LEGISLATURE OF THE STATE OF IDAHO

Sixty-Eighth Legislature _____ Regular Session - 2025

IN THE HOUSE OF REPRESENTATIVES

BILL NO. ___

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO THE WAGE CLAIM ACT AND THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 45-617, IDAHO CODE, TO ESTABLISH ADDITIONAL PROCEDURES FOR WAGE CLAIMS; ADDING A NEW SECTION 72-1303A, IDAHO CODE, TO ESTABLISH REQUIREMENTS FOR BEING ABLE AND AVAILABLE FOR SUITABLE WORK; AMENDING SECTION 72-1304, IDAHO CODE, TO SET FORTH HOW QUANTITIES OF COMMODITIES ARE DETERMINED FOR FARM OPERATOR-PROCESSORS; AMENDING SECTION 72-1306, IDAHO CODE, TO SET FORTH BASE PERIODS FOR DETERMINING ELIGIBILITY FOR BENEFITS; ADDING A NEW SECTION 72-1311A, IDAHO CODE, TO DEFINE COMPELLING PERSONAL CIRCUMSTANCES; AMENDING SECTION 72-1312A, IDAHO CODE, TO REQUIRE THAT CORPORATE OFFICERS BE BONA FIDE AND TO DESCRIBE CIRCUMSTANCES BEYOND THE CONTROL OF A CORPORATE OFFICER OR FAMILY MEMBER; AMENDING SECTION 72-1315, IDAHO CODE, TO DEFINE DOMESTIC SERVICE, AND CLARIFY THE STATUS OF LIMITED LIABILITY COMPANIES FOR PURPOSES OF COVERAGE; AMENDING SECTION 72-1316, IDAHO CODE, TO PROVIDE THE SERVICES PERFORMED BY CORPORATE OFFICERS ARE CONSIDERED SERVICES IN EMPLOYMENT UNLESS EXEMPTED, AND REQUIRING REPORTS BY EMPLOYERS WHO CLAIM SERVICES WERE NOT PERFORMED IN COVERED EMPLOYMENT; AMENDING SECTION 72-1316A, IDAHO CODE, TO CLARIFY WHEN PAYMENTS OF LESS THAN FIFTY DOLLARS ARE EXEMPT EMPLOYMENT; ADDING A NEW SECTION 72-1316B, IDAHO CODE, TO DEFINE FULL-TIME EMPLOYMENT; AMENDING SECTION 72-1319, IDAHO CODE, TO REQUIRE AN ADDITIONAL QUALIFYING PERIOD FOR EMPLOYERS WHO CEASED TO HAVE COVERED EMPLOYMENT; ADDING A NEW SECTION 72-1326, IDAHO CODE, TO SET FORTH REQUIREMENTS FOR THE REPORTING OF INCOME; AMENDING SECTION 72-1327A, IDAHO CODE, TO SET FORTH REQUIREMENTS FOR VALID CLAIMS; AMENDING SECTION 72-1328, IDAHO CODE, TO FURTHER DEFINE WAGES AND NON-CASH PAYMENTS FOR FARM WORK, AND TO ESTABLISH THE METHOD FOR DETERMINING THE MARKET VALUE OF REMUNERATION; ADDING A NEW SECTION 72-1328A, IDAHO CODE, TO SET FORTH METHODS FOR DETERMINING THE VALUE OF BOARD, LODGING, MEALS, AND OTHER PAYMENTS IN KIND; ADDING A NEW SECTION 72-1330B, IDAHO CODE, TO DEFINE WORKPLACE MISCONDUCT; AMENDING SECTION 72-1337, IDAHO CODE, TO SPECIFY RECORDS AND REPORTING REQUIREMENTS FOR EMPLOYERS; AMENDING SECTION 72-1342, IDAHO CODE, TO REQUIRE THE DIRECTOR OF THE DEPARTMENT OF LABOR TO ESTABLISH BY RULE OR POLICY CONFIDENTIALITY AND DISCLOSURE REQUIREMENTS TO COMPLY WITH FEDERAL LAW AND THE PUBLIC RECORDS ACT; AMENDING SECTION 72-1349, IDAHO

CODE, TO ESTABLISH THE TIME OF PAYMENT OF CONTRIBUTIONS AND THE REQUIREMENT THAT CONTRIBUTION PAYMENTS BE MADE IN ACCORDANCE WITH DEPARTMENT RULE OR POLICY; AMENDING SECTION 72-1349B, IDAHO CODE, TO CREATE PROVISIONS GOVERNING PROFESSIONAL EMPLOYER ORGANIATIONS, TRANSFERRING OF EXPERIENCE RATES TO PROFESSIONAL EMPLOYER ORGANIZATIONS, JOINT TRANSPER APPLICATIONS, REPORTING OF WORKERS IN PROFESSIONAL EMPLOYER ORGANIZATIONS, THE METHOD FOR MEETING COVERAGE REQUIREMENTS, AND REPORTING REQUIREMENTS; AMENDING SECTION 72-1350, IDAHO CODE, TO CLARIFY THE DETERMINATION OF TAXABLE WAGE BASES; AMENDING SECTION 72-1351, IDAHO CODE, TO ESTABLISH RECORD-KEEPING REQUIREMENTS WHERE PAYROLL IS CONSOLIDATED FOR MULTIPLE PERSONS OR ENTITIES; AMENDING SECTION 72-1351A, IDAHO CODE, TO ADDRESS TRANSFERS OF EXPERIENCE RATINGS, THE DETERMINATION OF OWNERSHIP OR MANAGEMENT OR CONTROL OF SUCCESSOR EMPLOYERS, THE WAGES THAT MAY BE USED BY A SUCCESSOR EMPLOYER TO DETERMINE A WAGE BASE FOR PURPOSES OF CALCULATING TAXABLE WAGES; AMENDING SECTION 72-1352A, IDAHO CODE, TO CHANGE THE DATES FOR REINSTATEMENT REQUESTS, AND CLARIFY REQUIREMENTS FOR CORPORATE OFFICER EXEMPTIONS AND REPORTING TO THE DEPARTMENT; AMENDING SECTION 72-1357, IDAHO CODE, TO ADDRESS ERRONEOUS REPORTING OF EMPLOYEE WAGES, AND TO AUTHORIZE THE DEPARTMENT TO REFUND OR CREDIT OVERPAYMENTS; AMENDING SECTION 72-1365, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-1366, IDAHO CODE, TO SET FORTH BURDENS OF PROOF FOR CLAIMANTS AND EMPLOYERS, WORK-SEEKING REQUIREMENTS OF CLAIMANTS, PROVISIONS RELATING TO VOLUNTARY QUITS INCLUDING GOOD CAUSE CONNECTED WITH EMPLOYMENT, PROVISIONS FOR SEPARATIONS AFTER NOTICES OF QUITTING HAVE BEEN GIVEN AND WHERE CLAIMANTS HAVE BEEN SUSPENDED WITHOUT PAY FOR AN INDEFINITE PERIOD OF TIME, PROVISIONS CLARIFYING CLAIMANTS' RESPONSIBILITY TO APPLY FOR AND ACCEPT SUITABLE WORK AND GOOD CAUSE FOR REFUSING TO DO SO, PROVISIONS RELATING TO LABOR DISPUTES INCLUDING A DEFINITION OF LABOR DISPUTES, PROVISIONS CLARIFYING REQUIREMENTS FOR SELF-EMPLOYED CLAIMANTS, PROVISIONS FOR REASONABLE ASSURANCES FOR CONTINUED EMPLOYMENT WITH AN EDUCATIONAL INSTITUTION OR SERVICE AGENCY, PROVISIONS ESTABLISHING WHEN BASE PERIOD WAGES ARE USED TO ESTABLISH A CLAIM, AND SETTING FORTH THE REQUIREMENTS FOR THE ELIGIBILITY OF ALIENS FOR BENEFITS; AMENDING SECTION 72-1367, IDAHO CODE, TO DESCRIBE THE METHOD OF COMPUTING AVERAGE WEEKLY WAGES; AMENDING SECTION 72-1367A, IDAHO CODE, TO DESCRIBE SATISFACTORY EVIDENCE FOR DEMONSTRATING CLAIMANTS' SUITABLE WORK, AND REQUIREMENTS FOR REQUALIFICATION FOR EXTENDED BENEFITS; AMENDING SECTION 72-1368, IDAHO CODE, TO ESTABLISH ADDITIONAL PROCEDURES FOR UNEMPLOYMENT COMPENSATION CLAIMS; AMENDING SECTION 72-1374, IDAHO CODE, TO CLARIFY THAT VIOLATIONS OF DEPARTMENT DISCLOSURE POLICIES OR MATERIAL TERMS OF CONFIDENTIALITY AND NONDISCLOSURE AGREEMENTS CONSTITUTE MISDEMEANORS;PROVIDING THAT CERTAIN ADMINISTRATIVE RULES SHALL BE

NULL, VOID, AND OF NO FORCE AND EFFECT; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

(4) A department compliance officer shall examine wage claims filed with the department and, on the basis of the facts found, shall determine whether the wage claimant is entitled to an award for unpaid wages and penalties. If the compliance officer is unable to determine whether wages and penalties are owed, the claim may be referred to a hearing officer for a determination. The department may adjust the amount of penalties awarded for an employer's failure to comply with the requirements of section 45-606, Idaho Code. The department may award no penalty or may award a penalty in any amount up to the maximum amount allowed under section 45-607, Idaho Code. No penalty shall be awarded by the department unless a specific finding is made that wages were withheld willfully, arbitrarily and without just cause. ~~The department's determination shall include findings of fact and conclusions of law.~~ Before the determination becomes final or an appeal is filed, the compliance or hearing officer that issued the

determination may, on his own motion, issue a revised determination.

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

(6) The determinations and revised determinations shall include findings of fact and conclusions of law and contain provisions advising the claimant and employer of their right to appeal the determination within fourteen (14) days from the date of mailing, or the date of electronic transmission to an electronic-mail address approved by the department.

(7) The timely filing of an appeal is mandatory and jurisdictional and the ~~The~~ determination or revised determination shall become a final determination unless, within fourteen (14) days after notice, as provided in subsection (~~5~~8) of this section, an appeal is filed by the claimant or the employer in accordance with this chapter and the department's rules.; provided, if a party establishes by a preponderance of the evidence that because of delay or error by the U.S. Postal Service, or because of error on the part of the department, a determination or revised determination was not delivered to the party's last known address, or transmitted electronically to the party's electronic-mail address approved by the department, within fourteen (14) days of the date of mailing or service indicated on the determination or revised determination, the period for filing a timely appeal to the department or the commission extends to fourteen (14) days from the date of receipt of notice. If an appeal is not timely filed, the amount awarded by a ~~final~~ determination or revised determination shall become immediately due and payable to the department and~~. A final determination~~ may be enforced by the department in accordance with section 45-618, Idaho Code.

(~~5~~8) The claimant and the employer shall be entitled to prompt service of notice of determinations and ~~decisions~~revised determinations. Notice shall be deemed served if delivered to the person being served, if mailed to the person's last known address, or if electronically transmitted to the claimant at the claimant's request and with the department's approval. Service by electronic transmission shall be deemed complete on the date notice is electronically transmitted. The date indicated on determinations or ~~decisions~~revised determinations as the "date of service" or

"date of mailing" shall be presumed to be the date of service unless otherwise shown by a preponderance of competent evidence.

