to perform such service. For the purposes of this subsection, an individ-
2 ual shall be deemed to be regularly employed by an employer during a calendar
3 quarter only if:

4 (a) On each of some twenty-four (24) days during such quarter such in-
5 dividual performs for such employer for some portion of the day service
6 not in the course of the employer's trade or business; or

7 (b) Such individual was so employed by such employer in the performance
8 of such service during the preceding calendar quarter.

9 (20) By an individual who is engaged in the trade or business of selling
10 or soliciting the sale of consumer products in a private home or a location
11 other than in a permanent retail establishment, provided the following cri-
12 teria are met:

13 (a) Substantially all the remuneration, whether or not received in
14 cash, for the performance of the services is directly related to sales
15 or other output, including the performance of services, rather than to
16 the number of hours worked; and

17 (b) The services performed by the individual are performed pursuant to
18 a written contract between the individual and the person for whom the
19 services are performed, and the contract provides that the individual
20 shall not be treated as an employee for federal and state tax purposes.

21 Such exemption applies solely to the individual's engagement in the trade or
22 business of selling or soliciting the sale of consumer products in a private
23 home or location other than in a permanent retail establishment.

24 (21) By a person who operates a motor vehicle that: (a) such person owns
25 or holds pursuant to a bona fide lease; and (b) is leased to a motor carrier as
26 defined in 49 U.S.C. section 13102, pursuant to a written contract, and in no
27 event will the motor carrier be determined to be the covered employer of such
28 person or the covered employer of an employee of such person.

29 SECTION 11. That Chapter 13, Title 72, Idaho Code, be, and the same is
30 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
31 ignated as Section 72-1316B, Idaho Code, and to read as follows:

32 72-1316B. FULL-TIME EMPLOYMENT. Full-time employment exists where a
33 claimant works what are customarily considered full-time hours for a week
34 for that industry or where the earnings are more than one and one-half (1 1/2)
35 times the claimant's weekly benefit amount.

36 SECTION 12. That Section 72-1319, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 72-1319. ELIGIBLE EMPLOYER. (1) "Eligible employer" means a covered
39 employer who has completed a qualifying period as defined in subsection (2)
40 of this section and who has filed all payroll reports required, has paid,
41 on or before the cutoff date, all contributions and penalties due, and has
42 established a record of accumulated contributions in excess of benefits
43 charged to his account. For the purposes of this section, delinquencies
44 of a minor nature may be disregarded if the director is satisfied that such
45 covered employer has acted in good faith and that forfeiture of a reduced
46 taxable wage rate because of such minor delinquency would be inequitable.

1 (2) "Qualifying period" shall be the period of three (3) consecutive
2 years ending on the computation date in which, during all of said years, the
3 employer shall be subject to the requirements of this chapter, except that a
4 new employer shall have a qualifying period of one (1) year ending on the com-
5 putation date in which, during all of said year, the employer shall be sub-
6 ject to the requirements of this chapter.

7 (3) Any employer who ceases to have covered employment for a period of
8 six (6) consecutive quarters or more shall complete another qualifying pe-
9 riod to be eligible for consideration for a reduced contribution rate.

10 SECTION 13. That Chapter 13, Title 72, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 72-1326, Idaho Code, and to read as follows:

13 72-1326. REPORTABLE INCOME. (1) All reportable income must be re-
14 ported to the department through the continued claims filing process in the
15 manner prescribed by the department.

16 (2) Reportable income includes but is not limited to:

17 (a) Wages and other payments earned or received from an employer for
18 services performed or from performing self-employment work;

19 (b) Amounts received as a result of labor relations awards or judgments
20 for back pay, or for disputed wages, that constitute wages for the weeks
21 in which the claimant would have earned them or are assignable to the
22 weeks stipulated in the award or judgment;

23 (c) Gratuities or tips for the week in which each gratuity or tip is
24 earned;

25 (d) Holiday pay reportable as though earned in the week in which the
26 holiday occurs;

27 (e) All non-periodic remuneration such as one-time severance pay,
28 profit sharing, and bonus pay reportable for the week in which paid;

29 (f) An equal portion of a periodic severance payment reportable in each
30 week of the period covered by the payment. Severance pay received in a
31 lump sum payment at the time of severance of the employment relationship
32 must be reported when paid;

33 (g) Vacation pay allocable to a certain period of time in accordance
34 with an employment agreement reportable in the week to which it is allo-
35 cable. Vacation pay received in a lump sum payment at the time of sever-
36 ance of the employment relationship must be reported when paid;

37 (h) Wages for services performed prior to a claimant's separation,
38 which are reportable for the week in which earned;

39 (i) Contract payments to a claimant other than an employee of an educa-
40 tional institution who is bound by a contract that does not prevent him
41 from accepting other employment, but who receives pay for a period of
42 not working. The claimant is required to report the contract payments
43 as earnings in equal portions in each week of the period covered by the
44 contract;

45 (j) Remuneration received for relief work or public service work;

46 (k) Temporary disability benefits under a worker's compensation law of
47 any state or under a similar law of the United States, reported in an
48 amount attributable to such week; and

1 (1) Pension or retirement payments when the pension, retirement pay,
 2 annuity, or other similar periodic payment is made under a plan main-
 3 tained or contributed to by a base period employer. The dollar amount of
 4 the weekly pension will be deducted from the claimant's weekly benefit
 5 amount unless the claimant has made contributions toward the pension.
 6 If the claimant has made contributions toward the pension plan, no
 7 deduction for the pension will be made from the claimant's weekly ben-
 8 efit amount. The burden shall be on the claimant to establish that he
 9 has made contributions toward the pension, retirement pay, annuity or
 10 other similar payment plan. Any change in the amount of the pension,
 11 retirement, or annuity payments that affects the deduction from the
 12 claimant's weekly benefit amount will be applied in the first full week
 13 after the effective date of the change.

14 (3) Reportable income does not include:

15 (a) Injury or disability compensation payments; or

16 (b) Amounts awarded to a claimant as a penalty or damages against an em-
 17 ployer, other than for lost wages.

18 SECTION 14. That Section 72-1327A, Idaho Code, be, and the same is
 19 hereby amended to read as follows:

20 72-1327A. VALID CLAIM. (1) "Valid claim" means any application for
 21 benefits ~~which~~ for a compensable week that is found to be eligible as pro-
 22 vided in section 72-1367, Idaho Code, and ~~which~~ that has been filed in
 23 accordance with this chapter and such rules as the director may prescribe.

24 (2) To be a valid claim for benefits, a claim must be filed during:

25 (a) A week of no work;

26 (b) A week of less than full-time work in which the total wages payable
 27 to the claimant for work performed in such week amount to less than one
 28 and one-half (1 1/2) times the claimant's weekly benefit amount; or

29 (c) A week in which the claimant is separated from employment.

30 SECTION 15. That Section 72-1328, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 72-1328. WAGES. (1) "Wages" shall include all remuneration, or the
 33 cash value of all remuneration in a medium other than cash, for personal ser-
 34 vices performed or to be performed, from whatever source, including, without
 35 limitation:

36 ~~(a) All remuneration for personal services from whatever source, in-~~
 37 ~~cluding commissions and bonuses and the cash value of all remuneration~~
 38 ~~in any medium other than cash;~~

39 (a) Hourly and salaried earnings, commissions, bonuses, draws, distri-
 40 butions, dividends, and any other forms or types of payments if paid in
 41 exchange for services;

42 (b) Bonuses, prizes, and gifts given to an employee in recognition of
 43 services, sales, or production;

44 (c) Commissions for past services in covered employment;

45 (d) Remuneration paid to corporate officers in exchange for services
 46 performed or to be performed for or on behalf of the corporation;

47 (e) Salary advances against commissions;

1 (f) All forms of profit sharing for services rendered unless specifi-
2 cally exempt under this chapter;

3 (g) Excess travel or employer business allowances over actual expense,
4 or over the federal allowance per diem rate for the area of travel, un-
5 less returned to the employer;

6 (h) Vacation or idle-time pay, no matter when paid;

7 (i) Personal expense reimbursement, such as clothing, family expenses,
8 and rent;

9 ~~(b)~~ (j) All tips received while performing services in covered employ-
10 ment totaling twenty dollars (\$20.00) or more in a month, which are re-
11 ported in writing to the employer as required under federal law; and

12 ~~(e)~~ (k) Any employer contribution under a qualified cash or deferred
13 agreement as defined in 26 U.S.C. 401(k) to the extent such contribution
14 is not included in gross income by reason of 26 U.S.C. 402 (a) (8) .

15 (2) The term "wages" shall not include:

16 (a) Payments (including any amount paid by an employer for insurance
17 or annuities, or into a fund, to provide for any such payment) made to
18 or on behalf of an individual or any of his dependents under a plan es-
19 tablished by an employer that makes provision generally for individuals
20 performing service for him (or for such individuals generally and their
21 dependents) or for a class or classes of such individuals (or for a class
22 or classes of such individuals and their dependents) on account of: (i)
23 sickness or accident disability (but, in the case of payments made to
24 an employee or any of his dependents, this subparagraph shall exclude
25 from the term "wages" only payments received under a worker's compen-
26 sation law), or (ii) medical or hospitalization expenses in connection
27 with sickness or accident disability, or (iii) death;

28 (b) Payments on account of sickness or accident disability, or medical
29 or hospitalization expenses in connection with sickness or accident
30 disability, made by an employer to or on behalf of an individual per-
31 forming services for him after the expiration of six (6) calendar months
32 following the last calendar month in which the individual performed
33 services for such employer;

34 (c) Payments made by an employer to or on behalf of an individual per-
35 forming services for him or his beneficiary: (i) from or to a trust de-
36 scribed in section 401(a) of the Internal Revenue Code that is exempt
37 from tax under section 501(a) of the Internal Revenue Code at the time
38 of such payment unless such payment is made to an individual perform-
39 ing services for the trust as remuneration for such services and not as
40 a beneficiary of the trust, or (ii) under or to an annuity plan that, at
41 the time of such payments, is a plan described in section 403(a) of the
42 Internal Revenue Code, or (iii) under a cafeteria plan within the mean-
43 ing of section 125 of the Internal Revenue Code;

44 (d) Payments made by an employer (without deduction from the remunera-
45 tion of the individual in its employ) of the tax imposed ~~upon~~ on an indi-
46 vidual in his employ under section 3101 of the Internal Revenue Code; ~~or~~

47 (e) Noncash payments for farm work. Noncash payments for farm work will
48 be excluded from wages if they are de minimis in relation to the amount
49 of cash wages paid to the farmworkers or are not intended to be treated
50 as the cash equivalent of wages or as the cash payment of wages;

1 (f) Prizes or gifts for special occasions that are expressions of good-
2 will;

3 (g) Bonuses paid for signing a contract;

4 (h) Fees paid to participate periodically in meetings of boards of di-
5 rectors unless exceedingly high as compared to other employers in the
6 same industry of relatively the same size;

7 (i) Drawings or advances by partners of a partnership or by members of
8 a limited liability company treated for federal tax purposes as a part-
9 nership or sole proprietorship;

10 (j) Charges pursuant to a rental agreement for personal equipment pro-
11 vided by the employee on the job if the employee has received a reason-
12 able wage for services performed and the fees are held separately on the
13 employer's records;

14 (k) Stock or membership interests issued for purposes other than ser-
15 vices performed or to be performed;

16 (l) Reimbursement for actual employee expenses or business allowance
17 arrangements with employees that requires them to have paid or incurred
18 reasonable job-related expenses while performing services as employ-
19 ees, to account adequately to the employer for these expenses, and to
20 return any excess reimbursement or allowance;

21 (m) Payments for employee travel expenses, provided payments are job-
22 related expenses incurred while performing services, payments do not
23 exceed actual expenses or the federal allowance per diem rate for the
24 area of travel, and records for days of travel pertaining to per diem
25 payments are verifiable;

26 (n) Employee fringe benefits as set forth in section 132 of the Internal
27 Revenue Code, which are excluded from an employee's gross income and not
28 subject to federal unemployment taxes; or

29 (o) Payments of any kind by a partnership to its partner or by a sole
30 proprietorship to its owner.

31 (3) Any third party making a sickness or accident disability payment
32 not excluded from wages under subsection (2) (a) (i) of this section shall be
33 treated as the employer with respect to such payment of wages for the pur-
34 poses of this chapter.

35 (4) The department shall determine the fair market value of any other
36 remuneration, regardless of its classification, form, or label, that is paid
37 to a worker in exchange for services, taking into account factors such as the
38 prevailing wage for similar services and wages specified in any contract of
39 hire. Any wages so determined by the department shall be reported to the em-
40 ployer.

41 SECTION 16. That Chapter 13, Title 72, Idaho Code, be, and the same is
42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
43 ignated as Section 72-1328A, Idaho Code, and to read as follows:

44 72-1328A. BOARD, LODGING, AND MEALS. (1) When board, lodging, meals,
45 or any other payment-in-kind comprise, in whole or in part, an employee's
46 wages, the value of such board, lodging, or other payment shall be determined
47 as follows:

48 (a) If a cash value is agreed upon in any contract of hire, the amount
49 so agreed upon shall be used if it is a reasonable fair market value. If

1 there is no agreement or if the contract of hire states an amount less
2 than a reasonable fair market value, the department shall determine the
3 reasonable fair market value to be used.

4 (b) The value of meals and lodging furnished by an employer to the
5 employee shall not be included in the employee's gross income when
6 furnished on the employer's business premises for the employer's con-
7 venience and, in the case of lodging but not meals, the employees are
8 required to accept the lodging in order to properly perform their duties
9 and as a condition of their employment.

10 (c) In order to exclude the value of lodging from an employee's gross
11 wages, the employer must show that the wages paid to the employee for
12 services performed meet the prevailing wage for those services. If the
13 employer's records do not show or establish that the employee received
14 the prevailing wage for services performed, then the reasonable fair
15 market value of the lodging shall be included as wages in the employee's
16 gross income.

17 (2) Meals or lodging furnished shall be considered for the employer's
18 convenience if the employer has a substantial business reason other than
19 providing additional remuneration to the employee. A statement that the
20 meals or lodging are not intended as remuneration is not sufficient to
21 establish that either meals or lodging are furnished for the employer's con-
22 venience.

23 (3) In the case of employees who receive remuneration in the form of
24 subsistence, such as groceries, staples, and fundamental shelter, the rea-
25 sonable fair market value of such subsistence shall be determined by the de-
26 partment.

27 SECTION 17. That Chapter 13, Title 72, Idaho Code, be, and the same is
28 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
29 ignated as Section 72-1330A, Idaho Code, and to read as follows:

30 72-1330A. WORKPLACE MISCONDUCT. (1) "Workplace misconduct" means
31 conduct in connection with employment that willfully disregards the em-
32 ployer's interest, willfully violates the employer's reasonable rules, or
33 disregards a standard of behavior that the employer has a right to expect of
34 its employees.

35 (2) A claimant's conduct disregards a standard of behavior the employer
36 has a right to expect of its employees when the conduct falls below the stan-
37 dard of behavior expected by the employer and the employer's expectation was
38 objectively reasonable. There is no requirement that the claimant's conduct
39 be willful, intentional, or deliberate. The claimant's subjective state of
40 mind is not a relevant factor in determining workplace misconduct pursuant
41 to this subsection.

42 (3) An employer's expectation shall be considered objectively reason-
43 able when it is communicated to the employee or flows naturally from the em-
44 ployment relationship. An expectation that flows naturally need not be com-
45 municated to an employee to be considered objectively reasonable.

46 (4) Mere inefficiency, unsatisfactory conduct, inadvertencies, iso-
47 lated instances of ordinary negligence, good faith errors in judgment or
48 discretion, or failure to meet the performance expectations of the employer

1 because of inability or incapacity shall not be considered misconduct con-
2 nected with employment.

3 (5) Except as provided in section 72-1366(5), Idaho Code, conduct in-
4 volving personal, nonjob-related behavior occurring outside the workplace
5 shall not be considered workplace misconduct in connection with employment.

6 SECTION 18. That Section 72-1337, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 72-1337. RECORDS AND REPORTS. (1) Each employer that is a "covered em-
9 ployer," as defined in section 72-1315, Idaho Code, shall complete and sub-
10 mit to the director an Idaho business registration form within six (6) months
11 of becoming a covered employer.

12 (2) Each employer, including those who are not covered employers, shall
13 keep accurate records, for such periods of time and containing such infor-
14 mation as the director may prescribe. Such records for a period of five (5)
15 years, including, without limitation:

16 (a) The full name and home address of the worker;

17 (b) The social security number of the worker;

18 (c) The place of work within the state;

19 (d) The date on which the worker was hired, rehired, or returned to work
20 after a temporary or partial layoff;

21 (e) The date on which the worker's employment was terminated;

22 (f) Whether the termination occurred by reason of:

23 (i) The worker's death;

24 (ii) The voluntary action by the worker and the reason given by the
25 worker; or

26 (iii) Discharge by the employer and the reason for the discharge;

27 (g) Wages paid for employment in each pay period and total wages for
28 all pay periods ending each quarter for the year, showing separately:
29 money wages, the cash value of other remuneration, and the amount of all
30 bonuses or commissions; and

31 (h) Amounts paid to a worker as an allowance or reimbursement for travel
32 and employee business expenses and the amounts of such expenditures ac-
33 tually incurred and accounted for.

