

COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2014 Legislative Session

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - Unemployment Insurance Benefit Administration Rules	
Docket No. 09-0130-1301	3
LSO Rules Analysis Memo	
09.01.35 - Unemployment Insurance Tax Administration Rules	
Docket No. 09-0135-1301	10
LSO Rules Analysis Memo	

IDAPA 15 - OFFICE OF THE GOVERNOR DIVISION OF HUMAN RESOURCES

15.04.01 - Rules of the Division of Human Resources and Personnel Commission	
Docket No. 15-0401-1302	20
LSO Rules Analysis Memo	

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.09 - Medical Fees	
Docket No. 17-0209-1301	40
LSO Rules Analysis Memo	
17.02.10 - Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Insurance Carriers	
Docket No. 17-0210-1301	46
LSO Rules Analysis Memo	
17.02.11 - Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Self-Insured Employers	
Docket No. 17-0211-1301	56
LSO Rules Analysis Memo	

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.02 - Rules Governing Emergency Relief for Veterans	
Docket No. 21-0102-1301	66
LSO Rules Analysis Memo	
21.01.08 - Rules Governing Veterans Recognition Fund Grant Program	
Docket No. 21-0108-1301 (New Chapter)	70
LSO Rules Analysis Memo	

IDAPA 28 - DEPARTMENT OF COMMERCE

28.02.07 - Rules Governing the Administration of the IGEM Grant Program	
Docket No. 28-0207-1301 (New Chapter)	77
LSO Rules Analysis Memo	

28.03.01 - Rules of the Idaho Opportunity Fund

Docket No. 28-0301-1301 (New Chapter)	82
LSO Rules Analysis Memo	

28.03.04 - Rules of the Business and Jobs Development Grant Fund

Docket No. 28-0304-1301 (Chapter Repeal)	89
LSO Rules Analysis Memo	

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO***59.01.06 - Retirement Rules of the Public Employee Retirement System of Idaho (PERSI)***

Docket No. 59-0106-1301	92
LSO Rules Analysis Memo	

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - UNEMPLOYMENT INSURANCE BENEFIT ADMINISTRATION RULES

DOCKET NO. 09-0130-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1333, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

A new rule is being promulgated to repeal the tel-a-claim reporting method for unemployment insurance benefit claimants. The current tel-a-claim system cannot accommodate enhanced work search reporting requirements the Department is requiring to reduce benefit fraud and lower employer taxes. Replacing it with a new call-in system would be costly. Because of reduced federal funding, the Department does not have the money to build a new tel-a-claim system. Instead, enhanced work search reporting requirements will be added to the Department's existing internet-based reporting system. This internet-based system can be accessed from personal computers or computers with public access such as those in public libraries or in the Department's 25 local offices.

A new rule is being promulgated to amend the current "reasonable length of time" job attached classification standard with a maximum 12 week standard. This rule change will require benefit claimants to look for work and hopefully find new employment sooner than waiting for their former employers to rehire them if their temporary layoff period will exceed 12 weeks. Of the surrounding states, Montana is the only one without a limit on the rehire period. The other surrounding states range from 4 weeks in Oregon to 12 weeks in Wyoming.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 79 through 82](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There will be no fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions

concerning this pending rule, contact Joshua McKenna 332-3570 ext. 3919.

DATED this 1st of October, 2013.

Joshua McKenna
Benefits Bureau Chief
Idaho Department of Labor
317 West Main Street
Boise, Idaho 83735
Phone 332-3570 ext. 3919
Fax 334-6125

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

A new rule is being promulgated to repeal the tel-a-claim reporting method for unemployment insurance benefit claimants. The current tel-a-claim system cannot accommodate enhanced work search reporting requirements the Department is requiring to reduce benefit fraud and lower employer taxes. Replacing it with a new call-in system would be costly. Because of reduced federal funding, the Department does not have the money to build a new tel-a-claim system. Instead, enhanced work search reporting requirements will be added to the Department's existing internet-based reporting system. This internet-based system can be accessed from personal computers or computers with public access such as those in public libraries or in the Department's 25 local offices.

A new rule is being promulgated to amend the current "reasonable length of time" job attached classification standard with a maximum 12-week standard. This rule change will require benefit claimants to look for work and hopefully find new employment sooner than waiting for

their former employers to rehire them if their temporary layoff period will exceed 12 weeks. Of the surrounding states, Montana is the only one without a limit on the rehire period. The other surrounding states range from 4 weeks in Oregon to 12 weeks in Wyoming.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no fiscal impact to the General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 36 and 37](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joshua McKenna 332-3570 ext. 3919.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 24th of July, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-1301

550. REPORTING REQUIREMENTS.

Each claimant shall report weekly or biweekly for benefits as directed. When filing claim reports, a claimant shall use the reporting method assigned by the Department. Failure to file timely reports in a manner required by this rule shall result in ineligibility for benefits for the week(s) claimed. Ref. Section 72-1366(1), Idaho Code. (3-29-12)

01. In-Person Reports. A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports

filed in person at a local office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the next working day. (3-29-12)

02. Mailed Reports. Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the next working day. (3-29-12)

03. ~~Telephone~~/Internet Reports. Reports filed ~~by telephone to the Idaho Tel A Claim system or~~ via the internet shall be considered timely when made between 12:01 a.m. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. (~~3-29-12~~)()

04. Facsimile Reports. Reports filed by facsimile shall be considered timely when transmitted on a form provided by the Department to a telephone number designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the next working day. Reports shall be deemed filed upon receipt by the Department. (3-29-12)

05. Electronic Mail Reports. Reports filed by electronic mail shall be considered timely when electronically mailed in a format provided by the Department to an email address designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the next working day. Reports shall be deemed filed upon receipt by the Department. (3-29-12)

06. When Report Missing. If a claimant establishes, by credible and corroborated evidence, that a missing report was properly filed as required by this rule, a replacement report shall be considered timely. (3-29-12)

551. -- 574. (RESERVED)

575. SEEKING WORK.
Ref. Sec. 72-1366(4), (6), Idaho Code. (3-19-99)

01. Attitude and Behavior. A claimant's attitude and behavior must be conducive to a positive reaction by employers to his job search. (3-19-99)

02. Effort to Secure Employment. A claimant will be expected to do what is normally done by unemployed persons that are seeking work. (3-19-99)

03. Employer's Hiring Practices. An employer's reluctance to hire a claimant because of his appearance or physical condition is not a determining factor in ruling on the claimant's eligibility. (3-19-99)

04. Job Attachment Classifications. For the purpose of administering the work

search requirements of Section 72-1366(4) and (6), Idaho Code, claimants will be classified according to their attachment to an employer or industry, as follows: (3-19-99)

a. Code R-Recall, U-Union or X-Both. Claimants who have a firm attachment to an employer, industry or union, or who are temporarily or seasonally unemployed, and expect to return to their former jobs or employers in a reasonable length of time **not to exceed a maximum of twelve (12) weeks.** (~~3-19-99~~)()

b. Code B. Claimants who possess marketable skills in an occupation, but have no immediate prospects for reemployment, and whose employment expectations (i.e., wages, hours, etc.) are realistic in relation to the normal labor market supply and demand in their areas of availability. (3-19-99)

c. Code C. Claimants who have no marketable skills or whose skills have become obsolete and who are unable to return to their former occupations, or who have a special need for employment-related services. (3-19-99)

d. Code D. Claimants who are assigned to a training course under the provisions of Section 72-1366(8), Idaho Code. (3-19-99)

05. Jobs Availability. A claimant will not be required to make useless employer contacts if there are no jobs available in the area due to seasonal factors. (3-19-99)

06. No Employment Prospects. A claimant shall 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. (3-19-99)

07. Registering and Reporting on Work-Seeking Activity. A claimant must register for work and report as required to be eligible for benefits. Ref. Sec. 72-1366(1), (2), Idaho Code. (4-11-06)

08. Seasonal Availability. A claimant who is regularly employed on a seasonal basis shall be available for other types of work in the off-season to be eligible for benefits. (3-19-99)

09. Work-Seeking Requirement Categories. Claimants shall seek work in accordance with the following categories of work-seeking activity, as instructed by a Department representative or as notified by the Department via electronic claims messaging. A claimant must meet the requirements of the code to which the claimant is assigned. A claimant's category of work-seeking activity will be determined and modified based on the claimant's prevailing local labor market conditions and/or the average county unemployment rates. Claimants that have not registered for work when filing their claims and that are required to secure employment must register with the local office within two (2) weeks of filing an initial claim for benefits. Failure to comply with work-seeking requirements may result in a denial of benefits. (4-11-06)

a. Code O claimants must: (3-15-02)

i. Maintain regular contact with their employer(s) or union. Code O claimants may also be required to engage in one (1) or more of the following activities to increase their prospects

- of returning to work or securing employment: (3-15-02)
- ii. Make local inquiries; (3-19-99)
 - iii. Maintain contact with the local office; (4-11-06)
 - iv. Check “help-wanted” ads in newspapers or trade publications; (3-15-02)
 - v. Attend a Job Search Workshop; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)
- b.** Code 1 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)
- i. Make at least one (1) employer contact each week in the manner prescribed by the local office; (4-11-06)
 - ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant’s employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)
- c.** Code 2 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)
- i. Make at least two (2) employer contacts per week in the manner prescribed by the local office; (4-11-06)
 - ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant’s employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)

- d.** Code 3 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)
- i. Make at least three (3) employer contacts per week in the manner prescribed by the local office; (4-11-06)
 - ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)

IDAPA 09 - DEPARTMENT OF LABOR

09.01.35 - UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES

DOCKET NO. 09-0135-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1333, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

A new rule is being promulgated to require employers to report contributions online unless a waiver is granted by the Department. Waivers will be granted to employers if the online filing requirement poses a significant burden. The Department currently allows the reporting of contributions by either paper or online filing. The online reporting of employer contributions will allow the Department to process quarterly reports from nearly 50,000 employers more quickly with fewer resources and at a lower cost. The online reporting system corrects errors hundreds of employers typically make in paper reports. This will help employers avoid thousands of dollars in fines for reporting less quarterly taxes by the reporting deadline than the employer legally owes.