(~~6~~9) An appeal from a wage claim determination or revised determination shall be in writing, signed by the appellant or the appellant's representative and shall contain words that, by fair interpretation, request the appeal process for a specific determination of the department. The appeal may be filed by personal delivery, by mail, by electronic transmission, or by fax to the wage and hour section of the department at the address indicated on the wage claim determination. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark. A faxed or electronically transmitted appeal shall be deemed filed on the date received by the wage and hour section. A faxed or electronically transmitted appeal received by the wage and hour section on a weekend or holiday shall be deemed filed on the next business day.

(~~7~~10) To hear and decide appeals from determinations, the director shall appoint appeals examiners who have been specifically trained to hear wage claims. Unless the appeal is withdrawn, the appeals examiner shall affirm, modify, set aside or reverse the determination involved, after affording the claimant and the employer reasonable opportunity for a fair hearing, or may refer a matter back to the compliance or hearing officer for further action. The appeals examiner shall notify the claimant and the employer of his decision by serving notice in the same manner as provided in subsection (58) of this section. The decision shall set forth findings of fact and conclusions of law. The appeals examiner may, upon application for rehearing by the claimant, the employer, or on his own motion, rehear, affirm, modify, set aside or reverse any prior decision on the basis of the evidence previously submitted or on the basis of additional evidence; provided, that such application or motion be made within ten (10) days after the date of service of the decision. A complete record shall be kept of all proceedings in connection with an appealed wage claim. All testimony at any hearing shall be recorded. Witnesses subpoenaed by the appeals examiner shall be allowed fees at a rate prescribed by the director. If the claimant or the employer formally requests the appeals examiner to issue a subpoena for a witness whose evidence is deemed necessary, the appeals examiner shall promptly issue the subpoena, unless such request is determined to be unreasonable. Unless the claimant or the employer, within fourteen (14) days after service of the decision of the appeals examiner, seeks judicial review pursuant to section 45-619, Idaho Code, or unless an application or motion is made for a rehearing of such decision, the decision of the appeals examiner

shall become final and the amount awarded by the decision shall become immediately due and payable to the department. A decision that has become final may be enforced by the department according to section 45-618, Idaho Code.

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

(~~9~~12) (a) Any right, fact, or matter in issue, directly based upon or necessarily involved in a determination or decision of the appeals examiner that has become final, shall be conclusive for all the purposes of this chapter as between the claimant and the employer who had notice of such determination or decision. Subject to judicial review as set forth in this chapter, any determination or decision shall be conclusive for all purposes of this chapter and shall not be subject to collateral attack irrespective of notice.

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

(i) Pursuant to this chapter;

(ii) To collect wage claims; or

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

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

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

(2) An individual with a disability under the Americans with Disabilities Act (2008) (as defined by 29 C.F.R. Sec 1630.2(g)), and whose disability prevents the claimant from working full-time or during particular shifts is not deemed unable to work or unavailable for work for so long as the claimant demonstrates he is able to perform some work and remains available for work to the full extent of his ability. A qualified claimant with a disability

who is able to work with or without a reasonable accommodation will be considered as having complied with the requirement of being available for work when the claimant is willing to work the maximum number of hours the claimant is able to work. Qualified claimants with disabilities must meet all other eligibility requirements, including the illness provisions of this section.

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

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

(c) The illness provisions of this section will continue to apply even though the current benefit year has ended and a transitional claim is filed the following year or the claim is reopened after a period of not filing with no intervening employment.

(4) "Available for suitable work" means remaining within, and actively seeking suitable work, either in a locality in which the individual has earned wages subject to this chapter during the individual's base period, or if the individual moves his permanent residence outside of that locality, then in a locality where suitable work normally is performed. Being available for suitable work is a state of mind that encompasses a readiness, ability, and willingness to work, and a desire to find a job, including the possibility of marketing one's services in the claimant's area of availability. The type of work for which the claimant is available must exist in the claimant's area to the extent that a normal unemployed person would generally find work within a reasonable period of time.

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

(a) Attached. The claimant's normal work week as defined by the employer or union.

(b) Workseeking. Monday through Friday, 8 a.m.to 5 p.m.

(c) Approved Training. Regular class hours.

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

(7) Distance to Work. A claimant seeking work must be willing to travel the distance normally traveled by other workers in his

area and occupation.

(8) Full-Time/Part-Time Work. An individual who restricts availability to part-time work pursuant to Section 72-1366(4)(c), Idaho Code, is fully employed and ineligible to receive benefits if the individual works hours comparable to the part-time work experience in their base period. A claimant must be available for a full workweek and a full, normal workday unless the claimant establishes that the majority of weeks worked during claimant's base period were for less than full-time work, which is established where the total base period wages divided by claimant's last regular rate of pay does not exceed two thousand seventy-nine (2,079) hours.

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

(10) Moving to Remote Area. A claimant who moves to a remote locality where there is little possibility of obtaining suitable work will be ineligible for benefits.

(11) Public Official. A public official who receives pay and performs full-time service is employed and not eligible for benefits. Part-time officials, even though receiving pay, may be considered available for work the same as any other individual employed on a part-time basis.

(12) Public Service. Performing public service, including voluntary non-remunerated service, does not disqualify an individual for benefits as long as he is meeting the other requirements of this section.

(13) Restricting Work to Within the Home. A claimant who restricts his availability to only work done within the home which severely limits the work available to him is ineligible for benefits, unless the claimant works in an industry where teleworking is common.

(14) School Attendance or a Training Course. A person who is attending school or a training course may be eligible for benefits provided the attendance does not conflict with that person's availability for work or for seeking work and he will discontinue attendance upon receipt of an offer of employment that creates a conflict between employment and the schooling or training.

(15) Temporary Absence from Local Labor Market to Seek Work. All claimants, regardless of their attachment to an industry or employer, must meet the same standard of remaining within their local labor market area during the workweek in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market.

Claimants otherwise eligible to receive benefits while participating in an approved training program or course are not deemed ineligible when the training or course occurs outside of their local labor market due to the unavailability of similar programs or courses within their local labor market.

(16) To remain eligible for benefits, claimants must remain within a state, territory, or country included in the U.S. Department of Labor's Interstate Benefit Payment Plan.

(17) Unreasonable Restrictions on Working Conditions. A claimant who places unreasonable restrictions on working conditions that significantly hinder his availability and search for work is ineligible for benefits.

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

(19) Wages. A claimant is eligible for benefits if the wages or other conditions of available work are substantially less favorable to the claimant than those prevailing for similar work in the local area.

(20) Demanding Higher Wages. A claimant is ineligible for benefits if he unduly restricts his availability for work by insisting on a wage rate that is higher than the prevailing wage for similar work in that area.

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

(22) Waiver of Two-Year Training Limitation. For purposes of approving a waiver of the two (2) year limitation on school or training courses specified by section 72-1366(8)(c)(ii), Idaho Code, for claimants who lack skills to compete in the labor market, the following criteria must be met:

(a) Financial Plan. The claimant must demonstrate a workable financial plan for completing the school or training course after his benefits have been exhausted;

(b) Demand for Occupation. The claimant must establish there is a demand for the occupation in which the claimant will be trained. An occupation is in demand when work opportunities are available and there is not a surplus of qualified applicants; and

(c) Duration of Training. At the time that the claimant applies for the waiver, the usual duration of the school or training course is no longer than two (2) years.

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

72-1304. AGRICULTURAL LABOR. (1) "Agricultural labor" means all services performed:

(a) On a farm, in the employ of any person in connection

with cultivating the soil, or raising or harvesting any agricultural, aquacultural or horticultural commodities, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, fish, poultry, furbearers, and wildlife;

(b) In the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane if the major part of such service is performed on a farm;

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

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

This subsection is not applicable to services performed in commercial canning, freezing, or dehydrating, or in connection with any agricultural, aquacultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(2) Whether the farm operator-processor produced more than one-half (1/2) of the commodities with respect to services performed shall be determined based on:

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

(b) Wages, where multiple commodities are processed. The pro rata share of wages paid for processing commodities raised by the farm operator-processor to the total wages paid for processing all commodities shall determine whether the farm operator-processor produced more than one-half (1/2) of the commodities processed.

(~~2~~3) "Custom farming" means "agricultural labor" for the purposes of this chapter.

(~~3~~4) "Farm" includes stock, dairy, fish, poultry, fruit, furbearer and truck farms, plantations, ranches, nurseries, hatcheries, ranges, greenhouses or other similar structures used

primarily for the raising of agricultural, aquacultural or horticultural commodities, and orchards.

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

(~~5~~6) "Terminal market" means a place of business to which products are shipped in a sorted, graded, packaged condition, ready for immediate sale.

SECTION 4. That Section 72-1306, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) "Alternate base period" means the last four (4) completed calendar quarters immediately preceding the beginning of a benefit year. If a claimant has insufficient wages in the regular base period to establish eligibility for unemployment benefits, the alternate base period shall be used~~the "base period" shall be the last four (4) completed calendar quarters immediately preceding the beginning of a benefit year~~.

(23) "~~Alternate~~Total temporary disability base period" means the first four (4) of the last five (5) completed calendar quarters immediately prior to the Sunday of the week in which a medically verifiable temporary total disability has occurred. A claimant who has, or has had, ~~in which~~ a medically verifiable temporary total disability ~~occurred~~ and~~. If a claimant has~~ insufficient wages in the regular or alternate base periods to establish eligibility for unemployment benefits~~,~~ shall use the total temporary disability base period; provided, to ~~the "alternate base period" shall be the last four (4) completed calendar quarters immediately prior to the Sunday of the week in which a medically verifiable temporary total disability occurred. To~~ use the ~~alternate~~ total temporary disability base period, a claimant must file for benefits within three (3) years of the beginning of the temporary total disability, and no longer than six (6) months after the end of the temporary total disability.

SECTION 5. That Chapter 13, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1311A, Idaho Code, and to read as follows:

72-1311A. COMPELLING PERSONAL CIRCUMSTANCES. (1) "Compelling Personal Circumstances" means the following circumstances:

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

(b) The wedding of the claimant or an immediate family member;
(c) The birth of claimant's child;
(d) Sincerely held religious beliefs that do not allow working on a certain day;
(e) Travel not exceeding twenty-four (24) hours necessary to obtain essential goods and services not available in claimant's locality; and
(f) Required service for jury duty or attendance at court proceedings or depositions pursuant to a lawfully issued subpoena.

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

SECTION 6. That Section 72-1312A, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Not "unemployed" and ineligible for benefits in any week during the corporate officer's term of office with the corporation, even if wages are not being paid.
(b) "Unemployed" in any week the corporate officer is not employed by the corporation for a period of indefinite duration because of circumstances beyond the control of the corporate officer or a family member of the corporate officer with an ownership interest in the corporation, and the period of "unemployment" extends at least through the corporate officer's benefit year end date. If at any time during the benefit year the corporate officer resumes or returns to work for the corporation, it shall be a rebuttable presumption that the corporate officer's unemployment was due to circumstances within the corporate officer's control or the control of a family member with an ownership interest in the corporation, and all benefits paid to the corporate officer during the benefit year shall be considered an overpayment for which the corporate officer shall be liable for repayment.