34 (3) Employers that are liable to pay tax contributions, or that have
35 elected a cost reimbursement option in lieu of tax contributions, shall sub-
36 mit quarterly contribution reports in the form or medium designated by the
37 department.

38 (4) (a) Each contribution shall be accompanied by an employer's contri-
39 bution report. All contribution reports shall be filed electronically
40 with the department unless the employer has petitioned the department
41 in writing for a waiver and the department has granted a waiver allow-
42 ing the filing of a non-electronic contribution report. All contribu-
43 tion reports shall be in a form or medium prescribed and furnished or ap-
44 proved for such purpose by the department, giving such information as
45 may be required, including the number of individuals employed and wages
46 paid or payable to each. Every report must be signed, furnished, or ac-
47 knowledged by the covered employer or on the employer's behalf by a per-
48 son who has personal knowledge of the facts stated therein and who has
49 been authorized by the covered employer to submit the information.

1 (b) Each employer shall report all wages paid for services in covered
2 employment each calendar quarter. In the event a covered employer does
3 not pay wages during a calendar quarter, the employer shall file a quar-
4 terly report indicating that no wages were paid.

5 (c) The total wages and taxable wages shown on the contribution report
6 to be used in computing contributions due shall be reduced to the next
7 lower full dollar amount.

8 (d) An employer shall be covered for all four (4) quarters in the calen-
9 dar year in which the employer becomes a covered employer as well as for
10 all four (4) quarters in the succeeding calendar year. Employers are
11 not required to file quarterly reports until meeting the coverage cri-
12 teria pursuant to section 72-1315, Idaho Code. Upon becoming a covered
13 employer within a calendar year, the quarterly reports for the quarters
14 prior to the employer becoming covered shall be filed along with the
15 quarterly report for the quarter in which the employer became covered.
16 Quarterly reports for the periods subsequent to coverage shall be filed
17 when due after the end of each quarter.

18 (5) (a) Wages paid shall be assigned to the calendar quarter in which the
19 wages were:

20 (i) Actually paid to the employee in accordance with the em-
21 ployer's usual and customary payday as established by law or past
22 practice;

23 (ii) Due the employee in accordance with the employer's usual and
24 customary payday as established by law or past practice but not ac-
25 tually paid on such date because of circumstances beyond the con-
26 trol of the employer or the employee; or

27 (iii) Not paid on the usual or customary payday as established by
28 law or past practice but set apart on the employer's books as an
29 amount due and payable or otherwise recognized as a specific and
30 ascertainable amount due and payable to the worker in accordance
31 with an agreement or contract of hire under which services were
32 rendered.

33 (b) Payments to employees made prior to regular or established pay-
34 days shall be assignable and reportable during the quarter in which
35 they would have been paid unless a practice is established whereby all
36 employees or a class of employees are given an opportunity to take a reg-
37 ular advance against wages, which creates another customary payday.

38 (c) Amounts received as a result of labor relations awards or judg-
39 ments for back pay or for disputed wages constitute wages and shall be
40 reported in the quarter or quarters in which the award or judgment has
41 become final, after all appeals have been exhausted, or the quarter or
42 quarters to which the court assigns the wages, if different.

43 (d) Amounts awarded to the claimant as penalties or damages against the
44 employer, other than for lost wages, do not constitute wages.

45 (6) When wages paid cover services performed both in covered employ-
46 ment and excluded employment, all employee wages shall be deemed to have been
47 earned in covered employment and shall be reported unless the employer's
48 records show the hours and wages for covered employment and excluded employ-
49 ment separately.

1 (7) (a) When remuneration paid includes payment in addition to wages for
2 services performed in covered employment, the employer's records shall
3 account for wages and other remuneration separately. When this distri-
4 bution is not shown on the records, the employee's entire remuneration
5 shall be deemed to be wages and shall be reported.

6 (b) When the amount paid to an employee includes remuneration for other
7 than personal services, such as equipment usage and travel costs, the
8 department shall determine the fair market value of the remuneration
9 for the employee's personal services. In making such determination,
10 the department shall consider the wages specified in the contract of
11 hire, the prevailing wages for similar work under comparable condi-
12 tions, and other pertinent factors. The wages so determined by the
13 department shall be reported by the employer.

14 (8) Each covered employer and any other employer requested by the de-
15 partment shall submit status reports on such form or online system as may be
16 prescribed and furnished by the director. The reports shall include such in-
17 formation as may be necessary for the department to make an initial or subse-
18 quent determination of status under this chapter and shall be signed by the
19 employer or the employer's representative duly authorized for such purpose.

20 (9) (a) To determine the taxable status of an employer, information
21 regarding the business activities of any person engaged in business in
22 Idaho shall be submitted to the department upon request, including,
23 without limitation, articles of incorporation, articles of organiza-
24 tion, minutes of boards of directors, financial reports, partnership
25 agreements, number of employees, wages paid, employment contracts,
26 income tax records, and any other records or other information that may
27 tend to establish such person's status.

28 (b) An employer shall be notified in writing of any determination as to
29 its liability for contributions or its status as a covered employer if a
30 formal determination was made after the employer questioned its status.
31 The determination shall become final if no appeal is taken to an appeals
32 examiner within fourteen (14) days of the determination pursuant to the
33 procedures set forth in section 72-1368, Idaho Code.

34 (c) The provisions of this section do not apply to any employer for whom
35 the services performed do not, by virtue of the provisions of section
36 72-1316, Idaho Code, constitute covered employment, except that the de-
37 partment may require any such employer to submit reports as provided in
38 this section.

39 (10) All persons, whether covered or not, shall make available to the
40 department all requested business records, including, without limitation,
41 journals, ledgers, time books, minute books, or any other records or infor-
42 mation that would tend to establish the existence of amounts paid for ser-
43 vices performed, whether or not in covered employment, and for information
44 necessary to assist in or enable collection efforts or any other investiga-
45 tions conducted by the department.

46 (11) Records shall be open to inspection and be subject to being copied
47 by the director at any reasonable time. The director, a member of the com-
48 mission, or an appeals examiner may require from any employer any sworn or
49 unsworn reports ~~which are~~ deemed necessary in the exercise of their duties.

1 (12) The department may commence an administrative proceeding for pur-
 2 poses of establishing a tax liability or to otherwise enforce the provisions
 3 of this chapter by issuing a determination at any time within five (5) years
 4 from the due date of a quarterly report or the date a quarterly report is
 5 filed, whichever is later, subject to tolling pursuant to section 72-1349,
 6 Idaho Code.

7 (13) Covered employers shall furnish the department with all pertinent
 8 data regarding their status when new or additional information is available.

9 (14) (a) All employers, including those who are not covered employers,
 10 shall respond to department requests for the reasons for the separation
 11 whenever the claimant:

12 (i) Left his employment voluntarily;

13 (ii) Was discharged from his employment due to workplace miscon-
 14 duct;

15 (iii) Is unemployed due to a strike, lockout, or other labor dis-
 16 pute;

17 (iv) Is not working due to a suspension; or

18 (v) Was separated for any other reason except lack of available
 19 work.

20 (b) The employer's response and any supporting documentation must be
 21 given by the employer or by a duly authorized representative of the
 22 employer having personal knowledge of the facts concerning the sep-
 23 aration. The employer shall provide to the department copies of any
 24 documentation supporting its position by electronic media or mail.

25 SECTION 19. That Section 72-1342, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 72-1342. DISCLOSURE OF INFORMATION. (1) Employment security informa-
 28 tion, as defined in section 74-106(7), Idaho Code, shall be exempt from dis-
 29 closure as provided in chapter 1, title 74, Idaho Code, except that such in-
 30 formation may be disclosed as is necessary for the proper administration of
 31 programs under this chapter or may be made available to public officials for
 32 use in the performance of official duties subject to such restrictions and
 33 fees as the director may by rule prescribe.

34 (2) The director ~~may~~ shall by rule or department policy establish con-
 35 fidentiality and disclosure procedures to comply with the requirements of 20
 36 CFR 603 and the provisions of chapter 1, title 74, Idaho Code, including pro-
 37 cedures that prescribe the form of written, informed consent by a person that
 38 is adequate for disclosure of employment security information pertaining to
 39 that person to a third party, as provided in section 74-106(7), Idaho Code,
 40 and the security requirements and cost provisions that apply to such disclo-
 41 sures.

42 SECTION 20. That Section 72-1349, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 72-1349. PAYMENT OF CONTRIBUTIONS -- LIMITATION OF ACTIONS. (1) Con-
 45 tributions shall be reported and paid to the department on taxable wages for
 46 each calendar year equal to the amount determined in accordance with section
 47 72-1350, Idaho Code. Contributions on wages paid to an individual under an-

1 other state unemployment insurance law, or paid by an employer's predecessor
2 during the calendar year, shall be counted in complying with this provision.

3 (2) Contributions shall accrue and become reportable and payable to the
4 department by each covered employer for each calendar quarter with respect
5 to wages for covered employment. Such contributions shall become due and
6 be paid by each covered employer to the director for the employment security
7 fund and shall not be deducted from the wages of individuals employed by such
8 employer. All moneys required to be paid by a covered employer pursuant to
9 this chapter shall immediately, upon becoming due and payable, become or be
10 deemed money belonging to the state, and every covered employer shall hold
11 or be deemed to hold said money separately, aside, or in trust from any other
12 funds, moneys or accounts, for the state of Idaho for payment in the manner
13 and at the times provided by law.

14 (3) The contributions reportable and payable to the department by each
15 covered employer, with respect to covered employment, and accruing in each
16 calendar quarter, shall be reported and paid to the department on or before
17 the last day of the month following the close of said calendar quarter. If
18 the normal due date falls on a weekend or holiday, the next business day shall
19 be the due date for contributions.

20 (4) Each amount shall be deemed to have been paid on the date that the
21 department receives payment thereof in cash or by check or other order for
22 the payment of money honored by the drawer on presentment. If sent through
23 the mail, the amount shall be deemed to have been paid as of the date mailed as
24 evidenced by the postmark on the envelope containing the contribution.

25 (5) Application of contribution payments shall be done in accordance
26 with department rule or policy.

27 ~~(4)~~ (6) The director may, for good cause shown by a covered employer,
28 extend the time for payment of his contributions or any part thereof, but no
29 such extension of time shall postpone the due date more than sixty (60) days.
30 Contributions with respect to which an extension of time for payment has been
31 granted shall be paid on or before the last day of the period of the exten-
32 sion.

33 ~~(5)~~ (7) Whenever it appears to be essential to the proper administra-
34 tion of this chapter that collection of the contributions of a covered em-
35 ployer must be made more often than quarterly, the director shall have au-
36 thority to demand payment of the contributions forthwith.

37 ~~(6)~~ (8) In accordance with rules the director may prescribe, any person
38 or persons entering into a formal contract with the state, any county, city,
39 town, school or irrigation district, or any quasi-public corporation of the
40 state, for the construction, alteration, or repair of any public building
41 or public work, the contract price of which exceeds the sum of one thousand
42 dollars (\$1,000), may be required before commencing such work, to execute a
43 surety bond in an amount sufficient to cover contributions when due. If the
44 director, who shall approve said bond, determines that said bond has become
45 insufficient, he may require that a new bond be provided in the amount he di-
46 rects. Failure on the part of the employer covered by the bond to pay the full
47 amount of his contributions when due shall render the surety liable on said
48 bond as though the surety was the employer and subject to the other provi-
49 sions of this chapter.

1 ~~(7)~~ (9) In the payment of any contributions a fractional part of a dol-
2 lar shall be disregarded unless it amounts to fifty cents (50¢) or more, in
3 which case it shall be increased to one dollar (\$1.00).

4 ~~(8)~~ (10) The director may commence administrative proceedings to en-
5 force the provisions of this section by issuing a determination at any time
6 within five (5) years of the due date of a quarterly report or the date a
7 quarterly report is filed, whichever is later. The limitation period of
8 this subsection ~~(8)~~ is tolled during any period in which the employer ab-
9 sconds from the state, during any period of the employer's concealment, or
10 during any period when the department's ability to commence administrative
11 proceedings to enforce the provisions of this section is stayed by legal
12 proceedings.

13 SECTION 21. That Section 72-1349B, Idaho Code, be, and the same is
14 hereby amended to read as follows:

15 72-1349B. FINANCING OF BENEFITS PAYMENTS BY PROFESSIONAL EMPLOYERS
16 AND THEIR CLIENTS. (1) ~~Nonprofit organizations and governmental entities~~
17 ~~excepted.~~ Financing of benefits for workers assigned by a professional em-
18 ployer to a nonprofit organization or a governmental entity shall be paid as
19 provided in section 72-1349A, Idaho Code. Financing of benefits for workers
20 assigned by a professional employer to any entity other than a nonprofit
21 organization or governmental entity shall be made in accordance with the
22 provisions of this section.

23 (2) A professional employer organization shall fully comply with the
24 requirements of chapter 24, title 44, Idaho Code, in order to be eligible for
25 any transfers of experience rating as allowed by this section.

26 (3) In order to effect a transfer of a client's experience rating into
27 the experience rating of a professional employer organization, both the
28 client and the professional employer organization shall jointly apply for
29 the transfer of the experience rating within the same time frames as required
30 of employers by section 72-1351(5), Idaho Code, from the date of the contract
31 entered into between the professional employer organization and the client
32 required by section 44-2405, Idaho Code. Failure to submit a timely joint
33 request for transfer of experience rating shall result in the professional
34 employer organization reporting wages for the client under the employer ac-
35 count number of the client.

36 (4) In the event that a client and a professional employer organization
37 jointly apply to transfer the experience rating of the client into that of
38 the professional employer organization, the client's entire experience rat-
39 ing and factors of experience rating shall be transferred into that of the
40 professional employer organization, and no partial transfers of experience
41 factors or the experience rating shall be allowed.

42 (5) If some of the client's workers are included in the professional em-
43 ployer organization arrangement and some are not included, and the profes-
44 sional employer organization and the client elect to report the workers in-
45 cluded in the professional employer organization arrangement under the em-
46 ployer account number of the client, then only one (1) quarterly report shall
47 be remitted to the department, which shall list or include all the client's
48 workers whether or not included in the professional employer organization
49 arrangement.

1 (6) If a client employer has employees, services, or employment, one
2 (1) or more of which do not independently meet the coverage or threshold
3 requirements necessary to constitute covered employment, such employees,
4 services, or employment shall nonetheless be deemed to meet the coverage
5 requirements of this chapter if, in combination with other employees, ser-
6 vices, or employment of such other employees of the professional employer
7 organization or any of its clients, such wages, services, or employees
8 jointly meet coverage requirements.

9 ~~(2) (7) Liability for contributions.~~ Unless a professional employer
10 meets the minimum requirements of this chapter, its client shall remain li-
11 able as a covered employer for any payments due under the provisions of this
12 chapter. During the term of a professional employer arrangement, a profes-
13 sional employer is liable for the payment of all moneys due pursuant to this
14 chapter as a result of wages paid to employees assigned to a client company,
15 except compensation paid to sole proprietors or partners in the client com-
16 pany.

17 ~~(3) (8) Joint and several liability.~~ A client is jointly and severally
18 liable for any unpaid moneys due under the provisions of this chapter from
19 the professional employer for wages paid to workers assigned to the client.

20 ~~(4) (9) Reporting requirements.~~ The professional employer shall re-
21 port and make all payments under its state employer account number. The
22 professional employer shall keep separate records and submit separate
23 quarterly wage reports for each of its clients. The professional employer
24 shall pay contributions for its clients collectively using the professional
25 employer's contribution rate unless it elects to pay the contribution for
26 certain clients individually in which instance the contribution shall be
27 paid using the individual client's contribution rate.

28 (10) To report the wages and employees covered by the professional
29 employer organization arrangement between a professional employer organ-
30 ization and client, professional employer organizations and their clients
31 shall make reports to the department in one (1) of the following ways, sub-
32 ject to any conditions in rules promulgated by the department:

33 (a) Report the workers included in the professional employer organiza-
34 tion arrangement under the employer account number of the professional
35 employer organization and transfer the rating of the client to the pro-
36 fessional employer organization; or

37 (b) Report the workers included in the professional employer organiza-
38 tion arrangement under the employer account number of the client with-
39 out an experience rating transfer.

40 ~~(5) (11) Interested party.~~ As between a professional employer and its
41 client, the professional employer company shall be deemed to be the inter-
42 ested party for purposes of section 72-1323, Idaho Code, and all proceedings
43 to determine rights to benefits under the provisions of this chapter.

44 ~~(6) (12) Temporary workers.~~ The provisions of this section do not apply
45 to an entity that provides temporary workers on a temporary help basis, pro-
46 vided that the entity is liable as the employer for all payments due under the
47 provisions of this chapter as a result of wages paid to those temporary work-
48 ers.