A new rule is being promulgated to revise the current “independently established” prong of the independent contractor test for unemployment insurance tax purposes with a more straight forward, common sense economic reality test. The current test has 15 factors and is too complicated to enforce and gives employers poor guidance as to which workers may or may not be independent contractors. The economic reality test is currently used by the U.S. Department of Labor and the Social Security Administration and focuses on whether workers are economically dependent upon the business to which they render services.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 83 through 89](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There will be no fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions

concerning this pending rule, contact Michael Johnson 332-3570 ext. 3082.

DATED this 1st of October, 2013.

Michael Johnson
Bureau Chief
Idaho Department of Labor
317 West Main Street
Boise, Idaho 83735
Phone 332-3570 ext. 3082
Fax 334-6125

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

A new rule is being promulgated to require employers to report contributions online unless a waiver is granted by the Department. Waivers will be granted to employers if the online filing requirement poses a significant burden. The Department currently allows the reporting of contributions by either paper or online filing. The online reporting of employer contributions will allow the Department to process quarterly reports from nearly 50,000 employers more quickly with fewer resources and at a lower cost. The online reporting system corrects errors hundreds of employers typically make in paper reports. This will help employers avoid thousands of dollars in fines for reporting less quarterly taxes by the reporting deadline than the employer legally owes.

A new rule is being promulgated to revise the current “independently established” prong of the independent contractor test for unemployment insurance tax purposes with a more straight forward, common sense economic reality test. The current test has 15 factors and is too

complicated to enforce and give employers poor guidance as to which workers may or may not be independent contractors. The economic reality test is currently used by the U.S. Department of Labor and the Social Security Administration and focuses on whether workers are economically dependent upon the business to which they render services.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no fiscal impact to the General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 38 and 39](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael Johnson 332-3570 ext. 3082.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 24th of July, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-1301

011. GENERAL PROVISIONS.

The following Unemployment Insurance Tax Administration Rules are adopted pursuant to Section 67-4702, Idaho Code. (4-11-06)

01. Quarterly Reporting. Subject employers shall report all wages paid for services in covered employment each calendar quarter. In the event a subject employer does not pay wages during a calendar quarter, the employer shall file a quarterly report indicating that no wages were paid. Ref. Section 72-1337, Idaho Code. (3-22-07)

02. Contribution Due Date. Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Section 72-1349, Idaho Code. (3-19-99)

03. Penalties and Interest on Bankruptcy. Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Section 72-1356, Idaho Code. (3-19-99)

04. Lien Interest. Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien, at a rate established by law. (See Section 056). Ref. Section 72-1360, Idaho Code. (3-19-99)

05. Penalty and Interest During Controversy. Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sections 72-1354 and 72-1360, Idaho Code. (3-19-99)

06. Confidential Information. Information obtained from an employer shall be held as confidential and shall not be released without the consent of the employer except as provided in IDAPA 09.01.08, "Rules on Disclosure of Information," Section 011 or when disclosure is necessary for collection of any amount due under the employment security law, or as otherwise provided by law or these rules. Ref. Sections 9-340 and 72-1342, Idaho Code. (3-19-99)

07. Filing of an Employer Appeal. (3-30-01)

a. An appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or redetermination of the Department. The appeal may be filed by delivering it, or faxing it, to any Idaho Labor local office or to the UI Compliance Bureau of the Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed appeal that is received by an Idaho Department of Labor local office or the UI Compliance Bureau by 5 p.m. (as of the time zone of the office receiving the appeal) on a business day shall be deemed filed on that date. A faxed appeal that is received by an Idaho Department of Labor local office or the UI Compliance Bureau on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. An appeal may also be filed by mailing it to any Idaho Department of Labor local office or to the UI Compliance Bureau, Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the request. Ref. Section 72-1361, Idaho Code. (3-22-07)

b. An appeal should be accompanied by a specific statement, information or evidence which provides an explanation as to why the original determination is erroneous. (3-30-01)

c. In cases where a determination of amounts due is made by the Department pursuant to Section 72-1358, Idaho Code, the reports shall replace the determination and will be used to establish the employer's liability if (i) the employer files reports for the periods covered by the determination before the determination becomes final, and (ii) the Department determines that the reports are accurate and complete. If the Department determines the reports are not accurate or complete, the reports shall be treated as an appeal of the determination. (3-30-01)

08. Determinations. Determinations shall be in writing, signed by an authorized representative of the director, and shall contain provisions which advise the interested parties 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, of the determination in accordance with Sections 72-1361 and -1368(5), Idaho Code. (7-1-10)

09. Determination of Payment Date. 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 same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Section 72-1349, Idaho Code. (3-19-99)

10. Release of Lien upon Payment in Full. An amount secured by a lien shall be deemed to be satisfied when payment in full is received by the Department in the form of cash, money order, or other certified funds, or proof presented that a check or other negotiable instrument has been honored by its drawer upon presentment. Ref. Section 45-1908, Idaho Code. (3-19-99)

11. Contribution Reports. 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, ~~or~~ 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. Ref. Section 72-1349, Idaho Code. ~~(4-11-06)~~()

a. Common paymaster arrangements as referenced by Internal Revenue Code Section 3306 are prohibited for Idaho unemployment insurance purposes. Each covered employer shall complete and submit an Idaho business registration form and the Department will assign to the covered employer a unique unemployment insurance account number. The covered employer must file quarterly reports under its assigned unemployment insurance account number. The workers of one (1) covered employer may not be reported using the assigned unemployment insurance account number of a different covered employer or related entity. Ref. Sections 72-1325 and 72-1315, Idaho Code. (3-22-07)

(BREAK IN CONTINUITY OF SECTIONS)

112. DETERMINING STATUS OF WORKER.

01. Determining if Worker Is an Employee. In making a determination as to whether a worker is performing services in covered employment, it shall be determined whether the worker is an employee. To determine whether a worker is an employee, the following factors may be considered: (3-22-07)

a. The way in which the business entity represented its relationship with the worker prior to the investigation or litigation, including representations to the Internal Revenue Service; (3-19-99)

b. Statements made to the Department; (3-19-99)

c. Method of payment to the worker, in particular whether federal, state, and FICA taxes are withheld from paychecks; and (3-19-99)

d. Whether life, health, or other benefits are provided to the worker at the business entity's expense. (3-19-99)

02. Determining if Worker Is an Independent Contractor. If it cannot be determined that a worker is an employee pursuant to Subsection 112.01 above, then a determination shall be made whether the worker is an "independent contractor" pursuant to the terms of Section 72-1316(4), Idaho Code. For the purposes of that section and these rules, an independent contractor is a worker who meets the requirements of both Sections 72-1316(4)(a) and (b), Idaho Code. (3-19-99)

03. Proving Worker Is Free from Control or Direction in His Work. To meet the requirement of Section 72-1316(4)(a), Idaho Code, the alleged employer must prove that a 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. The following factors may be considered in this determination: (3-22-07)

a. Whether the alleged employer has control over: (3-19-99)

i. The details of the work; (3-19-99)

ii. The manner, method or mode of doing the work; and (3-19-99)

iii. The means by which the work is to be accomplished, but without reference to having control over the results of the work. (3-19-99)

b. The freedom from direction and control must exist in theory (under a contract of service) and in fact; and (4-11-06)

- c. The employer must demonstrate that it lacked a right to control the worker. (4-11-06)