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

(3) Circumstances beyond a corporate officer's control or the control of a family member with an ownership interest in the

corporation are circumstances that last through the corporate officer's benefit year end date and include, without limitation, the following:

(a) Unemployment due to the corporate officer's removal from the corporation under circumstances that satisfy the personal eligibility conditions of section 72-1366, Idaho Code;

(b) Unemployment due to dissolution of the corporation; and

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

SECTION 7. That Section 72-1315, Idaho Code, be, and the same is hereby amended to read as follows:

72-1315. COVERED EMPLOYER. "Covered employer" means:

(1) Any person who, in any calendar quarter in either the current or preceding calendar year paid for services in covered employment wages of one thousand five hundred dollars ($1,500) or more, or for some portion of a day in each of twenty (20) different calendar weeks, whether or not consecutive, in either the current or preceding calendar year employed at least one (1) individual, irrespective of whether the same individual was in employment in each such day. For purposes of this subsection there shall not be taken into account any wages paid to, or in employment of, an employee performing domestic services referred to in subsection (8) of this section.

(2) All individuals performing services within this state for an employer who maintains two (2) or more separate establishments within this state shall be deemed to be performing services for a single employer.

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

(4) Any employer, whether or not an employer at the time of acquisition, who acquires the organization, trade, or business or substantially all the assets thereof, of another who at the time of such acquisition was a covered employer.

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

(a) During any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of twenty thousand dollars ($20,000) or more for agricultural labor; or

(b) On each of some twenty (20) days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least ten (10) individuals in employment in agricultural labor for some

portion of the day.

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

(6) A licensed farm labor contractor, as provided in chapter 16, title 44, Idaho Code, who furnishes any individual to perform agricultural labor for another person.

(7) An unlicensed, nonexempt farm labor contractor, as provided in chapter 16, title 44, Idaho Code, who furnishes any individual to perform agricultural labor for another person not treated as a covered employer under subsection (5) of this section. If an unlicensed, nonexempt farm labor contractor furnishes any individual to perform agricultural labor for another person who is treated as a covered employer under subsection (5) of this section, both such other person and the unlicensed, nonexempt farm labor contractor shall be jointly and severally liable for any moneys due under the provisions of this chapter.

(8) In the case of domestic service performed in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of one thousand dollars ($1,000) or more for such service. Domestic service includes, without limitation, services rendered as cooks, waiters, butlers, maids, janitors, handymen, gardeners, housekeepers, housemothers, and in-home caregivers, as distinguished from services as an employee in pursuit of an employer's trade, occupation, profession, enterprise, or vocation.

A person treated as a covered employer under this subsection (8) shall not be treated as a covered employer with respect to wages paid for any service other than domestic service referred to in this subsection (8) unless such person is treated as a covered employer under subsection (1) or (5) of this section, with respect to such other service.

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

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

(11) An employer who has elected coverage pursuant to the provisions of subsection (3) of section 72-1352, Idaho Code.

(12) For purposes of coverage under this chapter, a limited liability company shall have the same status as it may have elected for federal tax purposes, or as that status may be determined or required by the federal government. Any member of a limited

liability company that has elected to be treated as a corporation for federal tax purposes shall be treated as a corporate officer under this chapter.

SECTION 8. That Section 72-1316, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(a) That the worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact; and

(b) That the worker is engaged in an independently established trade, occupation, profession, or business.

(5) "Covered employment" shall include an individual's entire service, performed within or both within and without this state:

(a) If the service is localized in this state; or

(b) If the service is not localized in any state but some of the service is performed in this state, and:

(i) The individual's base of operations or the place from which such service is directed or controlled is in this state; or

(ii) The individual's base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) Service shall be deemed to be localized within a state

if:

(i) The service is performed entirely within such state; or

(ii) The service is performed both within and without such state, but the service performed without such state is incidental, temporary or transitory in nature or consists of isolated transactions, as compared to the individual's service within the state.

(d) "Covered employment" shall include an individual's service, wherever performed within the United States, or Canada, if:

(i) Such service is not covered under the unemployment compensation law of any other state, the Virgin Islands, or Canada; and

(ii) The place from which the service is directed or controlled is in this state.

(6) "Covered employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States, except in Canada, in the employ of an American employer, other than service which is deemed "covered employment" under the provisions of subsection (5) of this section or the parallel provisions of another state's law, if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States; but

(i) Is an individual who is a resident of this state; or

(ii) Is a corporation which is organized under the laws of this state; or

(iii) Is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(c) None of the criteria of provision (a) or (b) of this subsection is met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service, under the law of this state;

(d) An "American employer" for purposes of this subparagraph means a person who is:

(i) An individual who is a resident of the United States; or

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

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

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

(e) For purposes of this subsection, "United States" means the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

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

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

72-1316A. EXEMPT EMPLOYMENT. "Exempt employment" means service performed:

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

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

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

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

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

(a) As an elected official;

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

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

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

(e) In a position which, pursuant to the laws of this state, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position which ordinarily does not require more than eight (8) hours per week; or

(f) As an election official or election worker including, but not limited to, a poll worker, an election judge, an

election clerk or any other member of an election board, if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars ($1,000).

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

(7) In the employ of:

(a) A church or convention or association of churches; or

(b) An organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church, or convention or association of churches; or

(c) In the employ of an institution of higher education, if it is devoted primarily to preparation of a student for the ministry or training candidates to become members of a religious order; or

(d) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order.

(8) By a program participant in a facility that provides rehabilitation for individuals whose earning capacity is impaired by age, physical or mental limitation, or injury or provides remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed into the labor market.

(9) As part of an unemployment work relief program or as part of an unemployment work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.

(10) Service with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of congress other than the social security act.

(11) As a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending courses in a nurses' training school approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a course in a medical school approved pursuant to state law.

(12) By an individual under the age of eighteen (18) years in the delivery or distribution of newspapers or shopping news not including delivery or distribution to any point for subsequent delivery or distribution.

(13) By an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such

individual for such person is performed for remuneration solely by way of commission.

(14) By an individual for a real estate broker as an associate real estate broker or as a real estate salesman, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

(15) Service covered by an election approved by the agency charged with the administration of any other state or federal unemployment insurance law, in accordance with an arrangement pursuant to section 72-1344, Idaho Code.

(16) In the employ of a school or college by a student who is enrolled and regularly attending classes at such school or college.

(17) In the employ of a hospital by a resident patient of such hospital.

(18) By a member of an AmeriCorps program.

(19) By an individual who is paid less than fifty dollars ($50.00) per calendar quarter for performing work that is not in the course of the employer's trade or business, or that does not promote or advance the trade or business of the employer, and who is not regularly employed by such employer to perform such service. For the purposes of this subsection, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if:

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

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

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

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

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

Such exemption applies solely to the individual's engagement in the trade or business of selling or soliciting the sale of consumer products in a private home or location other than in

a permanent retail establishment.

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

SECTION 10. That Chapter 13, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1316B, Idaho Code, and to read as follows:

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

SECTION 11. That Section 72-1319, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

SECTION 12. That Chapter 13, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW

SECTION, to be known and designated as Section 72-1326, Idaho Code, and to read as follows:

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

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

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

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

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

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

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

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

(g) Vacation pay allocable to a certain period of time in accordance with an employment agreement reportable in the week to which it is allocable; provided, vacation pay received in a lump-sum payment at the time of severance of the employment relationship must be reported when paid;

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

(i) A claimant other than employees of educational institutions who is bound by a contract which does not prevent him from accepting other employment but who receives pay for a period of not working, is required to report the contract payments as earnings in equal portions in each week of the period covered by the contract;

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

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

(l) Pension or retirement payments when:

(i) The pension, retirement pay, annuity, or other similar periodic payment is made under a plan maintained or contributed to by a base period employer; and

(ii) The dollar amount of the weekly pension will be deducted from the claimant's weekly benefit amount unless the claimant has made contributions toward the pension.

If the claimant has made contributions toward the pension plan, no deduction for the pension will be made from the claimant's weekly benefit amount.

(iv) The burden shall be on the claimant to establish that he has made contributions toward the pension, retirement pay, annuity or other similar payment plan.

(v) Any change in the amount of the pension, retirement, or annuity payments that affects the deduction from the claimant's weekly benefit amount will be applied in the first full week after the effective date of the change.

(3) Reportable income does not include:

(a) Injury or disability compensation payments; and

(b) Amounts awarded to a claimant as a penalty or damages against an employer, other than for lost wages.

SECTION 13. That Section 72-1327A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1327A. VALID CLAIM. "Valid claim" means any application for benefits for a compensable week which is found to be eligible as provided in section 72-1367, Idaho Code, and which has been filed in accordance with this chapter and such rules as the director may prescribe. To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment.

SECTION 14. That Section 72-1328, Idaho Code, be, and the same is hereby amended to read as follows:

72-1328. WAGES. (1) "Wages" shall include~~:~~ ~~(a) A~~ all remuneration, or the cash value of all remuneration in a medium other than cash, for personal services, performed or to be performed, from whatever source, including, without limitation: ~~commissions and bonuses and the cash value of all remuneration in any medium other than cash;~~

(a) Commissions, bonuses, draws, distributions, dividends and any other forms or types of payments if paid in exchange for

services;
(b) Bonuses, prizes, and gifts given to an employee in recognition of services, sales, or production;
(c) Commissions for past services in covered employment;
(d) Remuneration paid to corporate officers in exchange for services performed or to be performed for or on behalf of the corporation;
(e) Salary advances against commissions;
(f) All forms of profit sharing for services rendered unless specifically exempt under this chapter;
(g) Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer;
(h) Vacation or idle-time pay, no matter when paid;
(i) Personal expense reimbursement, such as clothing, family expenses, and rent;
(~~b~~j) All tips received while performing services in covered employment totaling twenty dollars ($20.00) or more in a month, which are reported in writing to the employer as required under federal law; and
(~~c~~k) Any employer contribution under a qualified cash or deferred agreement as defined in 26 U.S.C. 401(k) to the extent such contribution is not included in gross income by reason of 26 U.S.C. 402(a)(8).
(2) The term "wages" shall not include:
(a) Payments (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to or on behalf of an individual or any of his dependents under a plan established by an employer that makes provision generally for individuals performing service for him (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of: (i) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term "wages" only payments received under a worker's compensation law), or (ii) medical or hospitalization expenses in connection with sickness or accident disability, or (iii) death;
(b) Payments on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to or on behalf of an individual performing services for him after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer;

(c) Payments made by an employer to or on behalf of an individual performing services for him or his beneficiary: (i) from or to a trust described in section 401(a) of the Internal Revenue Code that is exempt from tax under section 501(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust, or (ii) under or to an annuity plan that, at the time of such payments, is a plan described in section 403(a) of the Internal Revenue Code, or (iii) under a cafeteria plan within the meaning of section 125 of the Internal Revenue Code;

(d) Payments made by an employer (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in his employ under section 3101 of the Internal Revenue Code; or

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

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

(g) Bonuses paid for signing a contract;

(h) Fees paid to participate periodically in meetings of boards of directors unless exceedingly high as compared to other employers in the same industry, of relatively the same size;

(i) Drawings or advances by partners of a partnership, or by members of a limited liability company treated for federal tax purposes as a partnership or sole proprietorship;

(j) Charges pursuant to a rental agreement for personal equipment provided by the employee on the job if the employee has received a reasonable wage for services performed and the fees are held separately on the employer's records;

(k) Stock or membership interests issued for purposes other than services performed or to be performed;

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

(m) Payments for employee travel expenses, provided payments are job-related expenses incurred while performing services, payments do not exceed actual expenses or the federal allowance per diem rate for the area of travel, and records

for days of travel pertaining to per diem payments are verifiable;

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

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

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

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

SECTION 15. That Chapter 13, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1328A, Idaho Code, and to read as follows::

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

(a) If a cash value is agreed upon in any contract of hire, the amount so agreed upon shall be used provided it is a reasonable, fair market value. If there is no agreement, or if the contract of hire states an amount less than a reasonable, fair market value, the department shall determine the reasonable, fair market value to be used.