49 ~~(7) (13) Rebuttable presumption.~~ When a professional employer assigns
50 workers to only one (1) client and its affiliates, there is a rebuttable pre-

1 sumption that the client entered into a professional employer arrangement to
 2 avoid calculation of the proper taxable wage rate. If the professional em-
 3 ployer fails to rebut this presumption, the director, pursuant to section
 4 72-1353, Idaho Code, shall issue an administrative determination of cover-
 5 age holding the client to be the covered employer for purposes of this chap-
 6 ter.

7 ~~(8) (14) A client ceasing to pay wages.~~ Whenever a client ceases to pay
 8 wages, such client shall be subject to termination of its employer account
 9 and experience rating records in the same manner as any other employer, in
 10 accordance with the provisions of sections 72-1351 and 72-1352, Idaho Code.
 11 If a client ~~which~~ that has ceased to pay wages subsequently becomes subject
 12 to this chapter because it resumes paying wages, it will be assigned the
 13 appropriate experience rate in accordance with the provisions of section
 14 72-1351, Idaho Code.

15 ~~(9) (15) Succession of experience factors.~~ Whenever a professional em-
 16 ployer arrangement is entered, the separate account and experience factors
 17 of payroll and reserve shall be transferred to the professional employer for
 18 the purpose of determining the professional employer's contribution rate to
 19 be paid on behalf of the client. Upon the expiration or termination of the
 20 professional employer arrangement, so much of the professional employer's
 21 separate account and experience factors of payroll and reserve as is attrib-
 22 utable to the client shall be transferred to the terminating client for the
 23 purpose of determining the client's subsequent rate of contribution. In the
 24 event the professional employer elects to pay the client's contribution sep-
 25 arately as provided in subsection ~~(4)~~ (9) of this section, then the client's
 26 experience factors of payroll and reserve shall remain with the client em-
 27 ployer for the duration of the professional employer arrangement.

28 SECTION 22. That Section 72-1350, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 72-1350. TAXABLE WAGE BASE AND TAXABLE WAGE RATES. (1) All remunera-
 31 tion for personal services as defined in section 72-1328, Idaho Code, equal
 32 to the average annual wage in covered employment for the penultimate cal-
 33 endar year, rounded to the nearest multiple of one hundred dollars (\$100)
 34 or the amount of taxable wage base specified in the federal unemployment
 35 tax act, whichever is higher, shall be the taxable wage base for purposes of
 36 this chapter. For the purpose of determining the taxable wage base under
 37 this chapter, the average annual wage is computed by dividing that calendar
 38 year's total wages in covered employment, excluding state government and
 39 cost reimbursement employers, by the average number of workers in covered
 40 employment for that calendar year as derived from data reported to the de-
 41 partment by covered employers.

42 (2) Prior to December 31 of each year, the director shall determine the
 43 taxable wage rates for the following calendar year for all covered employ-
 44 ers, except cost reimbursement employers, in accordance with this section.
 45 If the desired fund size multiplier set forth in subsection (3) of this
 46 section is revised with an effective date that is prior to January 1 of the
 47 following year, the director shall issue adjusted taxable wage rates as soon
 48 as practicable and in accordance with the revised multiplier's effective
 49 date. Employers shall receive a credit against future taxes under this act

1 for any overpayments resulting from tax payments made before the amended
 2 taxable wage rates are adjusted.

3 (3) An average high-cost ratio shall be determined by calculating the
 4 average of the three (3) highest benefit cost rates in the twenty (20) year
 5 period ending with the preceding year. For the purposes of this section, the
 6 "benefit cost rate" is the total annual benefits paid, including the state's
 7 share of extended benefits but excluding the federal share of extended ben-
 8 efits and cost-reimbursable benefits, divided by the total annual covered
 9 wages excluding cost-reimbursable wages. The resulting average high-cost
 10 ratio is multiplied by the desired fund size multiplier, and the result, for
 11 the purposes of this section, is referred to as the "average high-cost mul-
 12 tiple" (AHCM). The desired fund size multiplier shall decrease from one and
 13 three-tenths (1.3) to one and two-tenths (1.2) on and after January 1, 2024.

14 (4) The fund balance ratio shall be determined by dividing the actual
 15 balance of the employment security fund, section 72-1346, Idaho Code, and
 16 the reserve fund, section 72-1347A, Idaho Code, on September 30 of the cur-
 17 rent calendar year by the wages paid by all covered employers in Idaho, ex-
 18 cept cost-reimbursement employers, in the preceding calendar year.

19 (5) The base tax rate shall be determined as follows:

20 (a) Divide the fund balance ratio by the AHCM;

21 (b) Subtract the quotient obtained from the calculation in paragraph
 22 (a) of this subsection from the number two (2);

23 (c) Multiply the remainder obtained from the calculation in paragraph
 24 (b) of this subsection by two and one-tenth percent (2.1%). The product
 25 obtained from this calculation shall equal the base tax rate, provided
 26 that the base tax rate shall not be less than six-tenths percent (0.6%)
 27 and shall not exceed three and four-tenths percent (3.4%).

28 (6) The base tax rate calculated in accordance with subsection (5) of
 29 this section shall be used to determine the taxable wage rate effective the
 30 following calendar year for all covered employers except cost-reimbursement
 31 employers as provided in subsections (7) and (8) of this section, except that
 32 the base tax rate for calendar years 2022 and 2023 shall be equal to the base
 33 tax rate calculated for calendar year 2021.

34 (7) Table of rate classes, tax factors and minimum and maximum taxable
 35 wage rates:

36	Cumulative Taxable Payroll Limits			Eligible Employers		
	37	More Than	Equal to	Minimum	Maximum	
38		(% of	or Less Than	Taxable	Taxable	
39	Rate	Taxable	(% of Taxable	Wage	Wage	
40	Class	Payroll)	Payroll)	Factor	Rate	Rate
41	1	--	12	0.2857	0.180%	0.960%
42	2	12	24	0.4762	0.300%	1.600%
43	3	24	36	0.5714	0.360%	1.920%
44	4	36	48	0.6667	0.420%	2.240%
45	5	48	60	0.7619	0.480%	2.560%

1	6	60	72	0.8571	0.540%	2.880%
2	7	72	--	0.9524	0.600%	3.200%

3	Standard-Rated Employers					
4					Minimum	Maximum
5					Taxable	Taxable
6				Tax	Wage	Wage
7				Factor	Rate	Rate
8				1.000	1.000%	3.4%

9	Cumulative Taxable Payroll Limits			Deficit Employers		
10		More Than	Equal to		Minimum	Maximum
11		(% of	or Less Than		Taxable	Taxable
12	Rate	Taxable	(% of Taxable	Tax	Wage	Wage
13	Class	Payroll)	Payroll)	Factor	Rate	Rate
14	-1	--	30	1.7143	1.080%	4.800%
15	-2	30	50	1.9048	1.200%	5.200%
16	-3	50	65	2.0952	1.320%	5.600%
17	-4	65	80	2.2857	1.440%	6.000%
18	-5	80	95	2.6667	1.680%	6.400%
19	-6	95	--	2.6667	5.400%	6.800%

20 (8) Each covered employer, except cost-reimbursement employers, will
 21 be assigned a taxable wage rate and a contribution rate as follows:

22 (a) Each employer, except standard-rated employers, will be assigned
 23 to one (1) of the rate classes for eligible and deficit employers pro-
 24 vided in subsection (7) of this section based on the employer's experi-
 25 ence as determined under the provisions of sections 72-1319, 72-1319A,
 26 72-1351 and 72-1351A, Idaho Code.

27 (b) For each rate class provided in subsection (7) of this section, the
 28 department will multiply the base tax rate determined in accordance
 29 with subsection (5) of this section by the tax factor listed for that
 30 rate class in the table provided in subsection (7) of this section. The
 31 product obtained from this calculation shall be the taxable wage rate
 32 for employers assigned to that rate class, provided that the taxable
 33 wage rate shall not be less than the minimum taxable wage rate assigned
 34 to that rate class and shall not exceed the maximum taxable wage rate
 35 assigned to that rate class in the table provided in subsection (7) of
 36 this section.

37 (c) For standard-rated employers, the department will multiply the
 38 base tax rate determined in accordance with subsection (5) of this
 39 section by the tax factor listed for standard-rated employers in the
 40 table provided in subsection (7) of this section. The product obtained
 41 from this calculation shall be the taxable wage rate for standard-rated
 42 employers, provided that the taxable wage rate shall not be less than
 43 the minimum taxable wage rate assigned to standard-rated employers

1 and shall not exceed the maximum taxable wage rate assigned to stan-
2 dard-rated employers in the table provided in subsection (7) of this
3 section.

4 (d) Deficit employers who have been assigned a taxable wage rate from
5 deficit rate class 6 will be assigned contribution rates equal to their
6 taxable wage rate.

7 (e) All other eligible, standard-rated, and deficit employers will
8 be assigned contribution rates equal to ninety-seven percent (97%) of
9 their taxable wage rate. Provided however, that for each calendar year
10 a reserve tax is imposed pursuant to section 72-1347A, Idaho Code, the
11 contribution rates for employers assigned contribution rates pursuant
12 to this paragraph shall be eighty percent (80%) of their taxable wage
13 rate.

14 (9) Each employer shall be notified of his taxable wage rate as deter-
15 mined for any calendar year pursuant to this section and section 72-1351,
16 Idaho Code. Such determination shall become conclusive and binding upon
17 the employer, unless within fourteen (14) days after notice as provided in
18 section 72-1368(5), Idaho Code, the employer files an application for re-
19 determination, setting forth his reasons therefor. Reconsideration shall
20 be limited to transactions occurring subsequent to any previous determina-
21 tion that has become final. The employer shall be promptly notified of the
22 redetermination, which shall become final unless an appeal is filed within
23 fourteen (14) days after notice as provided in section 72-1368(5), Idaho
24 Code. Proceedings on the appeal shall be in accordance with the provisions
25 of section 72-1361, Idaho Code.

26 SECTION 23. That Section 72-1351, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 72-1351. EXPERIENCE RATING AND VOLUNTARY TRANSFERS OF EXPERIENCE RAT-
29 ING ACCOUNTS. (1) Subject to the other provisions of this chapter, each eli-
30 gible and deficit employer's, except cost reimbursement employers, taxable
31 wage rate shall be determined in the manner set forth in this subsection for
32 each calendar year:

33 (a) (i) Each eligible employer shall be given an "experience fac-
34 tor" which shall be the ratio of excess of contributions over ben-
35 efits paid on the employer's account since December 31, 1939, to
36 his average annual taxable payroll rounded to the next lower dol-
37 lar amount for the four (4) fiscal years immediately preceding the
38 computation date, except that when an employer first becomes eli-
39 gible, his "experience factor" will be computed on his average an-
40 nual taxable payroll for the two (2) fiscal years or more, but not
41 to exceed four (4) fiscal years, immediately preceding the compu-
42 tation date. The computation of such "experience factor" shall be
43 to six (6) decimal places.

44 (ii) Each deficit employer shall be given a "deficit experience
45 factor" which shall be the ratio of excess of benefits paid on the
46 employer's account over contributions since December 31, 1939, to
47 his average annual taxable payroll rounded to the next lower dol-
48 lar amount for one (1) or more fiscal years, but not to exceed four
49 (4) fiscal years, for which he had covered employment ending on

1 the computation date; provided, however, that any employer who, on
2 any computation date has a "deficit experience factor" for the pe-
3 riod immediately preceding such computation date but who has filed
4 all reports, paid all contributions and penalties due on or before
5 the cutoff date, and has during the last four (4) fiscal years paid
6 contributions at a rate of not less than the standard rate applica-
7 ble for each such year and in excess of benefits charged to his ex-
8 perience rating account during such years, shall have any balance
9 of benefits charged to his account, which on the computation date
10 immediately preceding such four (4) fiscal years was in excess of
11 contributions paid, deleted from his account, and the excess ben-
12 efits so deleted shall not be considered in the computation of his
13 taxable wage rate for the rate years following such four (4) fiscal
14 years. For the rate year following such computation date, he shall
15 be given the standard rate for that year.

16 (iii) In the event an employer's coverage has been terminated be-
17 cause he has ceased to do business or because he has not had covered
18 employment for a period of four (4) years, and if said employer
19 thereafter becomes a covered employer, he will be considered as
20 though he were a new employer, and he shall not be credited with his
21 previous experience under this chapter for the purpose of comput-
22 ing any future "experience factor."

23 (iv) Benefits paid to a claimant whose employment terminated be-
24 cause the claimant's employer was called to active military duty
25 shall not be used as a factor in determining the taxable wage rate
26 of that employer.

27 (b) Schedules shall be prepared listing all eligible employers in in-
28 verse numerical order of their experience factors, and all deficit em-
29 ployers in numerical order of their deficit experience factors. There
30 shall be listed on such schedules for each such employer in addition to
31 the experience factor: (i) the amount of his taxable payroll for the
32 fiscal year ending on the computation date, and (ii) a cumulative total
33 consisting of the sum of such employer's taxable payroll for the fiscal
34 year ending on the computation date and the corresponding taxable pay-
35 rolls for all other employers preceding him on such schedules.

36 (c) The cumulative taxable payroll amounts listed on the schedules pro-
37 vided for in paragraph (b) of this subsection shall be segregated into
38 groups whose limits shall be those set out in the table provided in sec-
39 tion 72-1350(7), Idaho Code. Each of such groups shall be identified
40 by the rate class number listed in the table which represents the per-
41 centage limits of each group. Each employer on the schedules shall be
42 assigned a taxable wage rate in accordance with section 72-1350, Idaho
43 Code.

44 (d) (i) If the grouping of rate classes requires the inclusion of
45 exactly one-half (1/2) of an employer's taxable payroll, the em-
46 ployer shall be assigned the lower of the two (2) rates designated
47 for the two (2) classes in which the halves of his taxable payroll
48 are so required.

49 (ii) If the group of rate classes requires the inclusion of a por-
50 tion other than exactly one-half (1/2) of an employer's taxable

1 payroll, the employer shall be assigned the rate designated for
2 the class in which the greater part of his taxable payroll is so re-
3 quired.

4 (iii) If one (1) or more employers on the schedules have experi-
5 ence factors identical to that of the last employer included in a
6 particular rate class, all such employers shall be included in and
7 assigned the taxable wage rate specified for such class, notwith-
8 standing the provisions of paragraph (c) of this subsection.

9 (e) If the taxable payroll amount or the experience factor or both
10 such taxable payroll amount and experience factor of any eligible or
11 deficit employer listed on the schedules is changed, the employer shall
12 be placed in that position on the schedules which he would have occu-
13 pied had his taxable payroll amount and/or experience factor as changed
14 been used in determining his position in the first instance, but such
15 change shall not affect the position or rate classification of any other
16 employer listed on the schedules and shall not affect the rate determi-
17 nation for previous years.

18 (2) For experience rating purposes, all previously accumulated benefit
19 charges to covered employers' accounts, except cost reimbursement employ-
20 ers, shall not be changed except as provided in this chapter. Benefits paid
21 prior to June 30 shall, as of June 30 of each year preceding the calendar year
22 for which a covered employer's taxable wage rate is effective, be charged to
23 the account of the covered employer, except cost reimbursement employers,
24 who paid the largest individual amount of base period wages as shown on the
25 determination used as the basis for the payment of such benefits, except that
26 no charge shall be made to the account of such covered employer with respect
27 to benefits paid under the following situations:

28 (a) If paid to a worker who terminated his services voluntarily without
29 good cause attributable to such covered employer, with good cause but
30 for reasons not attributable to such covered employer, or who had been
31 discharged for workplace misconduct in connection with such services;

32 (b) If paid in accordance with the provisions of section 72-1368(10),
33 Idaho Code, and the decision to pay benefits is subsequently reversed;

34 (c) For that portion of benefits paid to multistate claimants pursuant
35 to section 72-1344, Idaho Code, which exceeds the amount of benefits
36 that would have been charged had only Idaho wages been used in paying the
37 claim;

38 (d) If paid in accordance with the extended benefit program triggered
39 by either national or state indicators;

40 (e) If paid to a worker who continues to perform services for such cov-
41 ered employer without a reduction in his customary work schedule, and
42 who is eligible to receive benefits due to layoff or a reduction in earn-
43 ings from another employer; or

44 (f) If paid to a worker who turns down an offer of suitable work because
45 of participation in a job training program pursuant to the requirements
46 of section 72-1366(8), Idaho Code.

47 (3) A covered employer whose experience rating account is chargeable,
48 as prescribed by this section, is an interested party as defined in sec-
49 tion 72-1323, Idaho Code. A determination of chargeability shall become
50 final unless, within fourteen (14) days after notice as provided in section

1 72-1368(5), Idaho Code, an appeal is filed by an interested party with the
2 department in accordance with the department's rules. Appeal proceedings
3 shall be in accordance with the provisions of section 72-1361, Idaho Code.

4 (4) (a) An experience rating record shall be maintained for each covered
5 employer. The record shall be credited with all contributions which the
6 covered employer has paid for covered employment prior to the cutoff
7 date, pursuant to the provisions of this and preceding acts, and which
8 covered employment occurred prior to the computation date. The record
9 shall also be charged with the amount of benefits paid which are charge-
10 able to the covered employer's account as provided by the appropriate
11 provisions of the employment security law and regulations thereunder
12 in effect at the time such benefits were paid. Nothing in this section
13 shall be construed to grant any covered employer or individual in his
14 service a priority with respect to any claim or right because of amounts
15 paid by such covered employer into the employment security fund.