04. Proving Worker Is Engaged in Independently Established Business. To meet the requirement of Section 72-1316(4)(b), Idaho Code, it must be proven that a worker is engaged in an independently established trade, occupation, profession or business. The following factors ~~may~~ **are significant and shall** be considered in **making** this determination, **although no single factor is regarded as controlling:** (~~3-22-07~~)()

a. ~~Skills, qualifications, and training required for the job~~ **The level of skill required to perform the work;** (~~3-19-99~~)()

i. ~~A worker who performs routine tasks requiring little or no training is indicative of the worker's status as an employee.~~ ()

ii. ~~A worker who performs work requiring skills marketable as a trade, occupation, profession or business, such as an electrician, attorney, physician, or CPA, is indicative of the worker's status as an independent contractor.~~ ()

iii. ~~A worker who performs work requiring special licensing or compliance with regulatory requirements is indicative of the worker's status as an independent contractor.~~ ()

iv. ~~A worker who receives all or substantially all of the worker's job training from the alleged employer is indicative of the worker's status as an employee.~~ ()

b. ~~Method of payment, benefits, and tax withholding~~ **The extent to which the worker's services are an integral part of the alleged employer's business;** (~~3-19-99~~)()

i. ~~A worker who performs the primary type of work that the alleged employer is in business to provide to its customers or clients is indicative of the worker's status as an employee. For example, an automotive repair business hires an additional mechanic to help in its service repair shop. Since the work provided by the worker is the primary type of work the automotive repair business provides to its customers, the work is indicative of the worker's status as an employee.~~ ()

ii. ~~A worker who performs a specific job that is secondary to an integral part of the employer's business is indicative of the worker's status as an independent contractor. For example, if a manufacturing business requiring routine electrical work within its manufacturing facility hires an independent electrical company to provide that service, the electrical work performed is indicative of the worker's status as an independent contractor.~~ ()

iii. ~~A worker who supervises the alleged employer's employees is indicative of the worker's status as an employee.~~ ()

iv. ~~If the success of a business depends to an appreciable degree upon the performance of certain services, the worker performing those services is indicative of that worker's status as an employee.~~ ()

v. If a worker is not required to work solely for the alleged employer and there is a separate contractual relationship for each job that ends upon the completion of that job, the work is indicative of the worker's status as an independent contractor. ()

c. ~~Right to negotiate agreements with other workers~~ The permanency of the relationship; ~~(3-19-99)~~()

i. The longer a worker works solely for a single alleged employer, the more indicative it is of the worker's status as an employee. ()

ii. A worker who makes the worker's services available to the general public for hire on a regular and consistent basis is indicative of the worker's status as an independent contractor. ()

iii. A worker whose hours worked are regularly scheduled, rather than sporadic or occasional, is indicative of the worker's status as an employee. ()

iv. Work with a specific ending date that ends the working relationship between the worker and the alleged employer is indicative of the worker's status as an independent contractor. ()

v. Work that is open ended allowing the worker to continue working for the same alleged employer as long as performance standards are met, is indicative of the worker's status as an employee. ()

d. ~~Right to choose sales techniques or other business techniques~~ A worker's investment in facilities and equipment; ~~(3-19-99)~~()

i. A worker who is reimbursed for work-related purchases, materials or supplies, or is furnished work-related materials or supplies by the alleged employer is indicative of the worker's status as an employee. ()

ii. A worker who uses the tools and equipment of the alleged employer is indicative of the worker's status as an employee. ()

iii. A worker's significant investment in tools and equipment compared to the cost of the tools and equipment provided by the alleged employer is indicative of the worker's status as an independent contractor. ()

iv. A worker who is financially responsible to the alleged employer for damage to equipment or tools is indicative of the worker's status as an independent contractor. ()

v. A worker's investment in physical facilities used by the worker in performing services is indicative of the worker's status as an independent contractor. ()

vi. A worker's lack of investment in physical facilities indicating a dependence on the alleged employer for whom the worker's services are performed is indicative of the worker's

status as an employee. ()

e. ~~Right to determine hours~~ Whether a worker is customarily engaged in an outside trade, occupation, profession, or business providing the same type of services the worker provides for the alleged employer engaging his services; (3-19-99)()

i. A worker who provides one (1) type of service for an alleged employer, while providing the same type of service to others for hire, is indicative of the worker's status as an independent contractor. ()

ii. A worker who provides one (1) type of service for an alleged employer, while providing a different type of service to others for hire, is indicative of the worker's status as an employee of the alleged employer. ()

iii. A worker who advertises independently via yellow pages, business cards, web pages, or other types of media is indicative of the worker's status as an independent contractor. ()

f. ~~Whether a worker is customarily engaged in an outside trade, occupation, profession, or business providing the same type of services the worker provides for the business engaging his services~~ A worker's opportunities for profit and loss; (4-4-13)()

i. A worker required to carry business related expenses such as insurance, bonding, or workers compensation coverage is indicative of the worker's status as an independent contractor. ()

ii. A worker's ability to earn a profit by performing work more efficiently or suffer a loss because of the work performed is indicative of the worker's status as an independent contractor. ()

iii. A worker who is subject to a risk of economic loss due to significant investments or a bona fide liability for expenses is indicative of the worker's status as an independent contractor. ()

g. ~~Special licensing or regulatory requirements for performance of work;~~ Other factors when viewed fairly in light of all the circumstances that may or may not indicate that the worker was engaged in an independently established trade occupation, profession, or business. These factors may include control of the premises, right to determine hours, or who sets the rate of pay. (3-19-99)()

~~h. Whether the work is part of the employer's general business;~~ (3-19-99)

~~i. The nature and extent of the work;~~ (3-19-99)

~~j. The term and duration of the relationship;~~ (3-19-99)

~~k. The control of the premises;~~ (3-19-99)

- ~~l.~~ *Whether the worker has the authority to hire subordinates;* (3-19-99)
- ~~m.~~ *Whether the worker owns or leases major items of equipment or incurs substantial unreimbursed expenses, provided, that in a case where a worker leases major items of equipment from the alleged employer;* (3-19-99)
- ~~i.~~ *The terms of the lease; and* (3-19-99)
- ~~ii.~~ *The actions of the parties pursuant to those terms must be commercially reasonable as measured by applicable industry standards.* (3-19-99)
- ~~n.~~ *Whether either party would be liable to the other party upon peremptory or unilateral termination of the business relationship; and,* (3-19-99)
- ~~o.~~ *Other factors which, viewed fairly in light of all the circumstances in a given case, may indicate the existence or lack of an independently established trade occupation, profession or business.* (3-19-99)

05. Meeting Criteria for Covered Employment. A worker who meets one (1), but not both, of the tests in Subsections 112.03 and 112.04 above shall be found to perform services in covered employment. (3-19-99)

06. Evidence of Contractual Liability for Termination. For purposes of making a determination under Section 72-1316(4), Idaho Code, and this regulation, the party alleging that summary termination by either party would result in contractual liability must present some evidence upon which to base such allegation. Ref. Section 72-1316(4), Idaho Code. (3-19-99)

**IDAPA 15 - OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES**

**15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES
AND PERSONNEL COMMISSION**

DOCKET NO. 15-0401-1302

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5226, Idaho Code, and Section 67-5309, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Division of Human Resources (DHR) is adding definitions and clarifying rules so consistency is achieved across agencies. Two definitions were added, Administrative Leave and Salary Equity Increase, as the terms were already addressed in Executive Policy or 2006 Agency Guidance Memorandum, but the purpose was not consistently understood and applied. Two definitions regarding Veterans, Disabled Veteran and Veteran, were added to match the statute change to Section 67-502(17), Idaho Code, approved during the 2013 legislative session (SB 1045a). Also, the definitions of Merit Increase and Under fill were revised. In addition, other DHR rules were updated to add or clarify verbiage.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 104 through 117](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michelle Peugh, HR Specialist, Sr. at 208-854-3073.

DATED this November 22, 2013.