(b) The value of meals and lodging furnished by an employer to the employee will not be included in the employee's gross income when furnished on the employer's business premises for the employer's convenience, and in the case of lodging (but not meals), the employees are required to accept the lodging in order to properly perform their duties and as a condition of their employment.

(c) In order to exclude the value of lodging from an employee's gross wages, the employer must show that the wages paid to the employee for services performed meet the prevailing wage for those services. If the employer's records do not show or establish that the employee received the prevailing wage for services performed, then the reasonable,

fair market value of the lodging will be included as wages in the employee's gross income.

(2) Meals or lodging furnished will be considered for the employer's convenience if the employer has a substantial business reason other than providing additional remuneration to the employee. A statement that the meals or lodging are not intended as remuneration is not sufficient to establish that either meals or lodging are furnished for the employer's convenience.

(3) In the case of employees who receive remuneration in the form of subsistence, such as groceries, staples, and fundamental shelter, the reasonable, fair market value of such subsistence will be determined by the department.

SECTION 16. That Chapter 13, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1330B, Idaho Code, and to read as follows:

72-1330B. WORKPLACE MISCONDUCT. (1) "Workplace misconduct" means conduct in connection with employment that willfully disregards the employer's interest, willfully violates the employer's reasonable rules, or disregards standards of behavior that the employer has a right to expect of its employees.

(2) A claimant's conduct disregards a standard of behavior the employer has a right to expect of his employees when the conduct falls below the standard of behavior expected by the employer and the employer's expectation was objectively reasonable. There is no requirement that the claimant's conduct be willful, intentional, or deliberate. The claimant's subjective state of mind is irrelevant.

(3) An employer's expectation is objectively reasonable when it is communicated to the employee or flows naturally from the employment relationship. An expectation that flows naturally need not be communicated to an employee to be objectively reasonable.

(4) Mere inefficiency, unsatisfactory conduct, failure to meet the performance expectations of the employer because of inability or incapacity, inadvertencies, isolated instances of ordinary negligence, or good faith errors in judgment or discretion are not considered misconduct connected with employment.

(5) Except as provided is section 72-1366(5), conduct involving personal, non-job related behavior is not workplace misconduct in connection with employment.

SECTION 17. That Section 72-1337, Idaho Code, be, and the same is hereby amended to read as follows:

72-1337. RECORDS AND REPORTS. (1) Each employer that is a

"covered employer," as defined in section 72-1315, Idaho Code, shall complete and submit to the director an Idaho business registration form within six (6) months of becoming a covered employer.

(2) Each employer, including those who are not covered employers, shall keep accurate records, containing such information as the director may prescribe for a period of five (5) years, including, without limitation:

(a) Full name and home address of worker,

(b) Social Security account number,

(c) The place of work within the State,

(d) Date on which worker was hired, rehired, or returned to work after temporary or partial layoff,

(e) Date employment was terminated; whether the termination occurred by voluntary action of the individual and the reason given, or by discharge or death, and the reason for the discharge,

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

(g) Amounts paid to workers as allowances or reimbursement for travel and employee business expenses and the amounts of such expenditures actually incurred and accounted for by them.

(3) Employers who are liable to pay tax contributions, or who have elected a cost reimbursement option in lieu of tax contributions, shall submit quarterly contribution reports in the form or medium designated by the department.

(4) (a) Each contribution shall be accompanied by an employer's contribution report. All contribution reports shall be filed electronically with the department unless the employer has petitioned the department in writing for a waiver and the department has granted a waiver allowing the filing of a non-electronic contribution report. All contribution reports shall be in a form or medium prescribed and furnished or approved for such purpose by the department, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed, furnished, or acknowledged by the covered employer or, on their behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information.

(b) Each employer shall report all wages paid for services in covered employment each calendar quarter. In the event a covered employer does not pay wages during a calendar quarter, the employer shall file a quarterly report indicating that no

wages were paid.

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

(d) An employer shall be covered for all four (4) quarters in the calendar year in which the employer becomes a covered employer as well as for all four (4) quarters in the succeeding calendar year. Employers are not required to file quarterly reports until meeting the coverage criteria pursuant to section 72-1315, Idaho Code. Upon becoming a covered employer within a calendar year, the quarterly report for the quarter prior to the employer becoming covered shall be filed with the quarterly report for the quarter in which the employer became covered. Quarterly reports for the periods subsequent to coverage shall be filed when due after the end of each quarter.

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

i. Actually paid to the employee in accordance with the employer's usual and customary payday as established by law or past practice; or

ii. Due the employee in accordance with the employer's usual and customary payday as established by law or past practice but not actually paid on such date because of circumstances beyond the control of the employer or the employee; or

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

(b) Payments to employees made prior to regular or established paydays will be assignable and reportable during the quarter in which they would have been paid unless a practice is established whereby all employees or a class of employees are given an opportunity to take a regular advance against wages, which creates another customary payday.

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

(d) Amounts awarded to the claimant as penalties or damages

against the employer, other than for lost wages, do not constitute wages.

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

(7)(a) When remuneration paid includes payment, in addition to wages for services performed in covered employment, the employer's records must account for wages and other remuneration separately. When this distribution is not shown on the records, the employee's entire remuneration will be deemed to be wages and shall be reported.

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

(8) Each covered employer, and any other employer requested by the department, shall submit status reports on such form or any online system as may be prescribed and furnished by the director, such information as may be necessary to make an initial or subsequent determination of status under this chapter, which shall be signed by the employer, or by a duly authorized representative of employer for such purpose.

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

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

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

(10) All persons, whether covered or not, shall make available to the department all requested business records, including, without limitation, journals, ledgers, time books, minute books, or any other records or information which would tend to establish the existence of amounts paid for services performed, whether or not in covered employment, and for information necessary to assist in or enable collection efforts or any other investigations conducted by the department.

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

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

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

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

(a) left his employment voluntarily;

(b) was discharged from his employment due to workplace misconduct;

(c) is unemployed due to a strike, lockout, or other labor dispute;

(d) is not working due to a suspension; or

(e) was separated for any other reason except lack of available work.

The employer's response and any supporting documentation must be given by the employer, or by a duly authorized representative of employer having personal knowledge of the facts concerning the separation. The employer should provide to the department, by electronic media or mail, copies of any documentation supporting its position.

SECTION 18. That Section 72-1342, Idaho Code be, and the same

is hereby amended to read as follows:

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

(2) The director ~~may~~ shall by rule or department policy establish confidentiality and disclosure procedures to comply with the requirements of 20 CFR Part 603, "Confidentiality and Disclosure of State Unemployment Compensation Information," and the Idaho Public Records Act, including procedures that prescribe the form of written, informed consent by a person that is adequate for disclosure of employment security information pertaining to that person to a third party, as provided in section 74-106(7), Idaho Code, and the security requirements and cost provisions that apply to such disclosures.

SECTION 19. That Section 72-1349, Idaho Code, be, and the same is hereby amended to read as follows:

72-1349. PAYMENT OF CONTRIBUTIONS--LIMITATION OF ACTIONS. (1) Contributions shall be reported and paid to the department on taxable wages for each calendar year equal to the amount determined in accordance with section 72-1350, Idaho Code. Contributions on wages paid to an individual under another state unemployment insurance law, or paid by an employer's predecessor during the calendar year, shall be counted in complying with this provision.

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

(3) The contributions reportable and payable to the department by each covered employer, with respect to covered employment, accruing in each calendar quarter, shall be reported

and paid to the department on or before the last day of the month following the close of said calendar quarter. If the normal due date falls on a weekend or holiday, the next business day shall be the due date for contributions.

(4) Each amount shall be deemed to have been paid on the date that the department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing the contribution.

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

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

(~~5~~7) Whenever it appears to be essential to the proper administration of this chapter that collection of the contributions of a covered employer must be made more often than quarterly, the director shall have authority to demand payment of the contributions forthwith.

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

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

(~~8~~10) The director may commence administrative proceedings to enforce the provisions of this section by issuing a determination at any time within five (5) years of the due date of a quarterly report or the date a quarterly report is filed, whichever is later. The limitation period of this subsection (8)

is tolled during any period in which the employer absconds from the state, during any period of the employer's concealment, or during any period when the department's ability to commence administrative proceedings to enforce the provisions of this section is stayed by legal proceedings.

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

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

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

(3) Transferring experience rate to professional employer organizations. In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within the same timeframes as required of employers by section 72-1351(5), Idaho Code, from the date of the contract entered into between the professional employer organization and the client required by section 44-2405, Idaho Code. Failure to submit a timely joint request for transfer of experience rate shall result in the professional employer organization reporting wages for the client under the employer account number of the client.

(4) Joint transfer applications. In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer organization, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer organization, and no partial transfers of experience factors or the experience rate shall be allowed.

(5) Reporting workers in professional employer organization arrangements. If some of the client's workers are included in the professional employer organization arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional

employer organization arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the department, which shall list or include all the client's workers whether or not included in the professional employer organization arrangement.

(6) Meeting coverage requirements. If a client employer has employees or employment, or both, that do not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of this chapter if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees jointly meet coverage requirements.

(~~2~~7) Liability for contributions. Unless a professional employer meets the minimum requirements of this chapter, its client shall remain liable as a covered employer for any payments due under the provisions of this chapter. During the term of a professional employer arrangement, a professional employer is liable for the payment of all moneys due pursuant to this chapter as a result of wages paid to employees assigned to a client company, except compensation paid to sole proprietors or partners in the client company.

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

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

(10) To report the wages and employees covered by the professional employer organization arrangement between a professional employer organization and client, professional employer organizations and their clients shall make reports to the department in one (1) of the following ways, subject to any conditions in rules promulgated by the department:

(a) Report the workers included in the professional employer organization arrangement under the employer account number of the professional employer organization and transfer the rate of the client to the professional employer organization; or

(b) Report the workers included in the professional employer

organization arrangement under the employer account number of the client without an experience rate transfer.

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

(~~6~~12) Temporary workers. The provisions of this section do not apply to an entity that provides temporary workers on a temporary help basis, provided that the entity is liable as the employer for all payments due under the provisions of this chapter as a result of wages paid to those temporary workers.

(~~7~~13) Rebuttable presumption. When a professional employer assigns workers to only one (1) client and its affiliates, there is a rebuttable presumption that the client entered into a professional employer arrangement to avoid calculation of the proper taxable wage rate. If the professional employer fails to rebut this presumption, the director, pursuant to section 72-1353, Idaho Code, shall issue an administrative determination of coverage holding the client to be the covered employer for purposes of this chapter.

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

(~~9~~15) Succession of experience factors. Whenever a professional employer arrangement is entered, the separate account and experience factors of payroll and reserve shall be transferred to the professional employer for the purpose of determining the professional employer's contribution rate to be paid on behalf of the client. Upon the expiration or termination of the professional employer arrangement, so much of the professional employer's separate account and experience factors of payroll and reserve as is attributable to the client shall be transferred to the terminating client for the purpose of determining the client's subsequent rate of contribution. In the event the professional employer elects to pay the client's contribution separately as provided in subsection (~~4~~9) of this section, then the client's experience factors of payroll and reserve shall remain with the client employer for the duration of the professional employer arrangement.

SECTION 21. That Section 72-1350, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) Prior to December 31 of each year, the director shall determine the taxable wage rates for the following calendar year for all covered employers, except cost reimbursement employers, in accordance with this section. If the desired fund size multiplier set forth in subsection (3) of this section is revised with an effective date that is prior to January 1 of the following year, the director shall issue adjusted taxable wage rates as soon as practicable and in accordance with the revised multiplier's effective date. Employers shall receive a credit against future taxes under this act for any overpayments resulting from tax payments made before the amended taxable wage rates are adjusted.