16 (b) Except those meeting the requirements of section 72-1349B, Idaho
17 Code, each person or entity paying wages directly, or indirectly
18 through arrangements in which payroll is consolidated for multiple per-
19 sons or entities, shall maintain separate records and shall report the
20 wages in accordance with this chapter. The wages for one (1) person or
21 entity may not be reported under the assigned record of another, even
22 where the people or entities are related.

23 (5) (a) Whenever any individual or type of organization, whether or not
24 a covered employer within the meaning of section 72-1315, Idaho Code,
25 in any manner succeeds to, or acquires all or substantially all, of the
26 business of an employer who at the time of acquisition was a covered
27 employer, and in respect to whom the director finds that the business
28 of the predecessor is continued solely by the successor, the separate
29 experience rating account of the predecessor shall, upon the joint ap-
30 plication of the predecessor and the successor within the one hundred
31 eighty (180) days after such acquisition and approval by the director,
32 be transferred to the successor employer for the purpose of determining
33 such successor's liability and taxable wage rate, and any successor who
34 was not an employer on the date of acquisition shall, as of such date,
35 become a covered employer as defined in this chapter. Such one hundred
36 eighty (180) day period may be extended at the discretion of the direc-
37 tor.

38 (b) Whenever any individual or type of organization, whether or not a
39 covered employer within the meaning of section 72-1315, Idaho Code, in
40 any manner succeeds to, or acquires, part of the business of an employer
41 who at the time of acquisition was a covered employer, and such portion
42 of the business is continued by the successor, so much of the separate
43 experience rating account of the predecessor as is attributable to the
44 portion of the business transferred, as determined on a pro rata basis
45 in the same ratio that the wages of covered employees properly allocable
46 to the transferred portion of the business bears to the payroll of the
47 predecessor in the last four (4) completed calendar quarters immedi-
48 ately preceding the date of transfer, shall, upon the joint application
49 of the predecessor and the successor within one hundred eighty (180)
50 days after such acquisition and approval by the director, be trans-

1 ferred to the successor employer for the purpose of determining such
2 successor's liability and taxable wage rate, and any successor who was
3 not an employer on the date of acquisition shall, as of such date, become
4 a covered employer as defined in this chapter. Such one hundred eighty
5 (180) day period may be extended at the discretion of the director.

6 (c) (i) If the successor was a covered employer prior to the date
7 of the acquisition of all or a part of the predecessor's business,
8 his taxable wage rate, effective the first day of the calendar
9 quarter immediately following the date of acquisition, shall be a
10 newly computed rate based on the combined experience of the prede-
11 cessor and successor, the resulting rate remaining in effect the
12 balance of the rate year.

13 (ii) If the successor was not a covered employer prior to the date
14 of the acquisition of all or a part of the predecessor's business,
15 his rate shall be the rate applicable to the predecessor with re-
16 spect to the period immediately preceding the date of acquisition,
17 but if there ~~were~~ was more than one (1) predecessor, the succes-
18 sor's rate shall be a newly computed rate based on the combined ex-
19 perience of the predecessors, becoming effective immediately af-
20 ter the date of acquisition, and shall remain in effect the balance
21 of the rate year.

22 (d) For purposes of this section, an employer's experience rating ac-
23 count shall consist of the actual contribution, benefit and taxable
24 payroll experience of the employer and any amounts due from the employer
25 under this chapter. When a transferred experience rating account
26 includes amounts due from the employer under this chapter, both the
27 predecessor employer and the successor employer shall be jointly and
28 severally liable for those amounts.

29 SECTION 24. That Section 72-1351A, Idaho Code, be, and the same is
30 hereby amended to read as follows:

31 72-1351A. MANDATORY TRANSFERS OF EXPERIENCE RATING ACCOUNTS AND FED-
32 ERAL CONFORMITY PROVISIONS REGARDING TRANSFERS OF EXPERIENCE AND ASSIGNMENT
33 OF RATES. Notwithstanding any other provision of this chapter, the following
34 shall apply regarding transfers of experience and assignment of rates:

35 (1) (a) If a covered employer transfers its trade or business, or a por-
36 tion thereof, to another employer, whether or not a covered employer
37 within the meaning of section 72-1315, Idaho Code, and, at the time of
38 the transfer, there is substantially common ownership, management or
39 control of the two (2) employers, then the experience rating account
40 attributable to the transferred trade or business shall be transferred
41 to the employer to whom such business is so transferred. The rates of
42 both employers shall be recalculated using the methods provided in sec-
43 tion 72-1351(5)(b) and either (c) (i) or (c) (ii), Idaho Code. Whenever
44 such mandatory transfer involves only a portion of the experience rat-
45 ing record, and the predecessor or successor employers fail within ten
46 (10) days after notice to supply the required payroll information, the
47 transfer may be based on estimates of the allocable payrolls.

48 (i) For partial transfers of an experience rating record, the pro
49 rata share of the experience rate to be transferred shall be com-

1 puted based on the four (4) most recently completed quarters re-
2 ported by the predecessor employer prior to the date of acquisi-
3 tion or change in entity.

4 (ii) When a total transfer of experience rating record has been
5 completed and the predecessor employer continues to have employ-
6 ment in connection with the liquidation of his business, the pre-
7 decessor employer shall continue to pay contributions at the as-
8 signed rate for the period of liquidation but not beyond the bal-
9 ance of the rate year.

10 (iii) In determining whether the ownership or management or con-
11 trol of a successor employer is substantially the same as the own-
12 ership or management or control of the predecessor employer, fac-
13 tors to be considered include, without limitation, the extent of
14 policy-making authority, the involvement in daily management of
15 operations, the supervision over the workforce, the percentage of
16 ownership of shares or assets, and the involvement on boards of di-
17 rectors or other controlling bodies.

18 (iv) A successor employer may use wages paid by the predecessor
19 employer to arrive at the wage base for purposes of calculating
20 taxable wages only when the experience rate of a predecessor em-
21 ployer has been transferred to a successor employer.

22 (b) If, following a transfer of experience under paragraph (a) of this
23 subsection, the director determines that a substantial purpose of the
24 transfer of the trade or business was to obtain a reduced liability for
25 contributions, then the experience rating accounts of the employers in-
26 volved shall be combined into a single account and a single rate shall be
27 assigned to such account.

28 (2) Whenever a person who is not a covered employer under this chapter
29 at the time such person acquires the trade or business of a covered employer,
30 the experience rating account of the acquired business shall not be trans-
31 ferred to such person if the director finds that such person acquired the
32 business primarily for the purpose of obtaining a lower rate of contribu-
33 tions. Instead, such person shall be assigned the standard rate for new
34 employers under section 72-1350, Idaho Code. In determining whether the
35 trade or business was acquired primarily for the purpose of obtaining a lower
36 rate of contributions, the director shall use objective factors which may
37 include, but are not limited to, the cost of acquiring the business, whether
38 the person continued the business enterprise of the acquired business, how
39 long such business enterprise was continued, or whether a substantial number
40 of new employees were hired for performance of duties unrelated to the busi-
41 ness activity conducted prior to acquisition.

42 (3) (a) It shall be a violation of this section if a person:

43 (i) Makes any false statement to the department when the maker
44 knows the statement to be false or acts with deliberate ignorance
45 of or reckless disregard for the truth of the matter or willfully
46 fails to disclose a material fact to the department in connection
47 with the transfer of a trade or business;

48 (ii) Prepares any false or antedated report, form, book, paper,
49 record, written instrument, or other matter or thing in connection

1 with the transfer of a trade or business with the intent to submit
 2 it or allow it to be submitted to the department as genuine or true;
 3 (iii) Knowingly violates or attempts to violate subsection (1) or
 4 (2) of this section or any other provision of this chapter related
 5 to determining the assignment of a contribution rate or an experi-
 6 ence rate; or

7 (iv) Knowingly advises another person in a way that results in a
 8 violation or an attempted violation of subsection (1) or (2) of
 9 this section or any other provision of this chapter related to de-
 10 termining the assignment of a contribution rate or an experience
 11 rate.

12 (b) If a person commits any of the acts described in paragraph (a) of
 13 this subsection, the person shall be subject to the following penal-
 14 ties:

15 (i) If the person is a covered employer, a civil money penalty of
 16 ten percent (10%) of such person's taxable wages for the four (4)
 17 completed consecutive quarters preceding the violation shall be
 18 imposed for such year and said penalty shall be deposited in the
 19 state employment security administrative and reimbursement fund
 20 as established by section 72-1348, Idaho Code.

21 (ii) If the person is not a covered employer, such person shall
 22 be subject to a civil money penalty of not more than five thousand
 23 dollars (\$5,000) for each violation. Any such penalty shall be de-
 24 posited in the state employment security administrative and reim-
 25 bursement fund as established by section 72-1348, Idaho Code.

26 (4) Every person who knowingly makes any false statement to the depart-
 27 ment or knowingly fails to disclose a material fact to the department in con-
 28 nection with the transfer of a trade or business, or knowingly prepares any
 29 false or antedated report, form, book, paper, record, written instrument, or
 30 other matter or thing in connection with the transfer of a trade or business
 31 with the intent to submit it or allow it to be submitted to the department
 32 as genuine or true, or knowingly violates or attempts to violate ~~subsection~~
 33 ~~(1) or (2)~~ of this section or any other provision of this chapter related to
 34 determining the assignment of a contribution rate or an experience rate, or
 35 knowingly advises another person to act in a way that results in a violation
 36 or an attempted violation of ~~subsection (1) or (2)~~ of this section or any
 37 other provision of this chapter related to determining the assignment of a
 38 contribution rate or an experience rate, shall be guilty of a felony punish-
 39 able as provided in section 18-112, Idaho Code.

40 (5) For purposes of this section:

41 (a) ~~An employer's experience rating account shall consist of~~
 42 "Experience rating account" means the actual contribution, benefit and
 43 taxable payroll experience of the employer and any amounts due from the
 44 employer under this chapter. When a transferred experience rating ac-
 45 count includes amounts due from the employer under this chapter, both
 46 the predecessor employer and the successor employer shall be jointly
 47 and severally liable for those amounts.

48 (b) "Knowingly" means having actual knowledge of or acting with delib-
 49 erate ignorance of or reckless disregard for the prohibition involved.

1 (c) "Person" has the meaning given such term by section 7701(a)(1) of
2 the Internal Revenue Code of 1986 (26 U.S.C. 7701(a)(1)).

3 (d) A "transfer of a trade or business" occurs whenever a person in any
4 manner acquires or succeeds to all or a portion of a trade or business.
5 Factors the department may consider when determining whether a transfer
6 of a trade or business has occurred include, but are not limited to, the
7 following:

8 (i) Whether the successor continued the business enterprise of
9 the acquired business;

10 (ii) Whether the successor purchased, leased or assumed ma-
11 chinery and manufacturing equipment, office equipment, business
12 premises, the business or corporate name, inventories, a covenant
13 not to compete or a list of customers;

14 (iii) Continuity of business relationships with third parties
15 such as vendors, suppliers and subcontractors;

16 (iv) A transfer of good will;

17 (v) A transfer of accounts receivable;

18 (vi) Possession and use of the predecessor's sales correspon-
19 dence; and

20 (vii) Whether the employees remained the same.

21 (e) "Trade or business" includes, but is not limited to, the employer's
22 workforce. The transfer of some or all of an employer's workforce to
23 another employer shall be considered a transfer of a trade or business
24 when, as the result of such transfer, the transferring employer no
25 longer performs trade or business with respect to the transferred work-
26 force, and such trade or business is performed by the employer to whom
27 the workforce is transferred.

28 (f) "Violates or attempts to violate" includes, but is not limited to,
29 intent to evade, misrepresentation or willful nondisclosure.

30 (6) The director shall establish procedures to identify the transfer or
31 acquisition of a business for purposes of this section.

32 (7) This section shall be interpreted and applied in such a manner as to
33 meet the minimum requirements contained in any guidance or regulations is-
34 sued by the United States department of labor.

35 (8) Administrative determinations issued pursuant to this section
36 shall become final unless, within fourteen (14) days after notice as pro-
37 vided in section 72-1368(5), Idaho Code, an appeal is filed with the depart-
38 ment in accordance with the department's rules. Appeal proceedings shall be
39 in accordance with the provisions of section 72-1361, Idaho Code.

40 SECTION 25. That Section 72-1352A, Idaho Code, be, and the same is
41 hereby amended to read as follows:

42 72-1352A. CORPORATE OFFICERS -- EXEMPTION FROM COVERAGE -- NOTIFICA-
43 TION -- REINSTATEMENT. (1) A corporation that is a public company, other than
44 those covered in sections 72-1316A, 72-1322D and 72-1349C, Idaho Code, may
45 elect to exempt from coverage pursuant to this chapter any bona fide corpo-
46 rate officer who is voluntarily elected or voluntarily appointed in accor-
47 dance with the articles of incorporation or bylaws of the corporation, is a
48 shareholder of the corporation, exercises substantial control in the daily

1 management of the corporation and whose primary responsibilities do not in-
2 clude the performance of manual labor.

3 (2) A corporation that is not a public company, other than those cov-
4 ered in sections 72-1316A, 72-1322D and 72-1349C, Idaho Code, may elect to
5 exempt from coverage pursuant to this chapter any bona fide corporate offi-
6 cer, without regard to the corporate officer's performance of manual labor,
7 if the corporate officer is a shareholder of the corporation, voluntarily
8 agrees to be exempted from coverage and exercises substantial control in the
9 daily management of the corporation.

10 (3) For purposes of this section, a "public company" is a corporation
11 that has a class of shares registered with the federal securities and ex-
12 change commission pursuant to section 12 or 15 of the securities and exchange
13 act of 1934 or section 8 of the investment company act of 1940, or any succes-
14 sor statute.

15 (4) To make the election, a corporation with qualifying corporate offi-
16 cers pursuant to subsection (1) or (2) of this section must register with the
17 department each qualifying corporate officer it elects to exempt from cover-
18 age. The registration must be in a format prescribed by the department and be
19 signed and dated by the corporate officer being exempted from coverage. Reg-
20 istration forms received and approved by the department by March 31 of the
21 first year of the election shall be effective January 1 of that year and shall
22 remain in effect for at least two (2) consecutive calendar years.

23 (5) A newly formed corporation with qualifying corporate officers
24 pursuant to subsections (1) and (2) of this section shall register with the
25 department each corporate officer it elects to exempt within forty-five (45)
26 calendar days after submitting its Idaho business registration form to the
27 department as required by section 72-1337, Idaho Code. The registration
28 must be in a format prescribed by the department and be signed and dated by
29 the corporate officer being exempted from coverage. Registration forms re-
30 ceived and approved by the department shall become effective as of the date
31 the Idaho business registration form was submitted to the department and
32 shall remain in effect for at least two (2) consecutive calendar years.

33 (6) A corporation may elect to reinstate coverage for one (1) or more
34 corporate officers previously exempted pursuant to this section. Rein-
35 statement requires written notice from the corporation to the department in
36 a format prescribed by the department. ~~Reinstatement requests received by~~
37 ~~the department on or before December 15 shall become effective the first day~~
38 ~~of the calendar year following the end of the exemption's two (2) year effec-~~
39 ~~tive date. Coverage shall not be reinstated retroactively. Reinstatement~~
40 ~~requests received by the department on or before March 31 shall become effec-~~
41 ~~tive January 1 of the current calendar year if at least two (2) consecutive~~
42 ~~calendar years have passed since the date of the exemption.~~

43 (7) A corporate officer's exemption is in effect until revoked or ter-
44 minated upon the corporate officer's failure to satisfy the election crite-
45 ria. It is the responsibility of the corporation to notify the department in
46 writing in a format required by the department when an exempt corporate offi-
47 cer no longer meets the election criteria. A corporation is responsible for
48 any taxes, penalties, and interest due after the date the exemption is termi-
49 nated or should have been terminated.

50 (8) For purposes of this chapter:

1 (a) "Bona fide corporate officer" means an individual empowered in good
 2 faith by stockholders or directors, in accordance with the corpora-
 3 tion's articles of incorporation or bylaws, to discharge the duties of a
 4 corporate officer.

5 (b) A person exercises substantial control in the daily management of
 6 the corporation when the person makes managerial decisions for the cor-
 7 poration, including, without limitation, the authority to hire and fire
 8 and to direct other's activities in the corporation and the responsi-
 9 bility to account for and pay taxes or debts incurred by the corpora-
 10 tion.

11 SECTION 26. That Section 72-1357, Idaho Code, be, and the same is hereby
 12 amended to read as follows:

13 72-1357. ADJUSTMENTS AND REFUNDS. (1) If any person shall make appli-
 14 cation for a refund or credit of any amounts paid under this chapter, the
 15 director shall, upon determining that such amounts or any portion thereof
 16 was erroneously collected, either allow credit therefor, without interest,
 17 in connection with subsequent payments, or shall refund from the fund in
 18 which the erroneous payment was deposited, without interest, the amount
 19 erroneously paid.