Vicki Tokita, Administrator
Division of Human Resources
304 N. 8th Street
P.O. Box 83720
Boise, ID 83720-0066
Phone: 208-334-2263
Fax: 208-854-3088

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5309, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The changes clarify the rules so consistency is achieved across agencies and brings the rules in compliance with Section 65-502(17), Idaho Code, which was amended in the 2013 Legislature by SB1045a. The requirement of service in active duty during a war or in a combat zone has been removed from the definition of “veteran” and “disabled veteran” has been added to clarify language in related rules. Definitions for ‘Administrative Leave’ and ‘Salary Equity Increase’ have been added, as the terms were already addressed in Executive Policy or 2006 Agency Guidance Memorandum, but the purpose was not consistently understood and applied. Definitions for ‘Merit Increase’ and ‘Underfill’ were revised. Other rule sections were updated to add or clarify language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking

was published in the June 5, 2013 Idaho Administrative Bulletin, [Vol. 13-6, page 41](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

No documents were incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michelle Peugh, HR Specialist Sr., 208-854-3073.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this August 15, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0401-1302

010. DEFINITIONS -- A THROUGH E.

Each of the terms defined in these rules have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

01. Administrative Leave. Temporary paid leave from a job assignment where pay and benefits remain intact. ()

02. Administrator. The Administrator of the Division of Human Resources in the Office of the Governor or delegate for those responsibilities assigned by the administrator to a specific appointing authority. (5-8-09)

023. Agency Classification. A classification of positions unique to an agency. (5-8-09)

034. Allocation. The assignment of a classification to a pay grade in the compensation schedule. (3-16-04)

045. Appeal. Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-16-04)

056. Appellant. An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-16-04)

067. Appointing Authority. The officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any agency. (Ref. Section 67-5302(3), Idaho Code) (5-8-09)

078. Appointment, Limited. The appointment of a person to a classified position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-16-04)

089. Appointment, Nonclassified. The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)

0910. Appointment, Permanent. The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Title 67, Chapter 53, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. (3-16-04)

101. Appointment, Probationary. The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)

112. Appointment, Project Exempt. The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-16-04)

123. Appointment, Provisional. The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the classification of such position. (3-16-04)

134. Appointment, Seasonal. An appointment to a regular position in classified service with intermittent work periods. (Ref. Section 67-5302(31), Idaho Code) (3-16-04)

145. Appointment, Temporary. The appointment of a person to a nonclassified position which is of a limited duration, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) agency. Temporary appointments may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (5-8-09)

156. Base Pay. The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (5-8-09)

167. Certifiable Range. An examination score and a rank on an eligibility register sufficiently high to be among the top twenty-five (25) available names, plus names of all

individuals with scores identical to the twenty-fifth ranking eligible, for certification to fill a position in the classification for which the register was established. (4-7-11)

178. Classified Service. That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (5-8-09)

189. Commission. As utilized in these rules, refers to the Idaho Personnel Commission as established in Section 67-5307, Idaho Code. (5-8-09)

1920. Compensation Plan. The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules, Division of Human Resources and Idaho Personnel Commission rules and policies, and agency policies governing employee pay. (5-8-09)

201. Compensation Schedule. The pay grades established by the Division of Human Resources and associated rates of pay. (Ref. Section 67-5309B, Idaho Code) (5-8-09)

212. Consultant. An independent contractor who provides professional or technical advice, counsel, or service. (Ref. Rule Section 050) (5-8-09)

23. Disabled Veteran. Those veterans separated under honorable conditions who: ()

a. Have served on active duty in the armed forces and have a current service-connected disability rating of ten percent (10%) or more or are receiving compensation related to a service-connected disability including retirement benefits or pension from the military or the department of veterans affairs; or ()

b. Are Purple Heart recipients. (Ref. Section 65-502(4), Idaho Code) ()

224. Dismissal. The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Section 190 of these rules. (5-8-09)

235. Due Process. As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code) (3-16-04)

246. Employment History. The information available to the public without the employee's consent in accordance with Section 9-340(C), Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (5-8-09)

257. Examination. The application of written tests, oral interviews, performance tests, investigation, physical evaluation, evaluation of education and experience, or any other measure of job-related knowledge and ability, including performance in probationary periods. (4-5-85)

(BREAK IN CONTINUITY OF SECTIONS)

012. DEFINITIONS -- K THROUGH O.

Each of the terms defined in these rules will have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (5-8-09)

01. Key Employee. An individual specifically hired for an at-will or nonclassified position for which there is no, or only a limited, selection process. Examples may include a private secretary or deputy to an official who holds a confidential relationship to the appointing or employing officer. (Ref. Section 65-502(5), Idaho Code) (5-8-09)

02. Layoff. An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (4-5-85)

03. Light or Limited Duty. A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. (3-16-04)

04. Merit Increase. The advancement of an employee's compensation within a pay grade based upon performance in accordance with Section 67-5309B(3) and (4), Idaho Code. ~~(5-8-09)~~()

05. Merit Increase Matrix. A pay distribution tool used to advance employee pay based on performance and market data. (5-8-09)

06. Military Duty. Training and service performed by an inductee, enlistee or reservist or any entrant into the armed forces of the United States, not including active duty training as a reservist in the armed forces of the United States or as a member of the National Guard of the United States, when the call is for training only. (Ref. Section 65-502(6), Idaho Code) (5-8-09)

07. Minimum Qualification Specialty. A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (3-16-04)

08. Occasional or Sporadic Work. Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)

09. On-Call Time. Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the agency where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. (5-8-09)

013. DEFINITIONS -- P THROUGH Z.

Each of the terms defined in these rules will have the meaning given herein unless a different

meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (5-8-09)

01. Pay Line Exception. A temporary assignment of pay grade, pursuant to Section 67-5309D, Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B, Idaho Code, as approved by the administrator. (5-8-09)

02. Permanent Employee. An employee in the classified service who has successfully completed entrance probation. Permanent employees remain subject to separation as set forth in these rules and Section 67-5309(n), Idaho Code. (5-8-09)

03. Promotion. The advancement through the competitive process of an employee with permanent status from a position which he occupies in one (1) classification to a position in another classification having a higher paygrade. (5-8-09)

04. Reduction in Pay. A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (3-16-04)

05. Register. A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established. (3-16-04)

06. Resignation. The voluntary quitting or abandonment of state employment, excluding retirement. (5-8-09)

07. Respondent. The party whose interests are adverse to those of the appellant. (7-1-93)

08. Salary Equity Increase. The advancement of an employee's compensation within a pay grade based upon factors such as market demand, compression within the agency or classification, or inequities, and the employee's performance, in accordance with Section 67-5309B(3), Idaho Code. ()

089. Suspension. An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Section 190 of these rules. (5-8-09)

0910. Termination. The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Section 152 of these rules. (5-8-09)

101. Transfer. A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. (3-16-04)

112. Underfill. ~~The filling of a classification of position with an employee in a~~

~~classification of lower pay grade to accommodate a training period as approved by the administrator.~~ Appointment to a position established at a higher classification while being compensated at a lower pay grade during completion of a training plan. Underfills must be approved in advance by the administrator. (3-16-04)()

123. **USERRA.** Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Sections 4301 through 4333. Prohibits employment discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services. (5-8-09)

14. **Veteran.** Any person who has been discharged or released from active duty in the armed forces under honorable conditions provided they have served on active duty for a minimum of one hundred eighty (180) consecutive days. "Active duty" means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the secretary of the military department concerned. (Ref. Section 65-502(17), Idaho Code) ()

135. **Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Section 073) (12-10-90)

(BREAK IN CONTINUITY OF SECTIONS)

020. VETERANS PREFERENCE.

Except for key employee positions, preference must be given to qualified veterans in as defined by Section 65-502, Idaho Code who meet the minimum qualifications for a position at initial employment and for retention. (5-8-09)()

~~**01. Qualified Veteran.** To receive the preference, the person must have: (5-8-09)~~

~~**a.** Served on active duty in the armed forces during a war, in a campaign, or expedition for which a campaign badge has been authorized, or served on active duty during the period beginning April 28, 1952 and ending July 1, 1955; (5-8-09)~~

~~**b.** Served on active duty as defined in 38 U.S.C. Section 101(21) at any time in the armed forces for a period of more than one hundred eighty (180) consecutive days, any part of which occurred after January 31, 1955 and before October 15, 1976; (5-8-09)~~

~~**c.** Served on active duty as defined in 38 U.S.C. Section 101(21) in the armed forces during the period beginning on August 2, 1990 and ending on January 2, 1992; (5-8-09)~~

~~**d.** Served on active duty as defined in 38 U.S.C. Section 101(21) at any time in the armed forces for a period of more than one hundred eighty (180) consecutive days, any part of which occurred during the period beginning on September 11, 2001 and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom.~~

~~(Ref. Section 67-502(14), Idaho Code, and 5 U.S.C. Section 2108); or~~ (5-8-09)

~~e. Served as may be further defined in 38 U.S.C. Section 101(11).~~ (5-8-09)

021. ~~Disabled Veteran Defined (for Preference Points on Competitive Exam)~~ **Initial Appointment.** Veterans, ~~D~~disabled veterans, Purple Heart recipients, and their spouses, unmarried widows, or unmarried widowers, ~~or spouses;~~ when qualified under state law will have additional points added to a passing score and placed on the register in accordance with ~~the provisions set forth in~~ Section 102 of these rules. (Ref. Rule Subsection 093.03, and Sections 65-502(2), 503, and 504(3), and 67-5309(f), Idaho Code) (5-8-09)()

032. **Retention.** Veterans (as defined in Title 65, Chapter 5, Idaho Code) will receive ~~the equivalent of three (3) years of satisfactory service in~~ additional points awarded towards the total calculation of retention points in a reduction of work force determination. (Ref. Rule Section 141 and Section 65-501, Idaho Code) (5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