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

(4) The fund balance ratio shall be determined by dividing the actual balance of the employment security fund, section 72-1346, Idaho Code, and the reserve fund, section 72-1347A, Idaho Code, on September 30 of the current calendar year by the wages paid by all covered employers in Idaho, except cost-reimbursement employers, in the preceding calendar year.

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

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

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

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

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

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

Cumulative Taxable Payroll Limits			Eligible Employers		
Rate Class	More Than (% of Taxable Payroll)	Equal to or Less Than (% of Taxable Payroll)	Tax Factor	Minimum Taxable Wage Rate	Maximum Taxable Wage Rate
1	--	12	0.2857	0.180%	0.960%
2	12	24	0.4762	0.300%	1.600%
3	24	36	0.5714	0.360%	1.920%
4	36	48	0.6667	0.420%	2.240%
5	48	60	0.7619	0.480%	2.560%
6	60	72	0.8571	0.540%	2.880%
7	72	--	0.9524	0.600%	3.200%

Standard-Rated Employers		
Tax Factor	Minimum Taxable Wage Rate	Maximum Taxable Wage Rate
1.000	1.000%	3.4%

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

(8) Each covered employer, except cost-reimbursement

employers, will be assigned a taxable wage rate and a contribution rate as follows:

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

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

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

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

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

(9) Each employer shall be notified of his taxable wage rate as determined for any calendar year pursuant to this section and section 72-1351, Idaho Code. Such determination shall become conclusive and binding upon the employer, unless within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, the employer files an application for redetermination,

setting forth his reasons therefor. Reconsideration shall be limited to transactions occurring subsequent to any previous determination that has become final. The employer shall be promptly notified of the redetermination, which shall become final unless an appeal is filed within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code. Proceedings on the appeal shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 22. That Section 72-1351, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) (i) Each eligible employer shall be given an "experience factor" which shall be the ratio of excess of contributions over benefits paid on the employer's account since December 31, 1939, to his average annual taxable payroll rounded to the next lower dollar amount for the four (4) fiscal years immediately preceding the computation date, except that when an employer first becomes eligible, his "experience factor" will be computed on his average annual taxable payroll for the two (2) fiscal years or more, but not to exceed four (4) fiscal years, immediately preceding the computation date. The computation of such "experience factor" shall be to six (6) decimal places.

(ii) Each deficit employer shall be given a "deficit experience factor" which shall be the ratio of excess of benefits paid on the employer's account over contributions since December 31, 1939, to his average annual taxable payroll rounded to the next lower dollar amount for one (1) or more fiscal years, but not to exceed four (4) fiscal years, for which he had covered employment ending on the computation date; provided, however, that any employer who, on any computation date has a "deficit experience factor" for the period immediately preceding such computation date but who has filed all reports, paid all contributions and penalties due on or before the cutoff date, and has during the last four (4) fiscal years paid contributions at a rate of not less than the standard rate applicable for each such year and in excess of benefits charged to his experience rating account during such years, shall have any balance of benefits charged to his account, which on

the computation date immediately preceding such four (4) fiscal years was in excess of contributions paid, deleted from his account, and the excess benefits so deleted shall not be considered in the computation of his taxable wage rate for the rate years following such four (4) fiscal years. For the rate year following such computation date, he shall be given the standard rate for that year.

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

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

(b) Schedules shall be prepared listing all eligible employers in inverse numerical order of their experience factors, and all deficit employers in numerical order of their deficit experience factors. There shall be listed on such schedules for each such employer in addition to the experience factor: (i) the amount of his taxable payroll for the fiscal year ending on the computation date, and (ii) a cumulative total consisting of the sum of such employer's taxable payroll for the fiscal year ending on the computation date and the corresponding taxable payrolls for all other employers preceding him on such schedules.

(c) The cumulative taxable payroll amounts listed on the schedules provided for in paragraph (b) of this subsection shall be segregated into groups whose limits shall be those set out in the table provided in section 72-1350(7), Idaho Code. Each of such groups shall be identified by the rate class number listed in the table which represents the percentage limits of each group. Each employer on the schedules shall be assigned a taxable wage rate in accordance with section 72-1350, Idaho Code.

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

(ii) If the group of rate classes requires the inclusion

of a portion other than exactly one-half (1/2) of an employer's taxable payroll, the employer shall be assigned the rate designated for the class in which the greater part of his taxable payroll is so required.

(iii) If one (1) or more employers on the schedules have experience factors identical to that of the last employer included in a particular rate class, all such employers shall be included in and assigned the taxable wage rate specified for such class, notwithstanding the provisions of paragraph (c) of this subsection.

(e) If the taxable payroll amount or the experience factor or both such taxable payroll amount and experience factor of any eligible or deficit employer listed on the schedules is changed, the employer shall be placed in that position on the schedules which he would have occupied had his taxable payroll amount and/or experience factor as changed been used in determining his position in the first instance, but such change shall not affect the position or rate classification of any other employer listed on the schedules and shall not affect the rate determination for previous years.

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

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

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

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

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

(e) If paid to a worker who continues to perform services for

such covered employer without a reduction in his customary work schedule, and who is eligible to receive benefits due to layoff or a reduction in earnings from another employer;

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

(3) A covered employer whose experience rating account is chargeable, as prescribed by this section, is an interested party as defined in section 72-1323, Idaho Code. A determination of chargeability shall become final unless, within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, an appeal is filed by an interested party with the department in accordance with the department's rules. Appeal proceedings shall be in accordance with the provisions of section 72-1361, Idaho Code.

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

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

(5) (a) Whenever any individual or type of organization, whether or not a covered employer within the meaning of section 72-1315, Idaho Code, in any manner succeeds to, or acquires all or substantially all, of the business of an employer who at the time of acquisition was a covered employer, and in respect to whom the director finds that the business of the predecessor is continued solely by the successor, the separate experience rating account of the predecessor shall, upon the joint application of the predecessor and the successor within the one hundred eighty (180)

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

(b) Whenever any individual or type of organization, whether or not a covered employer within the meaning of section 72-1315, Idaho Code, in any manner succeeds to, or acquires, part of the business of an employer who at the time of acquisition was a covered employer, and such portion of the business is continued by the successor, so much of the separate experience rating account of the predecessor as is attributable to the portion of the business transferred, as determined on a pro rata basis in the same ratio that the wages of covered employees properly allocable to the transferred portion of the business bears to the payroll of the predecessor in the last four (4) completed calendar quarters immediately preceding the date of transfer, shall, upon the joint application of the predecessor and the successor within one hundred eighty (180) days after such acquisition and approval by the director, be transferred to the successor employer for the purpose of determining such successor's liability and taxable wage rate, and any successor who was not an employer on the date of acquisition shall, as of such date, become a covered employer as defined in this chapter. Such one hundred eighty (180) day period may be extended at the discretion of the director.

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

(ii) If the successor was not a covered employer prior to the date of the acquisition of all or a part of the predecessor's business, his rate shall be the rate applicable to the predecessor with respect to the period immediately preceding the date of acquisition, but if there were more than one (1) predecessor, the successor's rate shall be a newly computed rate based on the combined experience of the predecessors, becoming effective immediately after the date of acquisition, and shall remain in effect the balance of the rate year.

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

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

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

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

(i) For partial transfers of an experience rating record, the pro rata share of the experience rate to be transferred shall be computed based upon the four (4) most recently completed quarters reported by the predecessor employer prior to the date of acquisition or change in entity.

(ii) When a total transfer of experience rating record has been completed and the predecessor employer continues to have employment in connection with the liquidation of his business, the predecessor employer shall continue to pay contributions at the assigned rate for the period of liquidation but not beyond the balance of the rate year.

(iii) In determining whether the ownership or management or control of a successor employer is substantially the same as the ownership or management or control of the

predecessor employer, factors to be considered include, without limitation, the extent of policy-making authority, the involvement in daily management of operations, the supervision over the workforce, the percentage of ownership of shares or assets, and the involvement on boards of directors or other controlling bodies.

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

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

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

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

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

(ii) Prepares any false or antedated report, form, book, paper, record, written instrument, or other matter or thing in connection with the transfer of a trade or business with the intent to submit it or allow it to be

submitted to the department as genuine or true;

(iii) Knowingly violates or attempts to violate subsection (1) or (2) of this section or any other provision of this chapter related to determining the assignment of a contribution rate or an experience rate; or

(iv) Knowingly advises another person in a way that results in a violation or an attempted violation of subsection (1) or (2) of this section or any other provision of this chapter related to determining the assignment of a contribution rate or an experience rate.

(b) If a person commits any of the acts described in paragraph (a) of this subsection, the person shall be subject to the following penalties:

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

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

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

(5) For purposes of this section:

(a) ~~An employer's e~~ "Experience rating account" ~~shall~~

~~consist of~~ means the actual contribution, benefit and taxable payroll experience of the employer and any amounts due from the employer under this chapter. When a transferred experience rating account includes amounts due from the employer under this chapter, both the predecessor employer and the successor employer shall be jointly and severally liable for those amounts.

(b) "Knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved.

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

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

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

(ii) Whether the successor purchased, leased or assumed machinery and manufacturing equipment, office equipment, business premises, the business or corporate name, inventories, a covenant not to compete or a list of customers;

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

(iv) A transfer of good will;

(v) A transfer of accounts receivable;

(vi) Possession and use of the predecessor's sales correspondence; and

(vii) Whether the employees remained the same.

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

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

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

(7) This section shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any

guidance or regulations issued by the United States department of labor.

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

SECTION 24. That Section 72-1352A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1352A. CORPORATE OFFICERS--EXEMPTION FROM COVERAGE--NOTIFICATION--REINSTATEMENT. (1) A corporation that is a public company, other than those covered in sections 72-1316A, 72-1322D and 72-1349C, Idaho Code, may elect to exempt from coverage pursuant to this chapter any bona fide corporate officer who is voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation, is a shareholder of the corporation, exercises substantial control in the daily management of the corporation and whose primary responsibilities do not include the performance of manual labor.

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

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

(4) To make the election, a corporation with qualifying corporate officers pursuant to subsection (1) or (2) of this section must register with the department each qualifying corporate officer it elects to exempt from coverage. The registration must be in a format prescribed by the department and be signed and dated by the corporate officer being exempted from coverage. Registration forms received and approved by the department by March 31 of the first year of the election shall be effective January 1 of that year and shall remain in effect for at least two (2) consecutive calendar years.

(5) A newly formed corporation with qualifying corporate officers pursuant to subsections (1) and (2) of this section shall

register with the department each corporate officer it elects to exempt within forty-five (45) calendar days after submitting its Idaho business registration form to the department as required by section 72-1337, Idaho Code. The registration must be in a format prescribed by the department and be signed and dated by the corporate officer being exempted from coverage. Registration forms received and approved by the department shall become effective as of the date the Idaho business registration form was submitted to the department and shall remain in effect for at least two (2) consecutive calendar years.

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

(7) A corporate officer's exemption is in effect until revoked or terminated upon the corporate officer's failure to satisfy the election criteria. It is the responsibility of the corporation to notify the department in writing in a format required by the department when an exempt corporate officer no longer meets the election criteria. A corporation is responsible for any taxes, penalties, and interest due after the date the exemption is terminated or should have been terminated.