20 (2) An employer submitting an erroneous report of employee wages re-
 21 sulting in payment of unearned unemployment insurance benefits shall have
 22 said benefit payments subtracted from any refund due that employer if such
 23 employer benefited from the unearned benefit payments.

24 ~~(2)~~ (3) No refund or credit shall be allowed unless an application
 25 therefor is made on or before whichever of the following dates is later:

26 (a) One (1) year from the date on which such payment was made; or

27 (b) Three (3) years from the last day of the calendar quarter with re-
 28 spect to which such payment was made. For a like cause and within the
 29 same period a refund may be so made, or credit allowed, on the initia-
 30 tive of the director. Nothing in this chapter shall be construed to au-
 31 thorize any refund or credit of moneys due and payable under the law and
 32 regulations in effect at the time such moneys were paid.

33 ~~(3)~~ (4) In the event that any application for refund or credit is re-
 34 jected in whole or in part, a written notice of rejection shall be forwarded
 35 to the applicant. Within fourteen (14) days after notice as provided in sec-
 36 tion 72-1368(5), Idaho Code, the applicant may appeal to the director for a
 37 hearing with regard to the rejection, setting forth the grounds for such ap-
 38 peal. Proceedings on the appeal shall be in accordance with the provisions
 39 of section 72-1361, Idaho Code.

40 (5) The department may on its own initiative refund or credit overpay-
 41 ments on employer accounts without written application by the employer.

42 (6) The department may establish a value under which no delinquency,
 43 refund, or credit shall be maintained or issued on the account.

44 SECTION 27. That Section 72-1365, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

1 72-1365. PAYMENT OF BENEFITS. (1) Benefits shall be paid from the em-
2 ployment security fund to any unemployed individual who is eligible for ben-
3 efits as provided by section 72-1366, Idaho Code.

4 (2) Periodically, the department of health and welfare, bureau of child
5 support ~~enforcement~~ services, shall forward to the director a list contain-
6 ing the full name and social security number of persons from whom it is seek-
7 ing child support. The director shall match the names and social security
8 numbers on the list with its records of individuals eligible for benefits,
9 and shall notify the department of health and welfare, bureau of child sup-
10 port ~~enforcement~~ services, of the address and amount of benefits due each in-
11 dividual.

12 (a) Voluntary withholding. The director shall deduct and withhold from
13 any benefits payable to an individual that owes child support obliga-
14 tions as defined under paragraph (g) of this subsection, the amount
15 specified by the individual to the director to be deducted and withheld
16 under this subsection, if paragraph (b) of this subsection ~~below~~ is not
17 applicable.

18 (b) Involuntary withholding. The director shall withhold any bene-
19 fits of any person within the limits established by section 11-207,
20 Idaho Code, upon notification and order by the department of health and
21 welfare, bureau of child support ~~enforcement~~ services, to collect any
22 delinquent child support obligation ~~which that~~ which has been assigned on
23 behalf of any individual to the department of health and welfare under
24 sections 56-203A and 56-203B, Idaho Code, or a child support obligation
25 ~~which that~~ which the department seeks to collect pursuant to chapter 12, title
26 7, Idaho Code. The set-off or withholding of any benefits of a claimant
27 shall become final after the following conditions have been met:

28 (i) The child support payment to be set-off or withheld is a child
29 support obligation established by order as defined in section
30 7-1202, Idaho Code.

31 (ii) All liabilities owed by reason of the provisions of section
32 72-1369, Idaho Code, have been collected by the director.

33 (iii) Notice of the set-off or withholding has been mailed by
34 registered or certified mail from the department of health and
35 welfare, bureau of child support ~~enforcement~~ services, to the
36 claimant-obligor at the address listed on the claim. Within
37 fourteen (14) days after such notice has been mailed (not count-
38 ing Saturday, Sunday, or state holidays as the 14th day), the
39 claimant-obligor may file a protest in writing, requesting a hear-
40 ing before the department of health and welfare to determine his
41 liability to the obligee. The hearing, if requested, shall be held
42 within thirty-five (35) days from the date of the initial notice to
43 the claimant-obligor of the proposed set-off. No issues at that
44 hearing may be considered which have been litigated previously.
45 The department of health and welfare shall issue its findings and
46 decision either at the hearing or within ten (10) days of the hear-
47 ing by mail to the claimant-obligor.

48 ~~(iv)~~ In its decision, the department of health and welfare may
49 order the withholding and set-off of any subsequent benefits which
50 may be due the claimant-obligor until the debt for which set-off

1 is sought and any additional debts ~~which that~~ are incurred by the
 2 claimant's failure to make additional periodic payments based
 3 ~~upon on~~ the same court order are satisfied.

4 (c) Any amount deducted and withheld under paragraph (a) or (b) of this
 5 subsection shall be paid by the director to the appropriate state or lo-
 6 cal child support enforcement services agency.

7 (d) Any amount deducted and withheld under paragraph (a) or (b) of this
 8 subsection shall for all purposes be treated as if it were paid to the
 9 individual as benefits and paid by such individual to the state or local
 10 child support enforcement services agency in satisfaction of the indi-
 11 vidual's child support obligations.

12 (e) For purposes of paragraphs (a) through (d) of this subsection, the
 13 term "benefits" means any compensation payable under this chapter, in-
 14 cluding amounts payable by the director pursuant to an agreement under
 15 any federal law providing for compensation, assistance, or allowances
 16 with respect to unemployment.

17 (f) This section applies only if appropriate arrangements have been
 18 made for reimbursement by the state or local child support enforcement
 19 services agency for the administrative costs incurred by the director
 20 under the provisions of this section ~~which that~~ are attributable to
 21 child support obligations being enforced by the state or local child
 22 support enforcement services agency.

23 (g) The term "child support obligation" is defined for the purposes of
 24 these provisions as including only an obligation ~~which that~~ is being en-
 25 forced pursuant to a plan described in section 454 of the social secu-
 26 rity act ~~which that~~ has been approved by the secretary of health and hu-
 27 man services under part D of title IV of the social security act.

28 (h) The term "state or local child support enforcement services agency"
 29 as used in these provisions means any agency of this state or a political
 30 subdivision thereof operating pursuant to a plan described in paragraph
 31 (g) of this subsection.

32 (3) Benefits shall be paid only to the extent that moneys are available
 33 for such payments in the employment security fund.

34 (4) Benefits shall be paid not less frequently than biweekly.

35 (5) Upon request, the department of health and welfare, bureau of child
 36 support enforcement services, shall make the procedures established in this
 37 section for collecting child support available to county prosecuting attor-
 38 neys. The provisions of this subsection apply only if appropriate arrange-
 39 ments have been made for reimbursement by the requesting prosecuting attor-
 40 ney for the administrative costs incurred by the bureau, which are attribut-
 41 able to the request.

42 (6) (a) An individual filing a new claim for benefits shall, at the time
 43 of filing such claim, be advised that:

44 (i) Benefits are subject to federal and state tax and require-
 45 ments exist pertaining to estimated tax payments;

46 (ii) The individual may elect to have federal income tax deducted
 47 and withheld from the individual's benefits at the amount speci-
 48 fied in the federal ~~internal revenue code~~; Internal Revenue Code;
 49 and

- 1 (iii) The individual ~~shall be permitted to~~ may change a previously
 2 elected withholding status at least once during each benefit year.
- 3 (b) Amounts deducted and withheld from benefits shall remain in the
 4 ~~unemployment~~ employment security fund until transferred to the taxing
 5 authority as a payment of income tax.
- 6 (c) The director shall follow all procedures specified by the United
 7 States department of labor and the federal internal revenue service
 8 pertaining to the deducting and withholding of income tax.
- 9 (d) Amounts shall not be deducted and withheld under this subsection
 10 until the following deductions are made and withheld in the following
 11 order:
- 12 (i) First, amounts owed for overpayments of benefits deducted
 13 and withheld pursuant to the provisions of section 72-1369, Idaho
 14 Code;
- 15 (ii) Second, amounts owed for child support obligations deducted
 16 and withheld pursuant to the provisions of subsection (2) of this
 17 section.
- 18 (e) At the director's discretion, the director may promulgate rules al-
 19 lowing individuals to elect to have state income tax deducted and with-
 20 held from the individual's payment of benefits.

21 SECTION 28. That Section 72-1366, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 72-1366. PERSONAL ELIGIBILITY CONDITIONS. The personal eligibility
 24 conditions of a benefit claimant are that:

25 (1) The claimant shall have made a claim for benefits, ~~and~~ provided all
 26 necessary information pertinent to eligibility, ~~and demonstrated that he is~~
 27 eligible for benefits and not disqualified; except that in the case of dis-
 28 charges from employment, the employer shall have the burden of demonstrating
 29 the discharge was for workplace misconduct.

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

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

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

37 (i) Able to work~~;~~

38 (ii) ~~a~~Available for suitable work~~;~~ ~~and;~~

39 (iii) Actively seeking work by conducting no fewer than five (5)
 40 work search actions per week; provided, however, that no claimant
 41 shall be considered ineligible for failure to comply with the pro-
 42 visions of this ~~subsection~~ paragraph if:

43 1. Such failure is due to a claimant's illness or disabil-
 44 ity of no more than four (4) weeks that arises after filing
 45 a claim, provided that during such illness or disability,
 46 the claimant does not refuse or miss suitable work that
 47 would have provided wages greater than one-half (1/2) of the
 48 claimant's weekly benefit amount; or

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

7 ~~(ii)~~ (iv) Living in a state, territory, or country that is in-
 8 cluded in the interstate benefit payment plan or that is a party to
 9 an agreement with the United States or the director with respect to
 10 unemployment insurance.

11 (b) An action shall be considered an acceptable work search action pur-
 12 suant to paragraph (a) of this subsection if it consists of one (1) or
 13 more of the following actions in any week:

- 14 (i) Completing an online or in-person job search workshop;
- 15 (ii) Completing a job search assessment, including but not lim-
 16 ited to a personality, skills, or interests assessment;
- 17 (iii) Completing career direction research or work such as a job
 18 search plan or job search counseling;
- 19 (iv) Completing job search branding and marketing activities such
 20 as completing a resume, cover letter, master application, eleva-
 21 tor pitch, LinkedIn profile, or uploading a completed resume to a
 22 job board allowing visibility to employers;
- 23 (v) Completing an online or in-person mock interview;
- 24 (vi) Taking a civil service exam;
- 25 (vii) Submitting a resume to an employer;
- 26 (viii) Completing and submitting a job application to an employer;
- 27 (ix) Attending and completing an interview or skills test with an
 28 employer; or
- 29 (x) Attending a job fair.

30 (c) If a claimant who is enrolled in an approved job training course
 31 pursuant to subsection (8) of this section fails to attend or otherwise
 32 participate in the job training course during any week with respect to
 33 which he claims benefits or credit to his waiting period, the claimant
 34 shall be ineligible for that week if he was not able to work nor avail-
 35 able for suitable work, to be determined as follows: The claimant shall
 36 be ineligible unless he is making satisfactory progress in the training
 37 and his failure to attend or otherwise participate was due to:

- 38 (i) The claimant's illness or disability that occurred after he
 39 had filed a claim and the claimant missed fewer than one-half (1/2)
 40 of the classes available to him that week; or
- 41 (ii) Compelling personal circumstances, provided that the
 42 claimant missed fewer than one-half (1/2) of the classes available
 43 to him that week.

44 (d) A claimant shall not be denied regular unemployment benefits under
 45 any provision of this chapter relating to availability for work, active
 46 search for work or refusal to accept work solely because the claimant is
 47 seeking only part-time work if the department determines that a major-
 48 ity of the weeks of work in the claimant's base period were for less than
 49 full-time work. For the purpose of this subsection, "seeking only part-
 50 time work" is defined as seeking work that has comparable hours to the

1 claimant's part-time work experience in the base period, except that a
 2 claimant must be available for at least twenty (20) hours of work per
 3 week.

4 (e) A claimant must seek work as directed by the department. A claimant
 5 must meet the requirements of the code to which the claimant is as-
 6 signed. Failure to comply with work-seeking requirements will result
 7 in a denial of benefits. For the purpose of administering the work
 8 search requirements of this subsection and subsection (6) of this
 9 section, a claimant will be coded according to his attachment to an em-
 10 ployer or industry, as follows:

11 (i) Attached. A claimant who has a firm attachment to an em-
 12 ployer, industry, or union, or who is temporarily or seasonally
 13 unemployed, and expects to return to his former job or employer
 14 in a reasonable length of time not to exceed sixteen (16) weeks,
 15 provided the claimant maintains reasonable contact with his em-
 16 ployer. If during the sixteen (16) weeks the claimant returns to
 17 work temporarily for the job attached employer, the claimant's
 18 period of job attachment will be extended by one (1) week for each
 19 week of verified full-time employment as defined by this chapter;

20 (ii) Work-seeking. A claimant who possesses marketable skills in
 21 an occupation, but has no immediate prospects for reemployment,
 22 and whose employment expectations, wages, hours, and other condi-
 23 tions of employment are realistic in relation to the normal labor
 24 market supply and demand in his area of availability; or

25 (iii) Approved training. A claimant who is assigned to a training
 26 course under the provisions of subsection (8) of this section.

27 (f) A claimant must provide or be capable of obtaining a license or per-
 28 mit if required by law for performance of the work.

29 (g) A claimant must apply for and accept a lower or beginning pay rate
 30 for employment if he has no prospects for a better-paying job in the lo-
 31 cality.

32 (h) A claimant who is regularly employed on a seasonal basis must be
 33 available for other types of work in the off-season to be eligible for
 34 benefits.

35 (5) (a) The claimant's unemployment is not due to the claimant voluntar-
 36 ily leaving employment without good cause connected with the claimant's
 37 employment or because of the claimant's discharge for workplace miscon-
 38 duct in connection with the claimant's employment.

39 (b) The requirement that good cause for a voluntary leaving of employ-
 40 ment be in connection with employment does not apply and good cause is
 41 shown where a claimant demonstrates that:

42 ~~(a)~~ (i) The leaving was necessary to protect the claimant or any
 43 minor child of the claimant from domestic violence or the leaving
 44 was due to domestic violence that caused the claimant to rea-
 45 sonably believe that the claimant's continued employment would
 46 jeopardize the safety of the claimant or any minor child of the
 47 claimant; and (ii) The claimant made all reasonable efforts to
 48 preserve the employment; or

49 ~~(b)~~ (ii) The claimant is a military spouse who voluntarily
 50 left the claimant's most recent employment to relocate with the

1 claimant's spouse who, because of a permanent change of station
 2 orders, was required to move to a location from which the commute
 3 to the claimant's most recent employment was impractical, but
 4 only if, before leaving, the claimant took reasonable actions to
 5 maintain the employment relationship through accommodation dis-
 6 cussions with the claimant's employer-; or
 7 (iii) The claimant quit a temporary job for a permanent job or quit
 8 part-time employment for employment with an increase in the number
 9 of hours worked.

10 (c) The following definitions apply to this subsection:

11 (i) "Domestic violence" is as defined in section 39-6303, Idaho
 12 Code, and also includes the crime of stalking in the second degree
 13 pursuant to section 18-7906, Idaho Code;

14 (ii) "Military spouse" means the spouse of a member of the armed
 15 forces of the United States or a reserve component of the armed
 16 forces of the United States stationed in this state in accordance
 17 with military orders or stationed in this state before a reassign-
 18 ment to duties outside this state; and

19 (iii) "Permanent change of station orders" means the assignment,
 20 reassignment, or transfer of a member of the armed forces of the
 21 United States or a reserve component of the armed forces of the
 22 United States from the member's present duty station or location
 23 without return to the previous duty station or location.

24 (d) Good cause connected with employment exists when a claimant's rea-
 25 sons for leaving the employment arise from the working conditions, job
 26 tasks, or employment agreement. If the claimant's reasons for leaving
 27 the employment arise from personal or other matters unrelated to em-
 28 ployment, the reasons are not connected with the claimant's employment.

29 (i) The standard of what constitutes good cause is the standard
 30 of reasonableness as applied to the average adult. Whether good
 31 cause is present depends on whether a reasonable person would con-
 32 sider the circumstances resulting in the claimant's unemployment
 33 to be real, substantial, and compelling.

34 (ii) A claimant who leaves a job because of a reasonable and seri-
 35 ous objection to the work requirements of the employer on moral or
 36 ethical grounds and is otherwise eligible shall not be denied ben-
 37 efits.

38 (iii) A claimant whose unemployment is due to his health or physi-
 39 cal condition that makes it impossible for him to continue to per-
 40 form the duties of the job shall be deemed to have quit work with
 41 good cause connected with employment.

42 (iv) An individual who has continuing suitable work available and
 43 who voluntarily elects to retire or to terminate employment during
 44 a period of reorganization or downsizing shall be deemed to have
 45 voluntarily quit the employment for personal reasons.

46 (v) The eligibility of a claimant discharged before a pending
 47 resignation has occurred for reasons unrelated to the pending res-
 48 ignation shall be determined on the basis of the discharge.