067. RECLASSIFICATION OF POSITIONS.

01. Procedure. Positions may be reclassified in the same pay grade, upward, or downward as determined by an analysis by the Division of Human Resources' ~~staff~~ of the duties and responsibilities assigned by appointing authorities to specific positions. An incumbent occupying a reclassified position shall be properly classified by an appointing authority within thirty (30) calendar days of being notified by the administrator that the duties and responsibilities assigned to the position are not properly classified. (4-5-85)()

02. Effective Date. Reclassifications of positions shall not be effective until they are approved by the administrator, but may be retroactive to the beginning of the pay period during which approval is granted. Reclassification of an employee shall not precede the effective date of the reclassification of the position. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

071. MERIT INCREASE MATRIX.

Salary increases must be based on a merit increase matrix approved by the Division of Human Resources. Shift and geographic premium pay, bonuses, reinstatements, transfers, promotions, salary equity increases, and recruitment and retention awards are not subject to a matrix. (5-8-09)()

072. OPERATION OF COMPENSATION PLAN.

01. Authorized Pay Rate. No employee in the state classified service will be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the classification. (5-8-09)

02. Starting Salary. The starting salary for a new appointee may be anywhere within the pay grade assigned to the employee's classification and is at the appointing authority's discretion considering available budget, market, and relation to existing staff salaries. (5-8-09)

03. Payline Exceptions. Temporary assignments to a new pay grade may be made by the administrator. Such assignments apply to an entire classification for the purpose of recruitment or retention and will be reviewed annually to determine the need for continuance. (5-8-09)

04. Salary Equity Increases. An appointing authority may, with approval by the administrator, advance an employee's salary within a pay grade based upon factors such as market demand, to address compression within an agency or classification, or inequities. In accordance with Section 67-5309B(3), Idaho Code, the employee's performance must be considered. ()

045. Salary After Reappointment from Layoff. Employees appointed by the agency that laid them off (Ref. Rule Subsection 101.01 and Section 146) will be paid in the current pay grade for the classification to which reappointed or at the same payrate the employee received immediately preceding layoff, whichever is greater, but not to exceed the maximum of the current pay grade. (5-8-09)

056. Salary Upon Transfer. (7-10-88)

a. A transfer between agencies (Ref. Rule Section 125) in the same classification or one of equal pay grade does not require a change in the employee's salary, but a lower or higher rate may be negotiated between the employee and the appointing authority. (5-8-09)

b. If the transfer is to a classification of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority within the lower pay grade. (3-16-04)

067. Salary Upon Reinstatement. Unless related to reemployment after a lay off, the salary of a reinstated employee (Ref. Rule Section 124) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. (5-8-09)

078. Salary Upon Downward Reassignment. When a classification is reassigned downward the employee's salary will be protected to the maximum within the new pay grade. (3-16-04)

089. Salary Upon Return from Military Duty. An employee who returns to state service from active military duty in accordance with the provisions of Section 65-508, Idaho Code, and USERRA will be paid at the comparable rate in the current pay grade for the classification to which he was assigned prior to leaving for military service. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

101. TYPES OF ELIGIBILITY REGISTERS.

There are four (4) kinds of eligibility registers: (4-5-85)

01. Reemployment Preference Registers. Registers with reemployment preference for a given classification will contain the names of classified employees of permanent status who have been laid off except limited service appointments. (~~See Section Ref. Rules 140 of these rules and 144.~~ (4-7-11)())

02. Agency Promotional Registers. Agency promotional registers for a given classification will contain the names of classified employees in a given agency who successfully passed an agency promotional examination for the class. (Ref. Rule Subsection 086.05) (5-8-09)

03. Statewide Promotional Registers. Statewide promotional registers for a given classification will contain the names of all classified employees in all state agencies who successfully passed a statewide promotional examination for the class. (Ref. Rule Subsection 086.05) (5-8-09)

04. Open Competitive Registers. Open competitive registers for a given classification will contain the names of applicants who successfully passed an open competitive examination for the classification. (5-8-09)

102. PLACEMENT ON REGISTER.

01. Score Order. Eligible candidates will be placed on the register for a given classification ranked in descending numerical order based on their final score on the examination for such classification. (5-8-09)

02. Veterans' Preference. Eligible veterans or surviving spouses entitled to five (5) point preference will be placed on the open competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule Subsection 093.03 and Section 65-504, Idaho Code) (5-8-09)

03. Disabled Veterans' Preference. Preference will be awarded to disabled veterans as follows: ()

a. ~~Eligible ten percent (10%) or more d~~ Disabled veterans, Purple Heart recipients, ~~or surviving~~ spouses of any eligible disabled veterans who cannot qualify for any public employment because of a service-connected disability, and unmarried widows or widowers of disabled veterans entitled to ten (10) point preference will be placed on the open-competitive register in order of their final score on the examination augmented by preference points. (Ref. Rule Subsection 093.03 and Sections 65-503 and 65-504, Idaho Code) ()

b. Disabled ~~v~~ veterans who have a current service-connected disability of thirty

percent (30%) or more will be offered an interview when their final score on the hiring list places them within the top twenty-five (25) qualified candidates. If more than ten (10) **disabled veterans with a disability rating of** thirty percent (30%) or ~~greater disabled veterans~~ **more** place in the top twenty-five (25) qualified scores of a hiring list, at least ten (10) will be offered an interview. (Ref. Rule Subsection 093.03 and Section 65-504, Idaho Code) ~~(3-29-12)~~()

04. Veterans' Preference Points for Initial Appointment Only. The additional points added by reason of veterans' preference will be used the first time a qualified veteran is hired by a state agency and not for the purpose of promotions. (Ref. Section 65-504, Idaho Code) Initial appointments do not include: (5-8-09)

- a. Jobs held by patients, inmates, or students employed at a state institution; (5-8-09)
- b. Temporary or casual employment; or (5-8-09)
- c. An office filled by election. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

109. CERTIFICATION AND SELECTION.

Whenever a vacancy in a classified position is to be filled by a competitive recruitment process, the appointing authority shall make selection from a hiring list created from eligibility registers certified by the Division of Human Resources' ~~staff~~. Non-promotional internal or external transfers or reinstatements do not require registers certified by the Division of Human Resources. ~~(3-16-04)~~()

110. NUMBER OF NAMES ON REGISTER.

The Division of Human Resources' ~~staff~~ shall certify a hiring list from the eligibility register, in the order of their scores, a sufficient number of names so that the appointing authority shall be able to select for appointment from among twenty-five (25) eligible candidates for each position to be filled. If appointments are to be made to more than one (1) position, one (1) additional name shall be added for each vacancy so that the appointing authority shall have twenty-five (25) names to consider for each vacancy. The names of all eligible candidates with scores identical to the twenty-fifth ranking eligible candidate on the register shall be provided to appointing authorities for selection purposes. ~~(4-7-11)~~()

(BREAK IN CONTINUITY OF SECTIONS)

141. CALCULATION OF RETENTION POINTS.

There will be an evaluation of all employees in the classification in the agency or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations, ~~and~~ classified credited state

service, and veterans preference as described in Subsection 141.03. ~~Qualified veterans are given preference through additional retention points. (Ref. Subsection 141.03).~~ The appointing authority will determine a process for the impartial assessment of evaluations to assign points as follows:

Exemplary Performance	-	.100 points
Solid Sustained Performance	-	.075 points
Achieves Performance Standards	-	.050 points
Does Not Achieve Performance Standards	-	.0 points

~~(5-8-09)~~()

01. No Performance Evaluation on File for a Twelve-Month Period. All credited state service for which there is no performance evaluation will receive seventy-five thousandths (.075) points per hour. A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation. (5-8-09)

a. Grace period. Supervisors have ninety (90) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that ninety (90) day time frame, the evaluation may be written to cover the two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation. (3-16-04)

b. Changes in prior periods not allowed. Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution. (3-16-04)

02. Calculation of Retention Points Since Last Evaluation. The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points are calculated in conformance with Subsection 141.01 of these rules. (5-8-09)

03. ~~Qualified~~ Veterans Preference. Veterans as defined in Title 65, Chapter 5, Idaho Code, will receive preference by the addition of retention points equivalent to three (3) years of service at a level that achieves performance standards. (Ref. Section 65-501, Idaho Code)

~~(5-8-09)~~()

04. Calculation Date Cutoff. No points will be calculated for the sixty (60) days prior to the effective date of the layoff. (3-16-04)

05. Audit of Retention Points. Each employee is entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor is binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties.