(8) For purposes of this chapter:

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

(b) A person exercises substantial control in the daily management of the corporation when they make managerial decisions for the corporation, including, without limitation, the authority to hire and fire, to direct other's activities in the corporation, and the responsibility to account for and pay taxes or debts incurred by the corporation.

SECTION 25. That Section 72-1357, Idaho Code, be, and the same is hereby amended to read as follows:

72-1357. ADJUSTMENTS AND REFUNDS. (1) If any person shall make application for a refund or credit of any amounts paid under this chapter, the director shall, upon determining that such amounts or any portion thereof was erroneously collected, either

allow credit therefor, without interest, in connection with subsequent payments, or shall refund from the fund in which the erroneous payment was deposited, without interest, the amount erroneously paid.

(2) An employer submitting an erroneous report of employee wages resulting in payment of unearned unemployment insurance benefits shall have said benefit payments subtracted from any refund due that employer, if such employer benefited from the unearned benefit payments.

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

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

(b) Three (3) years from the last day of the calendar quarter with respect to which such payment was made. For a like cause and within the same period a refund may be so made, or credit allowed, on the initiative of the director. Nothing in this chapter shall be construed to authorize any refund or credit of moneys due and payable under the law and regulations in effect at the time such moneys were paid.

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

(5) The department may on its own initiative refund or credit overpayments on employer accounts without written application by the employer.

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

SECTION 26. That Section 72-1365, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) Periodically, the department of health and welfare, bureau of child support enforcement, shall forward to the director a list containing the full name and social security number of persons from whom it is seeking child support. The director shall match the names and social security numbers on the list with its

records of individuals eligible for benefits, and shall notify the department of health and welfare, bureau of child support enforcement, of the address and amount of benefits due each individual.

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

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

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

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

(iii) Notice of the set-off or withholding has been mailed by registered or certified mail from the department of health and welfare, bureau of child support enforcement, to the claimant-obligor at the address listed on the claim.

Within fourteen (14) days after such notice has been mailed (not counting Saturday, Sunday, or state holidays as the 14th day), the claimant-obligor may file a protest in writing, requesting a hearing before the department of health and welfare to determine his liability to the obligee. The hearing, if requested, shall be held within thirty-five (35) days from the date of the initial notice to the claimant-obligor of the proposed set-off. No issues at that hearing may be considered which have been litigated previously. The department of health and welfare shall issue its findings and decision either at the hearing or within ten (10) days of the hearing by mail to the claimant-

obligor.

(iv) In its decision, the department of health and welfare may order the withholding and set-off of any subsequent benefits which may be due the claimant-obligor until the debt for which set-off is sought and any additional debts which are incurred by the claimant's failure to make additional periodic payments based upon the same court order are satisfied.

(c) Any amount deducted and withheld under paragraph (a) or (b) of this subsection shall be paid by the director to the appropriate state or local child support enforcement agency.

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

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

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

(g) The term "child support obligation" is defined for the purposes of these provisions as including only an obligation which is being enforced pursuant to a plan described in section 454 of the social security act which has been approved by the secretary of health and human services under part D of title IV of the social security act.

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

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

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

(5) Upon request, the department of health and welfare, bureau of child support enforcement, shall make the procedures established in this section for collecting child support available

to county prosecuting attorneys. The provisions of this subsection apply only if appropriate arrangements have been made for reimbursement by the requesting prosecuting attorney for the administrative costs incurred by the bureau, which are attributable to the request.

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

(i) Benefits are subject to federal and state tax and requirements exist pertaining to estimated tax payments; and

(ii) The individual may elect to have federal income tax deducted and withheld from the individual's benefits at the amount specified in the federal internal revenue code~~;~~

~~(iii) The individual shall be permitted to change a previously elected withholding status once during each benefit year~~.

(b) Amounts deducted and withheld from benefits shall remain in the unemployment fund until transferred to the taxing authority as a payment of income tax.

(c) The director shall follow all procedures specified by the United States department of labor and the federal internal revenue service pertaining to the deducting and withholding of income tax.

(d) Amounts shall not be deducted and withheld under this subsection until the following deductions are made and withheld in the following order:

(i) First, amounts owed for overpayments of benefits deducted and withheld pursuant to the provisions of section 72-1369, Idaho Code;

(ii) Second, amounts owed for child support obligations deducted and withheld pursuant to the provisions of subsection (2) of this section.

(e) At the director's discretion, the director may promulgate rules allowing individuals to elect to have state income tax deducted and withheld from the individual's payment of benefits.

SECTION 27. That Section 72-1366, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) The claimant shall have made a claim for benefits, ~~and~~ provided all necessary information pertinent to eligibility, and demonstrated that he is eligible for benefits and not disqualified, except that in the case of discharges from employment, the employer

shall have the burden of demonstrating the discharge was for workplace misconduct.

(2) The claimant shall have registered for work and thereafter reported to a job service office or other agency in a manner prescribed by the director.

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

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

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

(ii) A~~a~~vailable for suitable work~~,~~; ~~and~~

(iii) Actively seeking work, which shall include not less than by conducting five (5) work search actions per week; provided, however, that no claimant shall be considered ineligible for failure to comply with the provisions of this subsection (4)(a) if:

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

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

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

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

(i) Completing an online or in-person job search workshop;

(ii) Completing a job search assessment, including but not limited to a personality, skills, or interests assessment;

(iii) Completing career direction research or work such as a job search plan or job search counseling;

(iv) Completing job search branding and marketing

activities such as completing a resume, cover letter, master application, elevator pitch, LinkedIn profile, or uploading a completed resume to a job board allowing visibility to employers;

(v) Completing an online or in-person mock interview;

(vi) Taking a civil service exam;

(vii) Submitting a resume to an employer;

(viii) Completing and submitting a job application to an employer;

(ix) Attending and completing an interview or skills test with an employer; or

(x) Attending a job fair.

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

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

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

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

(e) A claimant must seek work as directed by the department. A claimant must meet the requirements of the code to which the claimant is assigned. Failure to comply with work-seeking requirements will result in a denial of benefits. For the purpose of administering the work search requirements of section 72-1366(4) and (6), Idaho Code, a claimant will be coded according to his attachment to an employer or industry,

as follows:

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

(ii) Workseeking. A claimant who possesses marketable skills in an occupation, but has no immediate prospects for reemployment, and whose employment expectations, wages, hours, and other conditions of employment are realistic in relation to the normal labor market supply and demand in his area of availability; and

(iii) Approved Training. A claimant who is assigned to a training course under the provisions of section 72-1366(8), Idaho Code.

(f) A claimant must provide or be capable of obtaining a license or permit if required by law for performance of the work.

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

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

(5) (a) The claimant's unemployment is not due to the claimant voluntarily leaving employment without good cause connected with the claimant's employment or because of the claimant's discharge for workplace misconduct in connection with the claimant's employment.

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

~~(a)~~(i) The leaving was necessary to protect the claimant or any minor child of the claimant from domestic violence or the leaving was due to domestic violence that caused the claimant to reasonably believe that the claimant's continued employment would jeopardize the safety of the claimant or any minor child of the claimant~~;~~ and ~~(ii) T~~the claimant made all reasonable efforts to preserve the employment; or

(~~b~~ii) The claimant is a military spouse who voluntarily

left the claimant's most recent employment to relocate with the claimant's spouse who, because of a permanent change of station orders, was required to move to a location from which the commute to the claimant's most recent employment was impractical, but only if, before leaving, the claimant took reasonable actions to maintain the employment relationship through accommodation discussions with the claimant's employer; or

(iii) The claimant quit a temporary job for a permanent job or quit part-time employment for employment with an increase in the number of hours worked.

(c) The following definitions apply to this subsection:

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

(ii) "Military spouse" means the spouse of a member of the armed forces of the United States or a reserve component of the armed forces of the United States stationed in this state in accordance with military orders or stationed in this state before a reassignment to duties outside this state; and

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

(d) Good cause connected with employment exists when a claimant's reasons for leaving the employment arise from the working conditions, job tasks, or employment agreement. If the claimant's reasons for leaving the employment arise from personal or other matters unrelated to employment, the reasons are not connected with the claimant's employment.

(i) The standard of what constitutes good cause is the standard of reasonableness as applied to the average man or woman. Whether good cause is present depends upon whether a reasonable person would consider the circumstances resulting in the claimant's unemployment to be real, substantial, and compelling.

(ii) A claimant who leaves a job because of a reasonable and serious objection to the work requirements of the employer on moral or ethical grounds and is otherwise eligible, will not be denied benefits.

(iii) A claimant whose unemployment is due to his health or physical condition which makes it impossible for him

to continue to perform the duties of the job will be deemed to have quit work with good cause connected with employment.

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

(v) The eligibility of a claimant discharged before a pending resignation has occurred for reasons unrelated to the pending resignation will be determined on the basis of the discharge.

(vii) If a claimant had given notice of a pending resignation, but was discharged before the effective date of the resignation, both separations must be considered. The following three (3) elements should be present for both actions to affect the claimant's eligibility:

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

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

3. The discharge occurred a short time prior to the effective date of the resignation.

(viii) Good cause for quitting employment may be established by showing the claimant was subjected harassment that is unlawful under the Idaho Human Rights Act, Title 67, Chapter 59, Idaho Code.

(e) If a claimant has resigned after receiving a notice of discharge (or lay off due to a lack of work), but before the effective date of the discharge, both "separations" must be considered. The following three (3) elements should be present for both actions to affect the claimant's eligibility:

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

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

(iii) The voluntary quit occurred a short time prior to the effective date of the termination.

(f) Indefinite Suspension. A claimant who has been suspended without pay for an indefinite period of time, who has not been given a date to return to work, is considered discharged.

(6)(a) The claimant's unemployment is not due to his failure

without good cause to apply for available suitable work or to accept suitable work within seven (7) days of when it is offered to him, unless a condition specified in subsection (8) of this section applies or the job offered does not constitute suitable employment pursuant to the provisions of subsection (9) of this section. A claimant has the responsibility to apply for and accept suitable work. The longer a claimant has been unemployed, the more willing he must be to seek other types of work and accept work at a lower rate of pay. Failure to appear for a previously scheduled job interview without notifying the employer of the need to cancel or reschedule shall constitute a failure to apply for suitable work for that week.

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

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

(d) To have good cause to refuse to apply for or accept available, suitable work because of personal circumstances, a claimant must show that his circumstances were so compelling that a reasonably prudent individual would have acted in the same manner under the same circumstances. For purposes of paragraph (a) of this subsection, good cause includes, but is not limited to, circumstances where:

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

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

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

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

(v) the travel distance to available work is excessive or unreasonable; provided, a claimant is ineligible if he fails to apply for and accept suitable work within a commuting area similar to other workers in his area and occupation; and

(vi) the claimant cannot meet government requirements

within a reasonable period of time.

(e) A claimant will be ineligible for benefits where:

(i) the claimant causes an employer to withdraw an offer of suitable work or terminate the offer after the claimant has accepted it;

(ii) the claimant fails without good cause to comply with reasonable, lawful requirements that are typical of certain occupations, such as a requirement that a worker be bonded;

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

(iv) the claimant fails to report to the department when so directed, fails to follow explicit instructions for applying for suitable, available work, or fails to report to work after accepting employment, without good cause.

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

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

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

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

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

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

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

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

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

(i) The purpose of the job training is to teach the claimant skills that will enhance the claimant's opportunities for employment; and

(ii) The job training can be completed within two (2) years, except that this requirement may be waived pursuant to rules that the director may prescribe.