49 (vi) If a claimant had given notice of a pending resignation but
 50 was discharged before the effective date of the resignation, both

1 separations shall be considered. The following three (3) elements
2 must be present for both actions to affect the claimant's eligi-
3 bility:

4 1. The employee gave notice to the employer of a specific
5 separation date;

6 2. The employer's decision to discharge the claimant before
7 the effective date of the resignation was a consequence of
8 the pending separation; and

9 3. The discharge occurred a short time prior to the effec-
10 tive date of the resignation.

11 (vii) Good cause for quitting employment may be established by
12 showing the claimant was subjected to harassment that is unlawful
13 pursuant to the provisions of chapter 59, title 67, Idaho Code.

14 (e) If a claimant has resigned after receiving a notice of discharge or
15 lay off due to a lack of work, but before the effective date of the dis-
16 charge, both separations shall be considered. The following three (3)
17 elements must be present for both actions to affect the claimant's eli-
18 gibility:

19 (i) The employee was given notice by the employer of a specific
20 separation date;

21 (ii) The employee's decision to quit before the effective date of
22 the termination was a consequence of the pending separation; and

23 (iii) The voluntary quit occurred a short time prior to the effec-
24 tive date of the termination.

25 (f) A claimant who has been suspended without pay for an indefinite pe-
26 riod of time and who has not been given a date to return to work shall be
27 considered discharged.

28 (6) (a) The claimant's unemployment is not due to his failure without
29 good cause to apply for available suitable work or to accept suitable
30 work within seven (7) days of when it is offered to him, unless a con-
31 dition specified in subsection (8) of this section applies or the job
32 offered does not constitute suitable employment pursuant to the pro-
33 visions of subsection (9) of this section. A claimant has the respon-
34 sibility to apply for and accept suitable work. The longer a claimant
35 has been unemployed, the more willing he must be to seek other types
36 of work and accept work at a lower rate of pay. Failure to appear for a
37 previously scheduled job interview without notifying the employer of
38 the need to cancel or reschedule shall constitute a failure to apply for
39 suitable work for that week.

40 (b) The department shall establish an email address and web portal that
41 allows employers to report suspected violations of this subsection. As
42 part of its regular communication with employers, the department shall
43 at least annually inform employers of the email address and web portal
44 described in this subsection and the mechanism to report suspected vio-
45 lations.

46 (c) For the purposes of paragraph (a) of this subsection, a good cause
47 reason for not applying for available and suitable work or responding to
48 an offer of suitable employment shall be found only if the claimant is
49 ill, injured, or delayed by reason of an accident or medical emergency
50 involving the claimant or a member of the claimant's immediate family.

1 (d) To have good cause to refuse to apply for or accept available suit-
 2 able work because of personal circumstances, a claimant must show that
 3 his circumstances were so compelling that a reasonably prudent individ-
 4 ual would have acted in the same manner under the same circumstances.
 5 For purposes of paragraph (a) of this subsection, good cause includes
 6 but is not limited to circumstances where:

7 (i) The work would require the claimant to work on days contrary
 8 to his religious convictions;

9 (ii) The claimant has reasonable, serious objections to the work
 10 or the workplace on moral or ethical grounds;

11 (iii) The claimant has excellent prospects for more suitable work
 12 with his former employer or in his regular occupation;

13 (iv) The claimant is unable to meet an employer's restrictions on
 14 citizenship or residency;

15 (v) The travel distance to available work is excessive or unrea-
 16 sonable. A claimant is ineligible if he fails to apply for and ac-
 17 cept suitable work within a commuting area similar to other work-
 18 ers in his area and occupation; and

19 (vi) The claimant cannot meet government requirements within a
 20 reasonable period of time.

21 (e) A claimant shall be ineligible for benefits if:

22 (i) The claimant causes an employer to withdraw an offer of suit-
 23 able work or terminate the offer after the claimant has accepted
 24 it;

25 (ii) The claimant fails without good cause to comply with rea-
 26 sonable, lawful requirements that are typical of certain occupa-
 27 tions, such as a requirement that a worker be bonded;

28 (iii) The claimant, after being laid off, fails to return to work
 29 on the date specified by the employer at the time of layoff or fails
 30 to respond to a callback after a layoff; and

31 (iv) The claimant fails to report to the department when so di-
 32 rected, fails to follow explicit instructions for applying for
 33 available suitable work, or fails to report to work after accept-
 34 ing employment, without good cause.

35 (f) A claimant must be available for and willing to accept suitable
 36 part-time work in the absence of suitable full-time work.

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

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

47 (b) If the wages, hours, or other conditions of the work offered are
 48 below those prevailing for similar work in the locality of the work of-
 49 fered;

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

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

7 (a) The claimant is a participant in a program sponsored by title I of
8 the workforce innovation and opportunity act (29 U.S.C. 3101 et seq., as
9 amended) and attends a job training course under that program; or

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

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

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

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

22 (9) No claimant who is otherwise eligible shall be denied benefits
23 under subsection (5) of this section for leaving employment to attend job
24 training pursuant to subsection (8) of this section, provided that the
25 claimant obtained the employment after enrollment in or during scheduled
26 breaks in the job training course or that the employment was not suitable.
27 For purposes of this subsection, the term "suitable employment" means work
28 of a substantially equal or higher skill level than the individual's past
29 employment and wages for such work are no less than eighty percent (80%) of
30 the average weekly wage in the individual's past employment.

31 (10) (a) A claimant shall not be eligible to receive benefits for any
32 week with respect to which it is found that his unemployment is due to a
33 labor dispute; provided, that this subsection shall not apply if it is
34 shown that:

35 ~~(a)~~ (i) The claimant is not participating, financing, aiding,
36 abetting, or directly interested in the labor dispute; and

37 ~~(b)~~ (ii) The claimant does not belong to a grade or class of work-
38 ers with members who are employed at the premises at which the la-
39 bor dispute occurs and who are participating in or directly inter-
40 ested in the dispute.

41 (b) For purposes of this section, "labor dispute" means a controversy
42 with respect to wages, hours, working conditions, or right of represen-
43 tation affecting the work or employment of a number of individuals em-
44 ployed for hire that results in a deadlock or impasse between the con-
45 tending parties.

46 (c) A claimant may not be denied benefits because of a labor dispute
47 if the dispute is not in any way directly connected with the factory,
48 establishment, or premises at which the individual is or was last em-
49 ployed.

1 (d) A claimant's unemployment shall be deemed to be due to lack of work
2 and not due to a labor dispute if it is shown that because of the labor
3 dispute the employer's business has fallen off to the extent that the
4 employer can no longer utilize the services of the claimant due to the
5 drop in business.

6 (e) A claimant laid off because of lack of work from an employer where a
7 labor dispute later occurred shall not be considered unemployed due to
8 the labor dispute.

9 (f) The period of ineligibility under this section applies for the
10 whole of any week in which any part of a claimant's unemployment is due
11 to a labor dispute.

12 (g) The act of picketing the work site of a labor dispute constitutes
13 participation in the labor dispute, whether or not payment is made for
14 such services.

15 (h) Voluntary refusal to cross a peaceable picket line to work consti-
16 tutes participation in a labor dispute.

17 (i) Subsequent employment does not make the claimant eligible for ben-
18 efits if his unemployment is still due to the labor dispute. As long as
19 the claimant intends to return to the employer where the labor dispute
20 exists, his unemployment shall be considered due to the labor dispute
21 regardless of any intervening employment.

22 (j) The period of ineligibility due to the labor dispute terminates at
23 the end of the calendar week in which the labor dispute no longer exists.
24 The termination of the dispute does not automatically make a claimant
25 eligible for benefits.

26 (k) The fact that an individual is a dues-paying union member alone does
27 not constitute financing a labor dispute, and the fact that he is not a
28 union member does not establish that he is not financing or participat-
29 ing in the dispute.

30 (11) A claimant shall not be entitled to benefits for any week with re-
31 spect to which or a part of which he has received or is seeking benefits un-
32 der an unemployment insurance law of another state or of the United States;
33 provided, that if the appropriate agency of such other state or of the United
34 States shall finally determine that he is not entitled to such unemployment
35 compensation or insurance benefits, he shall not by the provisions of this
36 subsection be denied benefits. For purposes of this section, a law of the
37 United States providing any payments of any type and in any amounts for pe-
38 riods of unemployment due to involuntary unemployment shall be considered an
39 unemployment insurance law of the United States.

40 (12) A claimant shall not be entitled to benefits for a period of
41 fifty-two (52) weeks if it is determined that he has willfully made a false
42 statement or willfully failed to report a material fact in order to obtain
43 benefits. The period of disqualification shall commence the week the deter-
44 mination is issued. The claimant shall also be ineligible for waiting week
45 credit and shall repay any sums received for any week for which the claimant
46 received waiting week credit or benefits as a result of having willfully
47 made a false statement or willfully failed to report a material fact. The
48 claimant shall also be ineligible for waiting week credit or benefits for any
49 week in which he owes the department an overpayment, civil penalty, or inter-

1 est resulting from a determination that he willfully made a false statement
2 or willfully failed to report a material fact.

3 (13) A claimant shall not be entitled to benefits if his principal oc-
4 cupation is self-employment. A claimant who performs incidental work in
5 self-employment shall show that self-employment does not interfere with his
6 availability for suitable work and that he continues to seek suitable work.

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

12 (15) Benefits based on service in employment defined in sections
13 72-1349A and 72-1352(3), Idaho Code, shall be payable in the same amount, on
14 the same terms and subject to the same conditions as benefits payable on the
15 basis of other service subject to this act.

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

21 (b) If the services performed during less than one-half (1/2) of any
22 contract period by an individual for an educational institution are in
23 an instructional, research, or principal administrative capacity, none
24 of the services shall be deemed to be in such capacity.

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

28 (16) No claimant is eligible to receive benefits in two (2) successive
29 benefit years unless, after the beginning of the first benefit year during
30 which he received benefits, he performed service and earned an amount equal
31 to no less than six (6) times the weekly benefit amount established during
32 the first benefit year.

33 (17)(a) Benefits based on wages earned for services performed in an
34 instructional, research, or principal administrative capacity for an
35 educational institution shall not be paid for any week of unemployment
36 commencing during the period between two (2) successive academic years,
37 or during a similar period between two (2) terms whether or not succes-
38 sive, or during a period of paid sabbatical leave provided for in the
39 individual's contract, to any individual who performs such services in
40 the first academic year (or term) and has a contract to perform services
41 in any such capacity for any educational institution in the second aca-
42 demic year or term or has been given reasonable assurance that such a
43 contract will be offered.

44 (b) Benefits based on wages earned for services performed in any other
45 capacity for an educational institution shall not be paid to any indi-
46 vidual for any week that commences during a period between two (2) suc-
47 cessive school years or terms if the individual performs such services
48 in the first school year or term and there is a contract or reasonable
49 assurance that the individual will perform such services in the second
50 school year or term. If benefits are denied to any individual under this

1 paragraph and the individual was not offered an opportunity to perform
2 such services for the educational institution for the second academic
3 year or term, the individual shall be entitled to a retroactive payment
4 of benefits for each week for which the individual filed a timely claim
5 for benefits and for which benefits were denied solely by reason of this
6 paragraph.

7 (c) With respect to any services described in paragraphs (a) and (b)
8 of this subsection, benefits shall not be paid nor waiting week credit
9 given to an individual for wages earned for services for any week that
10 commences during an established and customary vacation period or holi-
11 day recess if the individual performed the services in the period imme-
12 diately before the vacation period or holiday recess and there is a rea-
13 sonable assurance the individual will perform such services in the pe-
14 riod immediately following such vacation period or holiday recess.

15 (d) With respect to any services described in paragraphs (a) and (b) of
16 this subsection, benefits shall not be payable on the basis of services
17 in any capacities specified in paragraphs (a), (b) and (c) of this sub-
18 section to any individual who performed such services in an educational
19 institution while in the employ of an educational service agency. For
20 purposes of this paragraph, the term "educational service agency" means
21 a governmental entity that is established and operated exclusively for
22 the purpose of providing such services to one (1) or more educational
23 institutions.

24 (e) "Reasonable assurance" of continuing employment exists when an ed-
25 ucational institution or service agency provides a written statement to
26 the department confirming that the claimant has been given a bona fide
27 offer of a specific job in the second academic period and explaining the
28 circumstances of the offer. In addition, for such reasonable assurance
29 to exist, the terms and conditions of the job offered in the second pe-
30 riod must not be substantially less favorable than the terms and condi-
31 tions of the job performed in the first period.

32 (f) A claimant who initially was determined not to have a reasonable
33 assurance of continuing employment shall subsequently become disquali-
34 fied for benefits under this section when an educational institution or
35 service agency gives the claimant such reasonable assurance.

36 (g) A claimant seeking retroactive payments pursuant to paragraph (b)
37 of this subsection must make a request for the retroactive payment with
38 the department no later than thirty (30) days after the beginning of the
39 second school year or term or retroactive payment will not be made.

40 (h) Employees of educational institutions hired under contract for the
41 school term are considered unemployed between school terms even though
42 they may receive their salary in twelve (12) monthly payments.

43 (18) (a) Benefits shall not be payable on the basis of services that
44 substantially consist of participating in sports or athletic events or
45 training or preparing to participate for any week that commences during
46 the period between two (2) successive sport seasons ~~(or similar peri-~~
47 ~~ods)~~ if the individual performed services in the first season ~~(or simi-~~
48 ~~lar period)~~ and there is a reasonable assurance that the individual will
49 perform such services in the later of such seasons or similar period.

1 (b) No base period wages shall be used to establish a claim when sub-
 2 stantially all services performed during the base period consist of
 3 participation in sports, athletic events, training, or preparing to so
 4 participate, for any week that commences during the period between two
 5 (2) successive sport seasons or similar periods if the individual per-
 6 formed such services in the first season or similar period and there is a
 7 reasonable assurance that the individual will perform such services in
 8 the later of such seasons or similar periods.

9 (c) For purposes of this subsection, "reasonable assurance" does not
 10 exist unless:

11 (i) The claimant has a contract, either written or oral;

12 (ii) The claimant offered to work and the employer expressed an
 13 interest in hiring the player for the next season or similar pe-
 14 riod; or

15 (iii) The claimant expresses a readiness and willingness or in-
 16 tent to participate in the sport the following season or similar
 17 period.

18 (d) Reasonable assurance exists if the claimant intends to pursue em-
 19 ployment as a professional athlete the next season despite not having a
 20 specific employer to return to or a formal offer of employment.

21 (e) An individual is deemed to have performed "substantially all ser-
 22 vices" in sports, athletic events, training, or preparing to so partic-
 23 ipate if ninety percent (90%) or more of the base period wages were based
 24 on such services.

25 (19) (a) Benefits shall not be payable on the basis of services performed
 26 by an alien unless the alien was lawfully admitted for permanent resi-
 27 dence at the time such services were performed, was lawfully present for
 28 purposes of performing such services, or was permanently residing in
 29 the United States under color of law at the time the services were per-
 30 formed (including an alien who was lawfully present in the United States
 31 as a result of the application of the provisions of sections 207 and 208
 32 or section 212(d) (5) of the immigration and nationality act).

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

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

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

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

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

45 (21) (a) A claimant:

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

48 (ii) Who, at the time of hire by the staffing service, signed a
 49 written notice informing him that completion or termination of an

1 assignment for a customer would not, of itself, terminate the em-
2 ployment relationship with the staffing service;
3 will not be considered unemployed upon completion or termination of an
4 assignment until such time as he contacts the staffing service to deter-
5 mine if further suitable work is available. If the claimant:

- 6 1. Contacts the staffing service and refuses a suitable work
7 assignment that is offered to him at that time, he will be
8 considered to have voluntarily quit that employment; or
- 9 2. Contacts the staffing service and the service does not
10 have a suitable work assignment for him, he will be consid-
11 ered unemployed due to a lack of work; or
- 12 3. Accepts new employment without first contacting the
13 staffing service for additional work, he will be considered
14 to have voluntarily quit employment with the staffing ser-
15 vice.

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

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

25 (i) The claimant is unemployed;

26 (ii) The claimant has exhausted all rights to regular unem-
27 ployment benefits as defined in section 72-1367A(1) (e), Idaho
28 Code, and all rights to extended benefits as defined in section
29 72-1367A(1) (f), Idaho Code, and all rights to benefits under sec-
30 tion 2002 (increase in unemployment compensation benefits) of
31 division B, title II, the assistance for unemployed workers and
32 struggling families act, of the American recovery and reinvest-
33 ment act of 2009, P.L. 111-5, as enacted on February 17, 2009;

34 (iii) The claimant is enrolled in a training program approved by
35 the department or in a job training program authorized under the
36 workforce innovation and opportunity act; except that the train-
37 ing program must prepare the claimant for entry into a high-demand
38 occupation if the department determines that the claimant separ-
39 ated from a declining occupation or has been involuntarily and
40 indefinitely separated from employment as a result of a permanent
41 reduction of operations at the claimant's place of employment.
42 For the purposes of this subsection, a "declining occupation"
43 is one where there is a lack of sufficient current demand in the
44 claimant's labor market area for the occupational skills for which
45 the claimant is qualified by training and experience or current
46 physical or mental capacity and the lack of employment opportuni-
47 ties is expected to continue for an extended period of time, or the
48 claimant's occupation is one for which there is a seasonal vari-
49 ation in demand in the labor market and the claimant has no other
50 skills for which there is current demand. For the purposes of this

1 subsection, a "high-demand occupation" is an occupation in a labor
 2 market area where work opportunities are available and qualified
 3 applicants are lacking as determined by the use of available labor
 4 market information;

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

7 (v) The claimant is not receiving similar stipends or other train-
 8 ing allowances for nontraining costs. For the purposes of this
 9 subsection, "similar stipend" means an amount provided under a
 10 program with similar aims, such as providing training to increase
 11 employability, and in approximately the same amounts.