(5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

180. ~~NONDISCIPLINARY DEMOTION REQUIRED.~~ (RESERVED)

~~An appointing authority shall make a nondisciplinary demotion when the position occupied by an employee is reclassified to a classification allocated to a lower pay grade in accordance with assigned responsibilities pursuant to Rule 067. (3-16-04)~~

(BREAK IN CONTINUITY OF SECTIONS)

190. DISCIPLINARY ACTIONS.

01. Cause for Disciplinary Actions or Separation From State Service. Dismissal, suspension, demotion, or the reduction in pay, of a classified employee, may occur for any of the following causes during the employee's employment: (5-8-09)

a. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the agency or the Division of Human Resources and Idaho Personnel Commission. (5-8-09)

b. Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards. (5-8-09)

c. Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition. (5-8-09)

d. Refusal to accept a reasonable and proper assignment from an authorized supervisor. (4-5-85)

e. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the agency. (5-8-09)

f. Intoxication or being under the influence of alcohol, or the misuse of medications or controlled substances, while on duty. (5-8-09)

g. Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds. (4-5-85)

h. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage. (4-5-85)

i. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude. (4-5-85)

- j.** Acceptance of gifts in exchange for influence or favors given in the employee's official capacity. (5-8-09)
- k.** Habitual pattern of failure to report for duty at the assigned time and place. (4-5-85)
- l.** Habitual improper use of sick leave. (4-5-85)
- m.** Unauthorized disclosure of confidential information from official records. (4-5-85)
- n.** Absence without leave. (4-5-85)
- o.** Misstatement or deception in application for employment. (4-5-85)
- p.** Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties. (4-5-85)
- q.** Prohibited participation in political activities. (Ref. Section 67-5311, Idaho Code) (4-5-85)

02. Suspension for Investigation. An appointing authority may ~~suspend with pay~~ **place** an employee **on administrative leave** for investigation of disciplinary causes enumerated in Subsection 190.01 of these rules. Each suspension for investigation will be superseded by reinstatement to duty, dismissal, ~~or~~ disciplinary **demotion, or** suspension within thirty (30) calendar days of the suspension for investigation or within an extension of an additional thirty (30) calendar days approved by the administrator. Further extensions may be granted with the approval of the Administrator. (~~5-8-09~~)()

03. Disciplinary Suspension. An appointing authority may suspend without pay an employee for discipline for causes enumerated above. Disciplinary suspension of an employee with permanent status is subject to appeal by the employee to the Commission. (5-8-09)

04. Suspension on Felony Charges. An appointing authority may suspend without pay an employee upon the issuance of a complaint, an information or indictment for felony charges. Such suspensions may remain in effect during the time such charges are pending. Full reinstatement of all benefits and salary that the employee would have otherwise been entitled must be provided by the appointing authority to the employee upon a subsequent finding that charges or information were without grounds or the employee was not found guilty. For the purpose of this rule, a judgment withheld under Rule 33(d) of the Idaho Rules of Criminal Procedure is a conviction. (5-8-09)

05. Notice to Administrator. Whenever an appointing authority considers it necessary to take disciplinary action against an employee, he must notify the employee and the administrator concurrently in writing; and must set forth the specific rules violated and the reasons for the action. Suspensions with pay for investigation (Ref. Rule Subsection 190.02) may be made without prior notice to the employee; in this case, the appointing authority must notify the administrator as soon as practical. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

210. PERFORMANCE EVALUATIONS.

01. Performance Evaluations. Each agency ~~must adopt and maintain a system of employee performance evaluations provided it meets the~~ shall use the statewide online performance evaluation system; however, another system may be used, provided it meets the basic objectives of the state's online performance evaluation system as approved in advance by the administrator. Agency records and supporting documentation are subject to review by the Division of Human Resources and the employee's overall performance rating must be transmitted to the administrator. (5-8-09)()

02. Approval of Form. The Division of Human Resources' staff will make available a standard format for this purpose of the statewide online performance evaluation system. An appointing authority may utilize another form provided it meets the basic performance criteria and ratings and is approved in advance by the administrator. (5-8-09)()

03. Purpose. The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All performance evaluations must be discussed with affected employee who will be allowed opportunity to submit written comments regarding the evaluation contents. (5-8-09)

04. Use of Evaluations. Performance evaluations should be used in connection with promotions, transfers, demotions, retentions, separations, and reassignments (Ref. Section 67-5309(h), Idaho Code); and used as the affirmative certification for merit increases, and bonuses, and salary equity increases (Ref. Section 67-5309B, Idaho Code); and for certifying a probationary employee to permanent status (Ref. Rule Section 151). Other uses of performance evaluations are optional with the appointing authority. (5-8-09)()

05. Evaluation Schedule. All classified employees must be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion and after each for their performance during probationary periods for appointments and promotions and for every two thousand eighty (2,080) hours of credited state service thereafter (generally, an annual basis). (Ref. Sections 67-5309(h) and (j), 67-5309B(6), Idaho Code.) Part-time employees must be evaluated on an annual basis. (5-8-09)()

06. Retention of Evaluation. A copy of the performance evaluation must be retained in agency records, and a copy must be furnished to the employee. ~~The performance rating must be transmitted to the administrator. Agency records and supporting documentation are subject to review by the Division of Human Resources. All performance evaluation documents must be copied and forwarded with the employee when an interagency promotion, demotion or transfer occurs.~~ (5-8-09)()

07. Supervisors' Requirements. Supervisors are required to manage performance on a consistent basis including completion of performance evaluations on all employees under their direct supervision. (Ref. Section 67-5309B(6), Idaho Code) ~~(3-16-04)~~()

211. -- 219. (RESERVED)

220. RECORDS.

01. Employee Service Records. (7-1-93)

a. For each employee in classified service, the Division of Human Resources maintains a service record which must include all personnel transactions pertinent to the employee's employment history. (Ref. Section 67-5309(o), Idaho Code) (5-8-09)

~~**b.** Service records or a facsimile thereof for classified employees must be maintained permanently by the administrator.~~ (5-8-09)

eb. Any employee may at all reasonable times during business hours review his service record maintained in the Division of Human Resources or maintained in any agency. Except for material used to screen and test for employment, all information maintained in an employee's service record must be made available to the employee or designated representative upon request. File contents may be corrected if found in error according to the procedure contained in Section 9-342, Idaho Code. (5-8-09)

02. Administrative Records. The administrator must permanently maintain a record of the proceedings of the Commission and a record of all hearings of appeals. (5-8-09)

03. Employee Personnel Action Documents. The appointing authority must furnish each employee with notice of every personnel action affecting the employee's status, pay, tenure, or other terms and conditions of employment, including a copy of their performance evaluations. (5-8-09)

04. Transfers, Reemployment and Promotions Between Agencies. When an employee seeks a transfer, reemployment, or promotion between agencies, the appointing authority of the hiring agency, or designee, is entitled to examine the employee's service record and performance information before the hiring decision is made. (Ref. Section 67-5309(o), Idaho Code) (4-7-11)

a. All performance evaluation documents must be copied by the former agency and forwarded to the new agency when an interagency promotion, demotion, or transfer occurs. ()

(BREAK IN CONTINUITY OF SECTIONS)

250. SPECIAL LEAVES.

01. Leave of Absence Without Pay. (7-1-93)

a. Approval. In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority may grant an employee leave without pay for a specified length of time when such leave would not have an adverse effect upon the agency. The request for leave must be in writing and must establish reasonable justification for approval. (5-8-09)

b. Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)

c. Exhaustion of Accrued Leave. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave, earned administrative leave or compensatory time off for overtime before commencing leave without pay. (Ref. Section 240) (5-8-09)

d. Resignation. If vacation leave, earned administrative leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he will be paid for such accruals in accordance with Sections 67-5334 and 67-5328, Idaho Code. (5-8-09)

02. Leave Defaults. When an employee does not have accrued sick leave to cover an entire absence the following leave types will be used to the extent necessary to avoid leave without pay: accrued compensatory time and vacation. If abuse of sick leave is suspected see Subsection 240.07 of these rules. (5-8-09)

03. Military Leave With Pay. Employees who are members of the National Guard or reservists in the armed forces of the United States engaged in military duty ordered or authorized under the provisions of law, are entitled each calendar year to one hundred twenty (120) hours of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is separate from vacation, sick leave, holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (5-8-09)

04. Military Leave Without Pay. An employee whose employment is reasonably expected to continue indefinitely, and who leaves his position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Subsection 124.05 of these rules. The employee will either be separated from state service or placed in "inactive" status, at the option of the appointing authority. (5-8-09)

05. Leave of Absence With Pay. A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee is compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: (5-8-09)

- a. Vacation leave; (5-8-09)
- b. Sick leave; (5-8-09)
- c. Special leave situations; ~~and~~ ~~(5-8-09)~~()
- d. Compensatory time off for overtime worked; ~~and~~ ~~(5-8-09)~~()
- e. Administrative leave. ()

06. Court and Jury Services and Problem-Solving and Due Process Leave. (7-1-98)

a. Connected with Official State Duty. When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he is not considered absent from duty. The employee is not entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee must be reimbursed by his respective agency in accordance with agency travel regulations. (5-8-09)

b. Private Proceedings. When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee must be permitted to attend. The employee may use accrued leave or leave without pay. (5-8-09)

c. Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he will be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee is entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (5-8-09)

d. Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by an agency problem-solving or due process procedure or to appear as a witness or representative during such a proceeding will be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (5-8-09)

e. Notification. An employee summoned for court and jury service or requested to serve as a ~~grievance panelist~~, witness, or representative must notify his supervisor as soon as possible to obtain authorization for leave of absence. ~~(5-8-09)~~()