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

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

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

(~~b~~ii) The claimant does not belong to a grade or class of workers with members who are employed at the premises at which the labor dispute occurs and who are participating in or directly interested in the dispute.

(b) "Labor dispute" means a controversy with respect to wages, hours, working conditions, or right of representation affecting the work or employment of a number of individuals employed for hire which results in a deadlock or impasse between the contending parties.

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

(d) A claimant's unemployment will be deemed to be due to lack of work and not due to a labor dispute if it is shown

that because of the labor dispute the employer's business has fallen off to the extent that he can no longer utilize the services of the claimant due to the drop in business.

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

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

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

(h) Voluntary refusal to cross a peaceable picket line to work constitutes participation in a labor dispute.

(i) Subsequent employment does not make the claimant eligible for benefits if his unemployment is still due to the labor dispute. As long as the claimant intends to return to the employer where the labor dispute exists, his unemployment is due to the labor dispute regardless of any intervening employment.

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

(k) The fact that an individual is a dues-paying union member alone does not constitute financing a labor dispute. Nor does the fact that he is not a union member establish that he is not financing or participating in the dispute.

(11) A claimant shall not be entitled to benefits for any week with respect to which or a part of which he has received or is seeking benefits under an unemployment insurance law of another state or of the United States; provided, that if the appropriate agency of such other state or of the United States shall finally determine that he is not entitled to such unemployment compensation or insurance benefits, he shall not by the provisions of this subsection be denied benefits. For purposes of this section, a law of the United States providing any payments of any type and in any amounts for periods of unemployment due to involuntary unemployment shall be considered an unemployment insurance law of the United States.

(12) A claimant shall not be entitled to benefits for a period of fifty-two (52) weeks if it is determined that he has willfully made a false statement or willfully failed to report a material fact in order to obtain benefits. The period of disqualification shall commence the week the determination is issued. The claimant shall also be ineligible for waiting week credit and shall repay any sums received for any week for which the claimant received

waiting week credit or benefits as a result of having willfully made a false statement or willfully failed to report a material fact. The claimant shall also be ineligible for waiting week credit or benefits for any week in which he owes the department an overpayment, civil penalty, or interest resulting from a determination that he willfully made a false statement or willfully failed to report a material fact.

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

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

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

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

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

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

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

(17)(a) Benefits based on wages earned for services performed in an instructional, research, or principal administrative capacity for an educational institution shall not be paid for any week of unemployment commencing during the period between two (2) successive academic years, or during a similar

period between two (2) terms whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual who performs such services in the first academic year (or term) and has a contract to perform services in any such capacity for any educational institution in the second academic year or term or has been given reasonable assurance that such a contract will be offered.

(b) Benefits based on wages earned for services performed in any other capacity for an educational institution shall not be paid to any individual for any week that commences during a period between two (2) successive school years or terms if the individual performs such services in the first school year or term and there is a contract or reasonable assurance that the individual will perform such services in the second school year or term. If benefits are denied to any individual under this paragraph and the individual was not offered an opportunity to perform such services for the educational institution for the second academic year or term, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

(c) With respect to any services described in paragraphs (a) and (b) of this subsection, benefits shall not be paid nor waiting week credit given to an individual for wages earned for services for any week that commences during an established and customary vacation period or holiday recess if the individual performed the services in the period immediately before the vacation period or holiday recess and there is a reasonable assurance the individual will perform such services in the period immediately following such vacation period or holiday recess.

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

(e) “Reasonable assurance” of continuing employment exists when an educational institution or service agency provides an oral or written statement to the department confirming that the claimant has been given a bona fide offer of a specific

job in the second academic period. In addition, for such "reasonable assurance" to exist, the terms and conditions of the job offered in the second period must not be substantially less favorable than the terms and conditions of the job performed in the first period. An offer of employment is not "bona fide" if merely a possibility of employment exists. A possibility of employment, rather than a reasonable assurance, exists when:

(i) The circumstances under which the claimant would be employed are not within the control of the educational institution; and

(ii) The educational institution does not provide evidence that such an individual normally would perform services the following academic year.

(f) A claimant who initially was determined not to have a reasonable assurance of continuing employment will subsequently become disqualified for benefits under this section when an educational institution or service agency gives the claimant such reasonable assurance.

(g) A claimant seeking retroactive payments pursuant to subsection (17)(b) of this section must make a request for the retroactive payment with the department no later than thirty (30) days after the beginning of the second school year or term or retroactive payment will not be made.

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

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

(b) No base period wages are used to establish a claim when substantially all services performed during the base period consist of participation in sports, athletic events, training, or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) if the individual performed such services in the first season (or similar period) and there is a reasonable assurance that the individual will perform such services in the later of such seasons (or similar periods).

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

(i) the claimant has a contract, either written or oral;
(ii) the claimant offered to work and the employer expressed an interest in hiring the player for the next season (or similar period); or
(iii) the claimant expresses a readiness and willingness or intent to participate in the sport the following season.

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

(e) An individual is deemed to have performed "substantially all services" in sports, athletic events, training, or preparing to so participate if ninety percent (90%) or more of the base period wages were based on such services.

(19)(a) Benefits shall not be payable on the basis of services performed by an alien unless the alien falls within one (1) of the following three (3) categories at the time the work on which the claim is based was performed, and at the time benefits are claimed, the alien has a current, valid authorization to work from the U.S. Department of Homeland Security in order to meet the continuing eligibility requirement of being able and available to work (unless the alien claimant is a Canadian resident who is claiming benefits under the Interstate Benefit Payment Plan, in which case the claimant must satisfy only Canadian availability requirements):

(i) Aliens who have been lawfully admitted to the United States as "immigrants" and those whose status has been adjusted from that of "non-immigrant" under the Immigration and Nationality Act as demonstrated by an Alien Registration Receipt Card, or "green card," issued to each lawful permanent resident by the U.S. Department of Homeland Security or other documents acceptable to the department;

(ii) Lawfully present for purposes of performing services, but only for aliens who are: (1) Canadian and Mexican residents and commute daily or seasonally and are authorized to work in the United States; (2) legally-admitted non-immigrants who are granted a status by the U.S. Department of Homeland Security that authorizes them to work in the United States during their stay; or (3) other aliens with U.S. Department of Homeland Security authorization to work in the United States regardless of their status; or

(iii) Permanently residing in the United States under color of law, but only for aliens who are: (1) refugees, asylees, and parolees, as identified in the Immigration

and Nationality Act; (2) presumed by the U.S. Department of Homeland Security to be lawfully admitted for permanent residence; or (3) after review of their particular circumstances under U.S. Department of Homeland Security statutory or regulatory procedures, have been granted a status which allows them to remain in the United States for an indefinite period of time. For informal U.S. Department of Homeland Security action to authorize an alien's residence under "color of law," the U.S. Department of Homeland Security must know of the alien's presence, and must provide the alien with official, documented assurance that enforcement of deportation is not planned. ~~was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time the services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of sections 207 and 208 or section 212(d)(5) of the immigration and nationality act).~~

(b) Any data or information required of individuals applying for benefits to determine eligibility under this subsection shall be uniformly required from all applicants for benefits. ~~(c) A decision to deny benefits under this subsection must be based on a preponderance of the evidence.~~

(20) An individual who has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the director must participate in those reemployment services, unless:

(a) The individual has completed such services; or

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

(21)(a) A claimant:

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

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

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

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

2. Contacts the staffing service and the service does not have a suitable work assignment for him, he will be considered unemployed due to a lack of work; or

3. Accepts new employment without first contacting the staffing service for additional work, he will be considered to have voluntarily quit employment with the staffing service.

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

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

(i) The claimant is unemployed;

(ii) The claimant has exhausted all rights to regular unemployment benefits as defined in section 72-1367A(1)(e), Idaho Code, and all rights to extended benefits as defined in section 72-1367A(1)(f), Idaho Code, and all rights to benefits under section 2002 (increase in unemployment compensation benefits) of division B, title II, the assistance for unemployed workers and struggling families act, of the American recovery and reinvestment act of 2009, P.L. 111-5, as enacted on February 17, 2009;

(iii) The claimant is enrolled in a training program approved by the department or in a job training program authorized under the workforce innovation and opportunity act; except that the training program must prepare the claimant for entry into a high-demand occupation if the department determines that the claimant separated from a declining occupation or has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the claimant's place of employment. For the purposes of this subsection, a "declining occupation" is one where there is a lack of sufficient current demand in the claimant's labor market area for the occupational skills for which the claimant is

qualified by training and experience or current physical or mental capacity and the lack of employment opportunities is expected to continue for an extended period of time, or the claimant's occupation is one for which there is a seasonal variation in demand in the labor market and the claimant has no other skills for which there is current demand. For the purposes of this subsection, a "high-demand occupation" is an occupation in a labor market area where work opportunities are available and qualified applicants are lacking as determined by the use of available labor market information;

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

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

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

SECTION 28. That Section 72-1367, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) The weekly benefit amount shall be one twenty-sixth (1/26) of highest quarter wages except that it shall not exceed the applicable maximum weekly benefit amount. The maximum weekly benefit amount shall be established by the director, who shall determine the state average weekly wage paid by covered employers for the preceding calendar year and the maximum weekly benefit amount to be effective for new claims filed in the first full week of the following January and filed thereafter until a new maximum weekly benefit amount becomes effective under this subsection. The average weekly wage shall be computed by dividing the total wages paid in covered employment (including state government and cost reimbursement employers) for the preceding calendar year, as computed from data reported to the department by covered employers, by the monthly average number of workers in covered employment for the preceding calendar year and then dividing the resulting figure by fifty-two (52). The maximum weekly benefit amount shall be fifty-five percent (55%) of the state average weekly wage paid by covered employers for the preceding calendar year.

(3) Any eligible individual shall be entitled during any benefit year to a total amount of benefits equal to his weekly benefit amount times the number of full weeks of benefit entitlement appearing in the following table based on his ratio of total base period earnings to highest quarter base period earnings. The maximum weeks of entitlement are based on a sliding scale of the official forecasted, seasonally adjusted unemployment rate for the state for a minimum of ten (10) weeks to a maximum of twenty-six (26) weeks depending on the unemployment rate in effect for the months of February, May, August and November as follows:

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

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

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

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

Ratio of Total Base | Full Weeks of Benefit Entitlement Adjusted By the

Period Earnings at Least	Period Earnings up to	Unemployment Rate 8% or Higher	7.9% to 7.0%	6.9% to 6.0%	5.9% to 5.0%	4.9% to 4.0%	3.9% or Lower	2.9
1.25	1.600	10	10	10	10	10	10	1
1.600	1.800	11	10	10	10	10	10	1
1.800	1.920	12	11	10	10	10	10	1
1.920	2.010	13	12	11	10	10	10	1
2.010	2.080	14	13	12	11	10	10	1
2.080	2.140	15	14	13	12	11	10	1
2.140	2.210	16	15	14	13	12	11	1
2.210	2.290	17	16	15	14	13	12	1
2.290	2.380	18	17	16	15	14	13	1
2.380	2.490	19	18	17	16	15	14	1
2.490	2.610	20	19	18	17	16	15	1
2.610	2.750	21	20	19	18	17	16	1
2.750	2.910	22	21	20	19	18	17	1
2.910	3.100	23	22	21	20	19	18	1
3.100	3.320	24	23	22	21	20	19	1
3.320	3.560	25	24	23	22	21	20	1
3.560	4.00	26	25	24	23	22	21	1

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

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

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

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

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

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

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

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

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

2. The thirteenth consecutive week of such period;

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

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

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

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

(ii) With respect to weeks of unemployment beginning on or after February 1, 2009, and ending four (4) weeks

prior to the last week for which federal sharing is authorized by section 2005(a) ("full federal funding of extended unemployment compensation for a limited period") of division B, title II, the assistance for unemployed workers and struggling families act, of the American recovery and reinvestment act of 2009, P.L. 111-5, as amended, there is a state "on" indicator for any week if the director determines, in accordance with the regulations of the United States secretary of labor that:

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

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

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

(c) There is a state "off" indicator for any week if the director determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks:

(i) The rate of insured unemployment (not seasonally adjusted) was less than six percent (6%) and was less than one hundred twenty percent (120%) of the average of

such rates for the corresponding thirteen (13) week period ending in each of the preceding two (2) calendar years; or

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

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

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

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

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

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

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

(g) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period. Eligibility period of an individual also means the period consisting of weeks which begin in his extended benefit period, without regard to his benefit year end date, if the individual qualifies for one hundred percent (100%) federally financed federal-state extended benefits and the one hundred percent (100%) federally financed federal-state extended benefit payment period began on or before the individual exhausted his rights to benefits under the federal emergency unemployment compensation program of 2008.