12 (b) The weekly training extension benefit amount shall equal the
 13 claimant's weekly benefit amount for the most recent benefit year less
 14 any deductible income as determined by the provisions of this chapter.
 15 The total amount of training extension benefits payable to a claimant
 16 shall be equal to twenty-six (26) times the claimant's average weekly
 17 benefit amount for the most recent benefit year. A claimant who is
 18 receiving training extension benefits shall not be denied training ex-
 19 tension benefits due to the application of subsections (4) (a) (i) and
 20 (6) of this section, and an employer's account shall not be charged for
 21 training extension benefits paid to the claimant.

22 SECTION 29. That Section 72-1367, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 72-1367. BENEFIT FORMULA. (1) To be eligible an individual shall have
 25 the minimum qualifying amount of wages in covered employment in at least one
 26 (1) calendar quarter of his base period, and shall have total base period
 27 wages of at least one and one-quarter (1 1/4) times his high quarter wages.
 28 The minimum qualifying amount of wages shall be determined each January 1 and
 29 shall equal fifty percent (50%) of the product of the state minimum wage, as
 30 defined by section 44-1502, Idaho Code, multiplied by five hundred twenty
 31 (520) hours, rounded to the lowest multiple of twenty-six (26).

32 (2) The weekly benefit amount shall be one twenty-sixth (1/26) of high-
 33 est quarter wages except that it shall not exceed the applicable maximum
 34 weekly benefit amount. The maximum weekly benefit amount shall be estab-
 35 lished by the director, who shall determine the state average weekly wage
 36 paid by covered employers for the preceding calendar year and the maximum
 37 weekly benefit amount to be effective for new claims filed in the first full
 38 week of the following January and filed thereafter until a new maximum weekly
 39 benefit amount becomes effective under this subsection. The average weekly
 40 wage shall be computed by dividing the total wages paid in covered employ-
 41 ment, including state government and cost reimbursement employers, for the
 42 preceding calendar year, as computed from data reported to the department
 43 by covered employers, by the monthly average number of workers in covered
 44 employment for the preceding calendar year and then dividing the result-
 45 ing figure by fifty-two (52). The maximum weekly benefit amount shall be
 46 fifty-five percent (55%) of the state average weekly wage paid by covered
 47 employers for the preceding calendar year.

48 (3) Any eligible individual shall be entitled during any benefit year
 49 to a total amount of benefits equal to his weekly benefit amount times the

1 number of full weeks of benefit entitlement appearing in the following table
2 based on his ratio of total base period earnings to highest quarter base pe-
3 riod earnings. The maximum weeks of entitlement are based on a sliding scale
4 of the official forecasted, seasonally adjusted unemployment rate for the
5 state for a minimum of ten (10) weeks to a maximum of twenty-six (26) weeks
6 depending on the unemployment rate in effect for the months of February, May,
7 August and November as follows:

8 (a) For any benefit week commencing in January through March of a calen-
9 dar year, the maximum allowed number of benefit weeks shall be based on
10 the unemployment rate for the preceding month of November;

11 (b) For any benefit week commencing in April through June of a calendar
12 year, the maximum allowed number of benefit weeks shall be based on the
13 unemployment rate for the preceding month of February;

14 (c) For any benefit week commencing in July through September of a cal-
15 endar year, the maximum allowed number of benefit weeks shall be based
16 on the unemployment rate for the preceding month of May; and

17 (d) For any benefit week commencing in October through December of a
18 calendar year, the maximum allowed number of benefit weeks shall be
19 based on the unemployment rate for the preceding month of August.

	Ratio of Total Base Period Earnings to Highest Quarter Earnings		Full Weeks of Benefit Entitlement Adjusted By the Unemployment Rate						
	At Least	Up To	8% or Higher	7% to 7.9%	6% to 6.9%	5% to 5.9%	4% to 4.9%	3% to 3.9%	2.9% or Lower
1									
2									
3									
4									
5									
6									
7									
8	1.25	1.60	10	10	10	10	10	10	10
9	1.6001	1.80	11	10	10	10	10	10	10
10	1.8001	1.92	12	11	10	10	10	10	10
11	1.9201	2.01	13	12	11	10	10	10	10
12	2.0101	2.08	14	13	12	11	10	10	10
13	2.0801	2.14	15	14	13	12	11	10	10
14	2.1401	2.21	16	15	14	13	12	11	10
15	2.2101	2.29	17	16	15	14	13	12	11
16	2.2901	2.38	18	17	16	15	14	13	12
17	2.3801	2.49	19	18	17	16	15	14	13
18	2.4901	2.61	20	19	18	17	16	15	14
19	2.6101	2.75	21	20	19	18	17	16	15
20	2.7501	2.91	22	21	20	19	18	17	16
21	2.9101	3.10	23	22	21	20	19	18	17
22	3.1001	3.32	24	23	22	21	20	19	18
23	3.3201	3.56	25	24	23	22	21	20	19
24	3.5601	4.00	26	25	24	23	22	21	20

1 (4) If the total wages payable to an individual for less than full-time
 2 work performed in a week claimed exceed one-half (1/2) of his weekly benefit
 3 amount, the amount of wages that exceed one-half (1/2) of the weekly benefit
 4 amount shall be deducted from the benefits payable to the claimant. For pur-
 5 poses of this subsection, severance pay shall be deemed wages, even if the
 6 claimant was required to sign a release of claims as a condition of receiving
 7 the pay from the employer. "Severance pay" means a payment or payments made
 8 to a claimant by an employer as a result of the severance of the employment
 9 relationship.

10 (5) Benefits payable to an individual shall be rounded to the next lower
 11 full dollar amount.

12 SECTION 30. That Section 72-1367A, Idaho Code, be, and the same is
 13 hereby amended to read as follows:

14 72-1367A. EXTENDED BENEFITS. The extended benefits program shall be
 15 administered pursuant to the provisions of this section.

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

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

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

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

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

25 2. The thirteenth consecutive week of such period;

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

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

34 1. Equalled or exceeded one hundred twenty percent (120%)
 35 of the average of such rates for the corresponding thirteen
 36 (13) week period ending in each of the preceding two (2) cal-
 37 endar years and equalled or exceeded five percent (5%); or

38 2. Equalled or exceeded six percent (6%).

39 (ii) With respect to weeks of unemployment beginning on or after
 40 February 1, 2009, and ending four (4) weeks prior to the last week
 41 for which federal sharing is authorized by section 2005(a) ("full
 42 federal funding of extended unemployment compensation for a lim-
 43 ited period") of division B, title II, the assistance for unem-
 44 ployed workers and struggling families act, of the American recov-
 45 ery and reinvestment act of 2009, P.L. 111-5, as amended, there is
 46 a state "on" indicator for any week if the director determines, in
 47 accordance with the regulations of the United States secretary of
 48 labor that:

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

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

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

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

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

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

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

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

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

46 (ii) The average monthly employment covered under this chapter
 47 for the first four (4) of the most recent six (6) completed calen-
 48 dar quarters ending before the end of such thirteen (13) week pe-
 49 riod.

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

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

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

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

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

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

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

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

49 (j) For purposes of this section only, the term "suitable work" means,
50 with respect to any individual, any work which is within such individ-

1 ual's capabilities; except that, if the individual furnishes evidence
2 satisfactory to the department that such individual's prospects for ob-
3 taining work in his customary occupation within a reasonably short pe-
4 riod are good, the determination of whether any work is suitable work
5 with respect to such individual shall be made in accordance with appli-
6 cable state law. Satisfactory evidence includes but is not limited to:

7 (i) A letter signed by a prospective employer giving assurances
8 of work within the next four (4) weeks; or

9 (ii) A verifiable, written statement by the claimant that he will
10 have work within the next four (4) weeks.

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

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

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

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

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

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

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

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

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

46 1. Begins with the week following the week in which such
47 failure occurs; and

48 2. Does not end until such individual has been employed dur-
49 ing at least four (4) weeks which begin after such failure
50 and the total of the remuneration earned by the individual

1 for being so employed is not less than the product of four
 2 (4) multiplied by the individual's average weekly benefit
 3 amount. Remuneration earned must be in employment where an
 4 employee-employer relationship exists to satisfy requali-
 5 fication requirements for extended benefits.

6 (iii) Extended benefits shall not be denied under subsection
 7 (3) (d) (i) 1. of this section to any individual for any week by rea-
 8 son of a failure to accept an offer of, or apply for, suitable work:

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

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

15 (B) The amount, if any, of supplemental unemploy-
 16 ment compensation benefits, as defined in section
 17 501(c) (17) (D) of the Internal Revenue Code of 1954,
 18 payable to such individual for such week.

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

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

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

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

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

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

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

34 2. The individual provides tangible evidence to the depart-
 35 ment that he has engaged in such an effort during such week.

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

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

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

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

47 (b) Paragraph (a) of this subsection shall not apply with respect to the
 48 first two (2) weeks for which extended benefits are payable, determined
 49 without regard to this subsection, pursuant to an interstate claim

1 filed under the interstate benefit payment plan to the individual from
2 the extended benefits account established for the benefit year.

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

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

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

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

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

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

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

34 (b) (i) Effective with respect to weeks beginning in a high unem-
35 ployment period, subsection (6) (a) of this section shall be ap-
36 plied by substituting:

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

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

41 (ii) For purposes of subsection (6) (b) (i) of this section, the
42 term "high unemployment period" means any period during which
43 an extended benefit period would be in effect if subsection
44 (1) (b) (ii) were applied by substituting "eight percent (8%)"
45 in subsection (1) (b) (ii) 1. for "six and five-tenths percent
46 (6.5%)."

47 (7) (a) Beginning and termination of extended benefit period. Whenever
48 an extended benefit period is to become effective in this state as a re-
49 sult of a state "on" indicator, or an extended benefit period is to be

1 terminated in this state as a result of a state "off" indicator, the di-
2 rector shall make a public announcement.

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

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

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

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

26 SECTION 31. That Section 72-1368, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 72-1368. CLAIMS FOR BENEFITS -- APPELLATE PROCEDURE -- LIMITATION OF
29 ACTIONS. (1) Claims for benefits shall be made in accordance with this chap-
30 ter and such rules as the director may prescribe.

31 (2) Each employer shall post and maintain in places readily accessi-
32 ble to individuals performing services for him printed statements concern-
33 ing benefit rights under this chapter which shall be provided by the depart-
34 ment without cost to the employer.

35 (3)(a) Following the filing of a claim pursuant to subsection (1) of
36 this section the department shall:

37 (i) Verify the claimant's monetary eligibility pursuant to the
38 requirements of section 72-1367, Idaho Code, and issue a determi-
39 nation. If monetarily eligible, the department shall establish
40 the date the claimant's benefit year begins, the weekly benefit
41 amount, the total benefit amount, the base period wages, and the
42 base period covered employers.

43 (ii) If a claimant is monetarily eligible, the department shall
44 verify, based on information provided by the claimant, whether the
45 week claimed is a compensable week as defined in section 72-1312,
46 Idaho Code. To receive benefits, a claimant must certify that each
47 week claimed is a compensable week. In the event the week claimed
48 is not a compensable week, the department shall issue a determina-

1 tion denying benefits and shall include the reasons for the ineli-
2 gibility.

3 (b) If the department has reason to believe at any time within five
4 (5) years from the week ending date for any week in which benefits were
5 paid that a claimant was not eligible for benefits, the department may
6 investigate the claim and on the basis of facts found issue a determina-
7 tion denying or allowing benefits for the week(s) in question. If the
8 department determines a claimant was not entitled to benefits received,
9 the department shall issue a determination requiring repayment of the
10 overpaid benefits, and assess any applicable penalties and interest.
11 The determination shall contain provisions advising of the right to
12 appeal the decision to the department within fourteen (14) days of the
13 date of service.

14 (c) Before a determination provided for in subsection (3) of this sec-
15 tion becomes final or an appeal is filed, the department, on its own
16 motion, may issue a revised determination. The determination or re-
17 vised determination shall become final unless, within fourteen (14)
18 days after notice, as provided in subsection (5) of this section, an
19 appeal is filed by an interested party with the department. The appeal
20 notice must be in writing, signed by an interested party, the appellant
21 or representative, and contain words that, by fair interpretation, re-
22 quest the appeal process for a specific determination or other decision
23 of the department. If an appeal is delivered personally, the personal
24 delivery date will be noted on the appeal and deemed the date of filing.
25 A faxed or electronically transmitted appeal shall be deemed filed on
26 the date received by the department, mountain time, or, if received on a
27 weekend or holiday, the next business day. If mailed, the appeal shall
28 be deemed filed on the date of mailing as determined by the postmark on
29 the envelope containing the appeal. Where it appears any appeal to the
30 appeals examiner, claim, or any other request or application was not
31 filed within the time period prescribed for filing, it shall be dis-
32 missed on such grounds.

33 (d) If a party establishes by a preponderance of the evidence that, be-
34 cause of delay or error by the United States postal service or because
35 of error on the part of the department, a determination was not deliv-
36 ered to the party's last known address, or transmitted electronically
37 in a manner approved by the department, within fourteen (14) days of the
38 date of mailing or service indicated on the determination, the period
39 for filing a timely appeal extends to fourteen (14) days from the date of
40 actual notice.

41 (4) (a) Upon appeal of a determination or revised determination, the di-
42 rector shall transfer the appeal directly to an appeals examiner pur-
43 suant to subsection (6) of this section, unless the director finds, in
44 his sole discretion, that a redetermination should be issued affirming,
45 reversing or modifying the determination or revised determination. The
46 redetermination shall become final unless, within fourteen (14) days
47 after notice as provided in subsection (5) of this section, an appeal is
48 filed by an interested party with the department in accordance with the
49 department's rules.

1 (b) The director may, in his sole discretion, make a special redeter-
2 mination whenever he finds that a departmental error has occurred in
3 connection with a determination, revised determination or redetermi-
4 nation that has become final, or that additional wages of the claimant
5 or other facts pertinent to such final determination, revised deter-
6 mination or redetermination have become available or have been newly
7 discovered, or that benefits have been allowed or denied or the amount
8 of benefits fixed on the basis of nondisclosure or misrepresentation of
9 fact. The special redetermination must be made within one (1) year from
10 the date the determination, revised determination or redetermination
11 became final, except that a special redetermination involving a find-
12 ing that benefits have been allowed or denied or the amount of benefits
13 fixed on the basis of nondisclosures or misrepresentations of fact may
14 be made within two (2) years from the date the determination, revised
15 determination or redetermination became final.

16 (5) All interested parties shall be entitled to prompt service of no-
17 tice of written or digital communications from the department providing
18 notice of an administrative or other deadline including, but not limited
19 to, determinations, revised determinations, redeterminations, special
20 redeterminations, decisions and letters from the department requiring a
21 response within a specified time. Notice shall be deemed served if deliv-
22 ered to the person being served, if mailed to his last known address or if
23 electronically transmitted to him at his request and with the department's
24 approval. Service by mail shall be deemed complete on the date of mailing.
25 Service by electronic transmission shall be deemed complete on the date no-
26 tice is electronically transmitted.

27 (6) To hear and decide appeals from determinations, revised determina-
28 tions, redeterminations, and special redeterminations, the director shall
29 appoint appeals examiners. Unless the appeal is withdrawn, the appeals ex-
30 aminer shall affirm, modify, set aside or reverse the determination, revised
31 determination, redetermination, or special redetermination involved, after
32 affording the interested parties reasonable opportunity for a fair hearing,
33 or may refer a matter back to the department for further action. The appeals
34 examiner shall notify the interested parties of his decision by serving no-
35 tice in the same manner as provided in subsection (5) of this section. The
36 decision shall set forth findings of fact and conclusions of law and contain
37 provisions advising of the right to appeal the decision within fourteen (14)
38 days of the date of service. The appeals examiner may, either upon applica-
39 tion for rehearing by an interested party or on his own motion, rehear, af-
40 firm, modify, set aside or reverse any prior decision on the basis of the evi-
41 dence previously submitted or on the basis of additional evidence; provided,
42 that such application or motion be made within ten (10) days after the date of
43 service of the decision. A complete record shall be kept of all proceedings
44 in connection with an appealed claim. All testimony at any hearing shall be
45 recorded. If a claim for review of the appeals examiner's decision is filed
46 with the commission, the testimony shall be transcribed if ordered by the
47 commission. Witnesses subpoenaed by the appeals examiner shall be allowed
48 fees at a rate prescribed by the director. If any interested party to a hear-
49 ing formally requests the appeals examiner to issue a subpoena for a witness
50 whose evidence is deemed necessary, the appeals examiner shall promptly is-

1 sue the subpoena, unless such request is determined to be unreasonable. Un-
2 less an interested party shall within fourteen (14) days after service of the
3 decision of the appeals examiner file with the commission a claim for review
4 or unless an application or motion is made for a rehearing of such decision,
5 the decision of the appeals examiner shall become final.