07. Religious Leave. Appointing authorities will make reasonable accommodations to an employee's need for leave for religious observances. Such leave is charged to the employee's accrued vacation leave or compensatory time off for overtime. (5-8-09)

08. Leave During Facility Closure or Inaccessibility. (7-1-93)

a. Authorization. When a state facility is closed or declared inaccessible because of

severe weather, civil disturbances, loss of utilities or other disruptions, affected employees are authorized **administrative** leave ~~of absence with pay~~ to cover their scheduled hours of work during the closure or inaccessibility. (5-8-09)()

b. Early release. When the appointing authority or designated representative authorizes early release of employees, the resulting time off will be charged to **administrative** leave ~~of absence with pay~~. (5-8-09)()

09. Red Cross Disaster Services Leave. Employees who have been certified by the American Red Cross as disaster service volunteers will be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (5-8-09)

10. Employee Assistance Program Leave. Up to two (2) hours per visit will be granted for utilization of the Employee Assistance Program (EAP) during normal working hours. This leave is limited to the number of free program visits provided in the state's Behavioral Health Program. (5-8-09)

11. Bone Marrow and Organ Donor Leave With Pay. (5-8-09)

a. Approval. Upon request, a full-time employee will be granted five (5) work days' leave with pay to serve as a bone marrow donor or thirty (30) work days' leave with pay to serve as an organ donor. The employee must provide the appointing authority with written verification that the employee is the person serving as the donor. Paid leave, as provided in these rules, is limited to one-time bone marrow and one-time organ donor leave per employee. (Ref. Section 67-5343, Idaho Code) (5-8-09)

b. Use. An employee who is granted such leave of absence will receive compensation without interruption during the leave period. For purposes of determining credited state service, pay advancement, performance awards, or any benefit affected by a leave of absence, the service of the employee is considered uninterrupted by the paid leave of absence. (Ref. Section 67-5343, Idaho Code) (5-8-09)

251. ADMINISTRATIVE LEAVE.

Administrative leave may be granted by an appointing authority for employee investigations, due process procedures, severe weather, emergencies or incidents that could jeopardize agency operations, or the safety of others. Administrative leave for other reasons must be approved by the administrator. ()

2512. -- 259. (RESERVED)

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.09 - MEDICAL FEES

DOCKET NO. 17-0209-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective on *sine die*, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508; 72-720; 72-721; 72-722; 72-723; and 72-803, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 240 through 243](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Medical Fee Schedule Analyst, (208) 334-6084.

DATED this 5th day of November, 2013.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This Rule adjusts the dispensing fees for pharmacies allowed under the pharmaceutical fee schedule. These fees were determined in collaboration with interested stakeholders. Under the physician fee schedule, a correction is made to a range of CPT codes in the conversion factor table that had been improperly included in Surgery Group 2. This Rule seeks to make permanent the changes already in effect by the Temporary Rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fiscal impact.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no negative fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule complies with the requirements of Section 72-803, Idaho Code, requiring the Commission to adopt, and adjust as necessary each year, rules governing the approval of fees for medical services in workers' compensation cases.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No documents have been incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Medical Fee Schedule Analyst 208-334-6084.

Anyone may submit written comments regarding this proposed rulemaking. All written

comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 26th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0209-1301

031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY PHYSICIANS UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby adopts the following rule for determining acceptable charges for medical services provided by physicians under the Idaho Workers' Compensation Law. (4-7-11)

01. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services provided by physicians. (4-7-11)

02. Adoption of Standard for Physicians. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by physicians. (4-7-11)

03. Conversion Factors. The following conversion factors shall be applied to the *fully-implemented total* facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Anesthesia	00000 - 09999	Anesthesia	\$60.33

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$135.00
Surgery - Group Two	28000 - 28999 64000 550 - 64999	Foot & Toes Nerves & Nervous System	\$124.00
Surgery - Group Three	10000 - 19999 20000 - 21999 29000 - 29799 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 <u>64000 - 64549</u> 65000 - 69999	Integumentary System Musculoskeletal System Casts & Strapping Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord <u>Nerves & Nervous System</u> Eye & Ear	\$88.54
Radiology	70000 - 79999	Radiology	\$88.54
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90799 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$49.00
Medicine - Group Two	90800 - 92999 93000 - 93999 95000 - 96020 96040 - 96999 99000 - 99607	Psychiatry & Medicine Cardiography, Catheterization, Vascular Studies Allergy / Neuromuscular Procedures Assessments & Special Procedures E / M & Miscellaneous Services	\$70.00

(7-1-13)()

04. Anesthesiology. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (4-7-11)

05. Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted each fiscal year (FY) by the Commission to reflect changes in inflation or market conditions in accordance with Section 72-803, Idaho Code. (4-7-11)

06. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.03, above, determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Section 0345, below. (~~4-7-11~~)()

07. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: (4-7-11)

- a. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (4-7-11)
- b. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (4-7-11)
- c. Modifier 80: Twenty-five percent (25%) of coded procedure. (4-7-11)
- d. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (4-7-11)

08. Medicine Dispensed By Physicians. Reimbursement to physicians for any medicine shall not exceed the acceptable charge calculated for that medicine as if provided by a pharmacy under Section 033 of this rule without a dispensing or compounding fee. Reimbursement to physicians for repackaged medicine shall be the Average Wholesale Price (AWP) for the medicine prior to repackaging, identified by the National Drug Code (NDC) reported by the original manufacturer. Reimbursement may be withheld until the original manufacturer's National Drug Code (NDC) is provided by the physician. (7-1-13)

(BREAK IN CONTINUITY OF SECTIONS)

033. ACCEPTABLE CHARGES FOR MEDICINE PROVIDED BY PHARMACIES. Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Commission hereby adopts the following rule for determining acceptable charges for medicine provided by a pharmacy under the Idaho Workers' Compensation Law. (7-1-13)

01. Acceptable Charge. Payors shall pay providers the acceptable charge for

medicine provided by a pharmacy. (7-1-13)

02. Adoption of Standards for Pharmacies. The following standards shall be used to determine the acceptable charge for medicine provided by pharmacies. (7-1-13)

a. Brand/Trade Name Medicine. The standard for determining the acceptable charge for brand/trade name medicine shall be the Average Wholesale Price (AWP), plus a ~~two~~ **five** dollar (~~\$25~~) dispensing fee. (7-1-13)()

b. Generic Medicine. The standard for determining the acceptable charge for generic medicine shall be the Average Wholesale Price (AWP), plus an **five eight** dollar (~~\$58~~) dispensing fee. (7-1-13)()

c. Compound Medicine. The standard for determining the acceptable charge for compound medicine shall be the sum of the Average Wholesale Price (AWP) for each drug included in the compound medicine, plus a five dollar (\$5) dispensing fee and a two dollar (\$2) compounding fee. All components of the compound medicine shall be identified by their original manufacturer's National Drug Code (NDC) when submitted for reimbursement. Payors may withhold reimbursement until the original manufacturer's NDC assigned to each component of the compound medicine is provided by the pharmacy. Components of a compound medicine without an NDC may require medical necessity confirmation by the treating physician prior to reimbursement. (7-1-13)

d. **Prescribed** Over-The Counter (OTC) Medicine. The standard for determining the acceptable charge for **prescribed** over-the-counter (OTC) medicine **filled by a pharmacy** shall be the reasonable charge, ~~but no~~ **plus a two dollar (\$2)** dispensing fee. (7-1-13)()

03. Disputes. The Commission shall determine the acceptable charge for medicine provided by a pharmacy that is disputed based on all relevant evidence in accordance with the procedures set out in Section 035 of this rule. (7-1-13)

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.10 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- INSURANCE CARRIERS

DOCKET NO. 17-0210-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective *sine die*, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-301, 72-304 and 72-302, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 244 through 250](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jane McClaran, Financial Officer, (208) 334- 6042.

DATED this 25th day of November, 2013.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-301, 72-304 and 72-302, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule establishes an annual deductible policy reporting period of March 3rd to coincide with the premium tax due date; and requires the mandatory data elements in the proof of coverage reporting. This rule change also removes the Appendices B and C reporting forms from the rule but directs insurance carriers to the Commission's address or website to obtain report forms.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fiscal impact to the General Fund or to the Commission's fund as a result of these proposed changes.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no negative fiscal impact resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because a subcommittee of the Commission's Advisory Committee, which included insurance carrier representatives and self-insured employers, has been providing input to the Industrial Commission in the drafting of these rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jane McClaran, (208) 334-6042.