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

(i) Has received, prior to such week, all of the regular benefits that were available to him under this

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

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

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

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

(j) For purposes of this section only, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the department that such individual's prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with applicable state law. Satisfactory evidence includes, but is not limited to: (1) a letter signed by a prospective employer giving assurances of work within the next four (4) weeks; and (2) a verifiable, written statement by the claimant that he will have work within the next four (4) weeks.

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

apply to claims for, and the payment of, extended benefits.

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

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

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

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

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

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

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

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

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

2. Does not end until such individual has been employed during at least four (4) weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of four (4) multiplied by the individual's average weekly benefit amount. <u>Remuneration earned must be in employment where an employee-employer relationship exists to satisfy requalification requirements for</u>

extended benefits.

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

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

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

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

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

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

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

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

(B) Any applicable state or local minimum wage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Notwithstanding any other provisions of this chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for the provisions of this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit

year, shall be reduced, but not below zero (0), by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

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

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

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

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

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

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

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

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

(10) Until conformity with the federal-state extended unemployment compensation act of 1970 requires otherwise, the

eligibility requirements in subsections (1)(j) and (3)(d) of this section are suspended. Except where inconsistent with the provisions of this section, the eligibility requirements of section 72-1366, Idaho Code, applicable to claims for regular benefits shall apply in lieu of the suspended provisions.

SECTION 30. That Section 72-1368, Idaho Code be, and the same is hereby amended to read as follows:

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

(2) Each employer shall post and maintain in places readily accessible to individuals performing services for him printed statements concerning benefit rights under this chapter which shall be provided by the department without cost to the employer.

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

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

(ii) If a claimant is monetarily eligible, the department shall verify, based on information provided by the claimant, whether the week claimed is a compensable week as defined in section 72-1312, Idaho Code. To receive benefits, a claimant must certify that each week claimed is a compensable week. In the event the week claimed is not a compensable week, the department shall issue a determination denying benefits and shall include the reasons for the ineligibility.

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

date of service.

(c) Before a determination provided for in subsection (3) of this section becomes final or an appeal is filed, the department, on its own motion, may issue a revised determination. The determination or revised determination shall become final unless, within fourteen (14) days after notice, as provided in subsection (5) of this section, an appeal is filed by an interested party with the department. The appeal notice must be in writing, signed by an interested party, the appellant or representative, and contain words that, by fair interpretation, request the appeal process for a specific determination or other decision of the department. If an appeal is delivered personally, the personal delivery date will be noted on the appeal and deemed the date of filing. A faxed or electronically transmitted appeal will be deemed filed on the date received by the department (Mountain time) or, if received on a weekend or holiday, the next business day. If mailed, the appeal will be deemed filed on the date of mailing as determined by the postmark on the envelope containing the appeal. Where it appears any appeal to the appeals examiner, or claim, or any other request or application, was not filed within the time period prescribed for filing, it will be dismissed on such grounds.

(d) If a party establishes by a preponderance of the evidence that because of delay or error by the U.S. Postal Service, or because of error on the part of the department, a determination was not delivered to the party's last known address, or transmitted electronically to the party's electronic-mail address approved by the department, within fourteen (14) days of the date of mailing or service indicated on the determination, the period for filing a timely appeal extends to fourteen (14) days from the date of actual notice.

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

(b) The director may, in his sole discretion, make a special redetermination whenever he finds that a departmental error has occurred in connection with a determination, revised determination or redetermination that has become final, or that additional wages of the claimant or other facts pertinent

to such final determination, revised determination or redetermination have become available or have been newly discovered, or that benefits have been allowed or denied or the amount of benefits fixed on the basis of nondisclosure or misrepresentation of fact. The special redetermination must be made within one (1) year from the date the determination, revised determination or redetermination became final, except that a special redetermination involving a finding that benefits have been allowed or denied or the amount of benefits fixed on the basis of nondisclosures or misrepresentations of fact may be made within two (2) years from the date the determination, revised determination or redetermination became final.

(5) All interested parties shall be entitled to prompt service of notice of written or digital communications from the department providing notice of an administrative or other deadline including, but not limited to, determinations, revised determinations, redeterminations, special redeterminations, decisions and letters from the department requiring a response within a specified time. Notice shall be deemed served if delivered to the person being served, if mailed to his last known address or if electronically transmitted to him at his request and with the department's approval. Service by mail shall be deemed complete on the date of mailing. Service by electronic transmission shall be deemed complete on the date notice is electronically transmitted.

(6) To hear and decide appeals from determinations, revised determinations, redeterminations, and special redeterminations, the director shall appoint appeals examiners. Unless the appeal is withdrawn, the appeals examiner shall affirm, modify, set aside or reverse the determination, revised determination, redetermination, or special redetermination involved, after affording the interested parties reasonable opportunity for a fair hearing, or may refer a matter back to the department for further action. The appeals examiner shall notify the interested parties of his decision by serving notice in the same manner as provided in subsection (5) of this section. The decision shall set forth findings of fact and conclusions of law and contain provisions advising of the right to appeal the decision within fourteen (14) days of the date of service. The appeals examiner may, either upon application for rehearing by an interested party or on his own motion, rehear, affirm, modify, set aside or reverse any prior decision on the basis of the evidence previously submitted or on the basis of additional evidence; provided, that such application or motion be made within ten (10) days after the date of service of the decision. A complete record shall be kept of all proceedings in connection with an appealed claim. All testimony at any hearing shall be recorded. If a claim for review of the appeals examiner's

decision is filed with the commission, the testimony shall be transcribed if ordered by the commission. Witnesses subpoenaed by the appeals examiner shall be allowed fees at a rate prescribed by the director. If any interested party to a hearing formally requests the appeals examiner to issue a subpoena for a witness whose evidence is deemed necessary, the appeals examiner shall promptly issue the subpoena, unless such request is determined to be unreasonable. Unless an interested party shall within fourteen (14) days after service of the decision of the appeals examiner file with the commission a claim for review or unless an application or motion is made for a rehearing of such decision, the decision of the appeals examiner shall become final.

(7) The commission shall decide all claims for review filed by any interested party in accordance with its own rules of procedure not in conflict herewith. The record before the commission shall consist of the record of proceedings before the appeals examiner, unless it appears to the commission that the interests of justice require that the interested parties be permitted to present additional evidence. In that event, the commission may, in its sole discretion, conduct a hearing or may remand the matter back to the appeals examiner for an additional hearing and decision. On the basis of the record of proceedings before the appeals examiner as well as additional evidence, if allowed, the commission shall affirm, reverse, modify, set aside or revise the decision of the appeals examiner or may refer the matter back to the appeals examiner for further proceedings. The commission shall file its decision and shall promptly serve notice of its decision to all interested parties. A decision of the commission shall be final and conclusive as to all matters adjudicated by the commission upon filing the decision in the office of the commission; provided, within twenty (20) days from the date of filing the decision, any party may move for reconsideration of the decision or the commission may rehear or reconsider its decision on its own initiative. The decision shall be final upon denial of a motion for rehearing or reconsideration or the filing of the decision on reconsideration.

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

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

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

(i) The pendency of a time period for filing an appeal or petitioning for commission review; or

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

(b) Such payments shall not be withheld until a subsequent appeals examiner decision or commission decision modifies or reverses the previous decision, in which event benefits shall be paid or denied in accordance with such decision.

(11) (a) Any right, fact, or matter in issue, directly based upon or necessarily involved in a determination, redetermination, decision of the appeals examiner or decision of the commission which has become final, shall be conclusive for all the purposes of this chapter as between the interested parties who had notice of such determination, redetermination or decision. Subject to appeal proceedings and judicial review by the Supreme Court as set forth in this section, any determination, redetermination or decision as to rights to benefits shall be conclusive for all purposes of this chapter and shall not be subject to collateral attack irrespective of notice.

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

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

SECTION 31. That Section 72-1374, Idaho Code be, and the same is hereby amended to read as follows:

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

(a) Any employee of the department;

(b) Any employee or member of the commission;

(c) Any third party or employee thereof who has obtained employment security information pertaining to a person with the written, informed consent of that person;

(d) Any public official who has obtained employment security information for use in the performance of official duties; or
(e) Any person who has obtained employment security information through means that violate the provisions of chapter 1, title 74, Idaho Code, or this chapter, or rules promulgated thereunder.

SECTION 32. The rules contained in IDAPA 09.01.10, relating to the Employment Security Law and the rules of administrative procedure of the department of labor, Section 026.; Section 027., Subsection 01; Section 027., Subsection 03; Section 035., Subsection 01; Section 035., Subsection 02; Section 037.; and Section 038. shall be null, void, and of no force and effect on and after the effective date of this act.

SECTION 33. The rules contained in IDAPA 09.01.08, relating to the Employment Security Law and the rules on disclosure of employment security information, shall be null, void, and of no force and effect on and after the effective date of this act.

SECTION 34. The rules contained in IDAPA 09.01.30, relating to the Employment Security Law and the unemployment insurance benefits administration rules, Section 010., Subsection 01; Section 010., Subsection 02; Section 010., Subsection 03; Section 010., Subsection 05; Section 010., Subsection 06; Section 010., Subsection 07; Section 010., Subsection 08; Section 010., Subsection 09; Section 010., Subsection 10; Section 010., Subsection 14; Section 010., Subsection 16; Section 010., Subsection 17; Section 010., Subsection 19; Section 100.; Section 125.; Section 150.; Section 175.; Section 275.; Section 325.; Section 350.; Section 375.; Section 400.; Section 425., Subsection 05; Section 425., Subsection 06; Section 425., Subsection 09; Section 450.; Section 460.; Section 475.; Section 500.; Section 525.; Section 575.; Section 600.; Section 650.; and Section 675. shall be null, void, and of no force and effect on and after the effective date of this act.

SECTION 35. The rules contained in IDAPA 09.01.35, relating to the Employment Security Law and the unemployment insurance tax administration rules, Section 011., Subsection 01; Section 011., Subsection 02; Section 011., Subsection 08; Section 011., Subsection 10; Section 051.; Section 056.; Section 061.; Section 081.; Section 096.; Section 106.; Section 107.; Section 108., Section 111.; Section 131.; Section 132.; Section 134.; Section 166., Subsection 01; Section 186.; Section 221.; Section 231.; Section 241., Section 256.; Section 262.; and Section 263. shall be null, void, and of no force and effect on and after the effective

date of this act.

SECTION 36. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2025.