6 (7) The commission shall decide all claims for review filed by any in-
7 terested party in accordance with its own rules of procedure not in conflict
8 herewith. The record before the commission shall consist of the record of
9 proceedings before the appeals examiner, unless it appears to the commission
10 that the interests of justice require that the interested parties be permit-
11 ted to present additional evidence. In that event, the commission may, in
12 its sole discretion, conduct a hearing or may remand the matter back to the
13 appeals examiner for an additional hearing and decision. On the basis of the
14 record of proceedings before the appeals examiner as well as additional ev-
15 idence, if allowed, the commission shall affirm, reverse, modify, set aside
16 or revise the decision of the appeals examiner or may refer the matter back to
17 the appeals examiner for further proceedings. The commission shall file its
18 decision and shall promptly serve notice of its decision to all interested
19 parties. A decision of the commission shall be final and conclusive as to all
20 matters adjudicated by the commission upon filing the decision in the office
21 of the commission; provided, within twenty (20) days from the date of filing
22 the decision, any party may move for reconsideration of the decision or the
23 commission may rehear or reconsider its decision on its own initiative. The
24 decision shall be final upon denial of a motion for rehearing or reconsidera-
25 tion or the filing of the decision on reconsideration.

26 (8) No person acting on behalf of the director or any member of the com-
27 mission shall participate in any case in which he has a direct or indirect
28 personal interest.

29 (9) An appeal may be made to the Supreme Court from decisions and orders
30 of the commission within the times and in the manner prescribed by rule of the
31 Supreme Court.

32 (10) (a) Benefits shall be paid promptly in accordance with any decision
33 allowing benefits, regardless of:

34 (i) The pendency of a time period for filing an appeal or peti-
35 tioning for commission review; or

36 (ii) The pendency of an appeal or petition for review.

37 (b) Such payments shall not be withheld until a subsequent appeals ex-
38 aminer decision or commission decision modifies or reverses the previ-
39 ous decision, in which event benefits shall be paid or denied in accor-
40 dance with such decision.

41 (11) (a) Any right, fact, or matter in issue, directly based upon or nec-
42 essarily involved in a determination, redetermination, decision of the
43 appeals examiner or decision of the commission which has become final,
44 shall be conclusive for all the purposes of this chapter as between the
45 interested parties who had notice of such determination, redetermina-
46 tion or decision. Subject to appeal proceedings and judicial review by
47 the Supreme Court as set forth in this section, any determination, rede-
48 termination or decision as to rights to benefits shall be conclusive for
49 all purposes of this chapter and shall not be subject to collateral at-
50 tack irrespective of notice.

1 (b) No finding of fact or conclusion of law contained in a decision or
 2 determination rendered pursuant to this chapter by an appeals examiner,
 3 the industrial commission, a court, or any other person authorized to
 4 make such determinations shall have preclusive effect in any other ac-
 5 tion or proceeding, except proceedings that are brought (i) pursuant
 6 to this chapter, (ii) to collect unemployment insurance contributions,
 7 (iii) to recover overpayments of unemployment insurance benefits, or
 8 (iv) to challenge the constitutionality of provisions of this chapter
 9 or administrative proceedings under this chapter.

10 (12) The provisions of the Idaho administrative procedure act, chapter
 11 52, title 67, Idaho Code, regarding contested cases and judicial review of
 12 contested cases are inapplicable to proceedings involving claimants under
 13 the provisions of this chapter.

14 SECTION 32. That Section 72-1374, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 72-1374. UNAUTHORIZED DISCLOSURE OF INFORMATION. If any of the fol-
 17 lowing persons, in violation of the provisions of chapter 1, title 74,
 18 Idaho Code, or section 72-1342, Idaho Code, or rules or department policies
 19 promulgated thereunder, or the material terms of any confidentiality and
 20 nondisclosure agreement, makes any unauthorized disclosure of employment
 21 security information, each act of unauthorized disclosure shall constitute
 22 a separate misdemeanor:

- 23 (1) Any employee of the department;
- 24 (2) Any employee or member of the commission;
- 25 (3) Any third party or employee thereof who has obtained employment se-
 26 curity information pertaining to a person with the written, informed consent
 27 of that person;
- 28 (4) Any public official who has obtained employment security informa-
 29 tion for use in the performance of official duties; or
- 30 (5) Any person who has obtained employment security information
 31 through means that violate the provisions of chapter 1, title 74, Idaho Code,
 32 or this chapter, or rules promulgated thereunder.

33 SECTION 33. That Section 72-1346A, Idaho Code, be, and the same is
 34 hereby amended to read as follows:

35 72-1346A. ADVANCES UNDER TITLE XII OF THE SOCIAL SECURITY ACT TO EM-
 36 PLOYMENT SECURITY FUND -- FEDERAL ADVANCE INTEREST REPAYMENT FUND. (1) In
 37 the event the director determines that it is necessary to obtain advances
 38 from the federal unemployment account in the unemployment trust fund pur-
 39 suant to title XII of the social security act (42 U.S.C. 1321), and that a
 40 request for such advances is authorized under section 1201 of the social se-
 41 curity act, or under any other act of congress extending such authority, the
 42 director shall request the governor to make application to the secretary of
 43 labor of the United States for such advances.

44 (2) The governor is authorized to make application to the secretary of
 45 labor of the United States to obtain advances pursuant to title XII of the
 46 social security act (42 U.S.C. 1321 et seq.). Funds so advanced shall be for
 47 the payment of unemployment insurance benefits.

1 (3) Any amount transferred to the employment security fund by the sec-
2 retary of the treasury of the United States in accordance with this section
3 shall be repaid from the employment security fund as provided in section 1202
4 of the social security act (42 U.S.C. 1322).

5 (4) There is established in the state treasury the "Federal Advance In-
6 terest Repayment Fund." This fund shall consist of all moneys collected pur-
7 suant to subsection (5) of this section and interest earned upon any moneys
8 in the fund. All moneys in the fund are perpetually appropriated to the di-
9 rector for the payment of interest on any advance made to this state pursuant
10 to title XII of the social security act, except that if, at the end of any cal-
11 endar year, all advances and interest have been repaid, any remaining bal-
12 ance in the fund shall be transferred to the employment security fund. In-
13 terest charges due and payable pursuant to section 1202 of the social secu-
14 rity act, may be paid by the director from the federal advance interest re-
15 payment fund. Such expenditures shall not be subject to any law requiring
16 specific appropriations or other formal release by state officers of money
17 in their custody, nor shall such expenditures require the approval of the
18 board of examiners.

19 (5) A federal advance interest repayment tax may be levied in accor-
20 dance with the following provisions when required under paragraph (b) of
21 this subsection:

22 (a) On the first day of the third month of a calendar quarter, the direc-
23 tor shall:

24 (i) Estimate the interest payable on federal advances obtained
25 under subsections (1) and (2) of this section;

26 (ii) Estimate the amount of federal advance interest repayment
27 tax receipts expected to be collected during the quarter for any
28 preceding calendar quarter in which such tax was assessed;

29 (iii) Add the amount in the federal advance interest repayment
30 fund on the last day of the immediately preceding calendar quarter
31 to the estimate in paragraph (ii) of this subsection; and

32 (iv) Subtract the sum obtained in paragraph (iii) from the esti-
33 mate in paragraph (i) of this subsection.

34 (b) If the remainder obtained under paragraph (iv) of subsection (5) (a)
35 of this section is more than zero, each covered employer subject to this
36 section may, at the director's sole discretion, be assessed a federal
37 advance interest repayment tax. Such tax shall be a percentage of the
38 contributions payable under sections 72-1349 and 72-1350, Idaho Code,
39 for the calendar quarter, but in no case shall be less than one dollar
40 (\$1.00). The percentage shall be determined by dividing the remainder
41 in paragraph (iv) of subsection (5) (a) of this section by the estimated
42 amount of contributions due and payable on wages paid during the quar-
43 ter. The percentage shall be rounded up to the next one-tenth of a per-
44 cent (0.1%).

45 (c) The tax assessed shall be collected and paid in accordance with such
46 rules as the director may prescribe. All such taxes collected shall be
47 deposited in the federal advance interest repayment fund. Any such tax
48 imposed in a calendar quarter shall be paid on or before the last day of
49 the second month following the close of such calendar quarter. An ex-

1 tension of time for payment may be granted for good cause in accordance
2 with section 72-1349-~~(4)~~ (6), Idaho Code.

3 (d) If any covered employer fails to pay such tax on or before the date
4 on which they are due, such tax shall bear penalty at a rate of five dol-
5 lars (\$5.00) for each month or fraction thereof until paid; provided,
6 that in no case shall the penalty exceed the actual amount of the tax
7 due and payable. The date of payment shall be deemed the date of ac-
8 tual receipt by the director, or if mailed, the date of mailing. Penal-
9 ties collected pursuant to this subsection shall be paid into the fed-
10 eral advance interest payment fund. Furthermore, if any employer be-
11 comes delinquent in making payment of the tax as required by this sub-
12 section, such employer shall be subject to the collection provisions in
13 sections 72-1355 and 72-1360, Idaho Code.

14 (e) A covered employer may make application to the director for a re-
15 fund or credit of any amount erroneously paid as tax under this subsec-
16 tion. Such applications and the director's determinations regarding
17 them shall be made in accordance with the provisions of section 72-1357,
18 Idaho Code.

19 (f) This section does not apply to covered employers eligible and
20 electing the cost reimbursement payment method under section 72-1349A,
21 Idaho Code.

22 SECTION 34. That Section 72-1372, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 72-1372. CIVIL PENALTIES. (1) The following civil penalties shall be
25 assessed by the director:

26 (a) If a determination is made finding that an employer willfully filed
27 a false report, a monetary penalty equal to one hundred percent (100%)
28 of the amount that would be due if the employer had filed a correct re-
29 port or two hundred fifty dollars (\$250), whichever is greater, shall
30 be added to the liability of the employer for each quarter for which the
31 employer willfully filed a false report. For the purposes of this sec-
32 tion, a false report includes, but is not limited to, a report for a pe-
33 riod wherein an employer pays remuneration for personal services which
34 meets the definition of "wages" under section 72-1328, Idaho Code, and
35 the payment is concealed, hidden, or otherwise not reported to the de-
36 partment.

37 (b) If a determination is made finding that an employer willfully
38 failed to file the employer's quarterly unemployment insurance tax re-
39 port when due, the director shall assess a monetary penalty equal to:

40 (i) Seventy-five dollars (\$75.00) or twenty-five percent (25%)
41 of the amount that would be due if the employer had filed a timely
42 quarterly report, whichever is greater, if the employer had not
43 been found in any previous determination to have willfully failed
44 to file a timely quarterly report for any of the sixteen (16) pre-
45 ceding consecutive calendar quarters; or

46 (ii) One hundred fifty dollars (\$150) or fifty percent (50%) of
47 the amount that would be due if the employer had filed a timely
48 quarterly report, whichever is greater, if the employer had been
49 found in any previous determination to have willfully failed to

1 file a timely quarterly report for no more than one (1) of the six-
2 teen (16) preceding consecutive calendar quarters; or

3 (iii) Two hundred fifty dollars (\$250) or one hundred percent
4 (100%) of the amount that would be due if the employer had filed a
5 timely quarterly report, whichever is greater, if the employer had
6 been found in any previous determination or determinations to have
7 willfully failed to file a timely quarterly report for two (2) or
8 more of the sixteen (16) preceding consecutive calendar quarters.

9 (c) If a determination is made finding that an employer, or any offi-
10 cer or agent or employee of the employer with the employer's knowledge,
11 willfully made a false statement or representation or willfully failed
12 to report a material fact when submitting facts to the department
13 concerning a claimant's separation from the employer, a penalty in
14 an amount equal to ten (10) times the weekly benefit amount of such
15 claimant shall be added to the liability of the employer.

16 (d) If a determination is made finding that an employer has induced, so-
17 licited, coerced or colluded with an employee or former employee to file
18 a false or fraudulent claim for benefits under this chapter, a penalty
19 in an amount equal to ten (10) times the weekly benefit amount of such
20 employee or former employee shall be added to the liability of the em-
21 ployer.

22 (e) If a determination is made finding that an employer failed to com-
23 plete and submit an Idaho business registration form when due, as re-
24 quired by section 72-1337(1), Idaho Code, a penalty of five hundred dol-
25 lars (\$500) shall be assessed against the employer.

26 (f) For purposes of paragraphs (c) and (d) of this subsection, the term
27 "weekly benefit amount" means the amount determined by the director
28 pursuant to section 72-1367(2), Idaho Code.

29 (g) If a determination is made finding that a person has made any unau-
30 thorized disclosure of employment security information in violation of
31 the provisions of chapter 1, title 74, Idaho Code, or section 72-1342,
32 Idaho Code, or rules promulgated thereunder, a penalty of five hundred
33 dollars (\$500) for each act of unauthorized disclosure shall be as-
34 sessed against the person.

35 (h) If a determination is made finding that a professional employer
36 failed to submit a separate quarterly wage report for each client as re-
37 quired in section 72-1349B-~~(4)~~(9), Idaho Code, the director shall assess
38 a monetary penalty equal to one hundred dollars (\$100) for each client
39 not separately reported by the professional employer; provided that the
40 maximum penalty for any quarter shall not exceed five thousand dollars
41 (\$5,000).

42 (2) At the discretion of the director, the department may waive all or
43 any part of the penalties imposed pursuant to subsection (1) of this section
44 if the employer shows to the satisfaction of the director that it had good
45 cause for failing to comply with the requirements of this chapter and rules
46 promulgated thereunder.

47 (3) Determinations imposing civil penalties pursuant to this section
48 shall be served in accordance with section 72-1368(5), Idaho Code. Penal-
49 ties imposed pursuant to this section shall be due and payable twenty (20)
50 days after the date the determination was served unless an appeal is filed

1 in accordance with section 72-1368, Idaho Code, and rules promulgated there-
2 under. Such appeals shall be conducted in accordance with section 72-1368,
3 Idaho Code, and rules promulgated thereunder.

4 (4) Civil penalties imposed by this section shall be in addition to any
5 other penalties authorized by this chapter. The provisions of this chap-
6 ter that apply to the collection of contributions, and the rules promulgated
7 thereunder, shall also apply to the collection of penalties imposed pursuant
8 to this section. Amounts collected pursuant to this section shall be paid
9 into the state employment security administrative and reimbursement fund as
10 established by section 72-1348, Idaho Code.

11 SECTION 35. The rules contained in IDAPA 09.01.01, Department of Labor,
12 relating to the Rules of Administrative Procedure of the Department of La-
13 bor, Section 026.; Section 027., Subsection 01.; Section 027., Subsection
14 03.; Section 035.; Section 037.; and Section 038., shall be null, void, and
15 of no force and effect on and after July 1, 2025.

16 SECTION 36. The rules contained in IDAPA 09.01.08, Department of Labor,
17 relating to Rules on Disclosure of Employment Security Information, shall be
18 null, void, and of no force and effect on and after July 1, 2025.

19 SECTION 37. The rules contained in IDAPA 09.01.30, Department of La-
20 bor, relating to Unemployment Insurance Benefits Administration Rules, Sec-
21 tion 010., Subsection 02.; Section 010., Subsection 03.; Section 010., Sub-
22 section 08.; Section 010., Subsection 09.; Section 010., Subsection 10.;
23 Section 100.; Section 150.; Section 175.; Section 275.; Section 325.; Sec-
24 tion 350.; Section 375., Subsection 01.; Section 375., Subsection 04.; Sec-
25 tion 400.; Section 425., Subsection 05.; Section 425., Subsection 06.; Sec-
26 tion 425., Subsection 09.; Section 450.; Section 460.; Section 475.; Section
27 500.; Section 525.; Section 575.; Section 600.; Section 650.; and Section
28 675., shall be null, void, and of no force and effect on and after July 1,
29 2025.

30 SECTION 38. The rules contained in IDAPA 09.01.35, Department of Labor,
31 relating to Unemployment Insurance Tax Administration Rules, Section 011.,
32 Subsection 01.; Section 011., Subsection 02.; Section 011., Subsection 08.;
33 Section 011., Subsection 10.; Section 051.; Section 056.; Section 061.; Sec-
34 tion 081.; Section 096.; Section 106.; Section 107.; Section 108.; Section
35 111.; Section 131.; Section 132.; Section 134.; Section 166., Subsection
36 01.; Section 186.; Section 221.; Section 231.; Section 241.; Section 256.;
37 Section 262.; and Section 263., shall be null, void, and of no force and ef-
38 fect on and after July 1, 2025.

39 SECTION 39. An emergency existing therefor, which emergency is hereby
40 declared to exist, this act shall be in full force and effect on and after
41 July 1, 2025.