Anyone may submit written comments regarding this proposed rulemaking. All written

comments must be directed to the undersigned and must be delivered on or before October 18, 2013.

DATED this 27th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0210-1301

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

Idaho Industrial Commission office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays designated by the state of Idaho. The mailing address for filing documents is Idaho Industrial Commission, PO BOX 83720, Boise, ID 83720-0041. The Commission office is located at 700 S. Clearwater Lane, Boise, ID 83712. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to and in compliance with the Public Records Act. ()

~~0047.~~ -- 009. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

011. (RESERVED)

01~~7~~2. RULES GOVERNING QUALIFICATION OF INSURANCE CARRIER TO UNDERWRITE WORKERS' COMPENSATION LIABILITY.

01. **Deposit With State Treasurer.** To receive the approval of the Industrial Commission to write Worker's Compensation coverage under Section 72-301, Idaho Code, a carrier whose application has been approved by the Director of Insurance to underwrite casualty and surety insurance under Sections 41-506 and 41-507, Idaho Code, shall initially deposit security in the amount of two hundred fifty thousand dollars (\$250,000) with the State Treasurer, under the provisions of Section 72-302, Idaho Code. (4-7-11)

02. **Application.** Before the Commission shall approve any insurance carrier to do business under the Workers' Compensation Law, said carrier shall apply to the Industrial Commission for permission to write compensation insurance and said application shall include

the following: (4-7-11)

a. A statement from the Director of the Idaho Department of insurance that the insurance carrier has been granted authority under the insurance laws of the state of Idaho to write casualty or surety insurance; (4-7-11)

b. The latest audited financial statement of said carrier; (4-7-11)

c. The name and address of the agent for service of process in Idaho; (4-7-11)

d. The name and address of the Idaho resident licensed adjuster or adjusters with authority to make compensation payments and adjustments of claims arising under the Act. If more than one (1) adjuster is utilized in Idaho, a list of every such adjuster and all corresponding policyholders shall be provided; (4-7-11)

e. A statement that the carrier will provide such blank forms as are, or may be, prescribed by the Commission and distributed to such employers as it may insure. (4-7-11)

f. A statement that all surety bonds covering the payment of compensation will be filed with the Idaho State Treasurer in compliance with the law for all employers insured. All carriers will use the continuous bond form set out herein. (4-7-11)

SURETY BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____,
as Principal, and _____, as Surety, are held and firmly bound unto the State of Idaho and the beneficiaries of awards rendered under the Workers' Compensation Law of the State of Idaho, for all sums said Principal is liable for by reason of workers' compensation policies issued to employers in the State of Idaho, insuring such employers' liability under Title 72, Idaho Code, the Workers' Compensation Law. Under the authority of Chapter 3, Title 72, Idaho Code, the liability of the Surety on this bond shall in no event exceed an amount equal to the total amount of all outstanding and unpaid compensation awards against the Principal.

In case of any default by the Principal or in the event said Principal shall fail to pay, by reason of insolvency, or because a receiver has been appointed therefor, or by reason of refusal, neglect or delay to pay any final award or awards, the State of Idaho and any beneficiaries under the Workers' Compensation Law shall have a right of action at law against said Surety immediately upon default by said Principal.

This bond is issued for an indefinite term to begin on the _____ day of _____, 20____, and will continue in full force and effect until terminated in either of the following two (2) manners: This bond may be cancelled by the Surety by filing sixty (60) days' written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed and this instrument to be sealed by the respective parties thereto this _____ day of _____, 20____. (4-7-11)

g. A statement that renewal certificates on said bonds will be issued and filed with the Industrial Commission immediately, if said bonds are to be renewed. (4-7-11)

h. A statement that the cancellation of surety contracts will be made as set forth in the law, if said contracts are cancelled; (4-7-11)

i. A statement that said carrier will deposit, in addition to the security required for authorization to write Workers' Compensation coverage by these rules, such further security equal to all unpaid outstanding awards of compensation; (4-7-11)

j. A statement that said carrier will comply with the statutes of the state of Idaho and rules of the Industrial Commission to the end that payments of compensation shall be sure and certain and not unnecessarily delayed; and (4-7-11)

k. A statement that said carrier will make such reports to the Commission as it may require in reference to matters under the Workers' Compensation Law, including IC Form 36A, Report of Outstanding Awards – Insurance Carriers; which must be filed quarterly with the Commission. (4-7-11)

01~~2~~3. RULES GOVERNING INSURANCE CARRIERS.

An insurance carrier must apply for and receive the approval of the Industrial Commission to write workers' compensation insurance pursuant to Section 72-301, Idaho Code. After receiving such approval, an insurance carrier shall comply with the following: (4-7-11)

01. Maintain Statutory Security Deposits with the State Treasurer. (4-7-11)

a. Each insurance carrier shall maintain with the Idaho State Treasurer a security deposit in the amount of twenty-five thousand dollars (\$25,000) if approved by the commission prior to July 15, 1988, or two hundred and fifty thousand dollars (\$250,000) if approved subsequent to that date. (4-7-11)

b. In addition to the security required in Subsection 01~~2~~3.01.a., of this rule, each insurance carrier shall deposit an amount equal to the total unpaid outstanding awards of said insurance carrier. Such deposit shall be in the form permitted by Section 72-301, Idaho Code. Surety bonds shall be in the form set forth in Subsection 01~~2~~3.02.f. of these rules. If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho. A partial release of security deposited hereunder must be requested in writing and approved by the Commission. (~~4-7-11~~)()

c. Securities which are maintained to satisfy the requirements of this rule may be held in the federal reserve book-entry system, as defined in Section 41-2870(4), Idaho Code, and interests in such securities may be transferred by bookkeeping entry in the federal reserve book-entry system without physical delivery of certificates representing such securities. (4-7-11)

02. Appoint Agent for Service of Process. Each insurance carrier shall appoint the Director of the Department of Insurance as its agent to receive service of legal process. (4-7-11)

03. Maintain Resident Idaho Office. Each insurance carrier shall maintain an Idaho licensed resident adjuster or adjusters, or its own adjusting offices or officers resident in Idaho who have been appointed and have been given authority as to claims arising under the Act. (4-7-11)

a. Each authorized insurance carrier shall notify the Commission Secretary in writing of any change of the designated resident adjuster(s) for every insured Idaho employer within fifteen (15) days of such change. (4-7-11)

b. Each authorized insurance carrier will ensure that every in-state adjuster can classify and identify all claims adjusted on behalf of said insurance carrier, and that the in-state adjuster will provide such information to the Industrial Commission upon request. (4-7-11)

04. Supply Forms. Each insurance carrier shall supply such forms as are or may be prescribed by the Commission pursuant to the Workers' Compensation Law and distribute them to all employers it insures. A list of required forms is available from the [public information section Employer Compliance Bureau](#) of the Industrial Commission, ~~700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041~~, telephone (208)334-6000, [or on the Commission's website at www.iic.idaho.gov.](#) (4-7-11)()

05. Comply with Industrial Commission Reporting Requirements. Each insurance carrier shall file such reports as the Industrial Commission may require concerning matters under the Workers' Compensation Law. (4-7-11)

06. Report Proof of Coverage. (4-7-11)

a. Each insurance carrier shall report proof of coverage information to a third party designated by the Industrial Commission as its agent to receive, process, and forward the proof of coverage information required by these rules to the Commission. The name and address of the Commission's designated agent(s) is available upon request from the Employer Compliance Bureau of the Industrial Commission, ~~700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041~~; telephone (208) 334-6000, [or on the Commission's website at www.iic.idaho.gov.](#) (4-7-11)()

b. As an alternative to Subsection 01~~23~~.06.a., an insurance carrier may be allowed to report proof of coverage information directly to the Industrial Commission in an electronic format prescribed by the Commission by first making a written request to the Commission and obtaining the Commission's permission. A formal written agreement with the Commission is required prior to the electronic transmission of proof of coverage data to the Commission. (4-7-11)()

c. The Industrial Commission hereby adopts the International Association of Industrial Accident Boards and Commissions' (IAIABC) electronic proof of coverage record layout and transaction standards as the required reporting mechanism for new policies, renewal policies, endorsements, cancellations, and non-renewals of policies. A copy of the record layout,

data element requirements, and transaction standards is available upon request from the Employer Compliance Bureau, of the Industrial Commission, ~~700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041~~; telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. Each insurance carrier shall report data for all mandatory elements in the current IAIABC proof of coverage record layout and transaction standards on each policy reported. (4-7-11)()

d. The most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining the insurance carrier providing coverage. (4-7-11)

07. Report New Policy, Renewal Policy, and Endorsement Information Within Thirty Days. Each insurance carrier shall report the issuance of any new workers' compensation policy, renewal policy, or endorsement to the Industrial Commission or its designated agent within thirty (30) days of the effective date of the transaction. (4-7-11)

08. Report Cancellation and Non-Renewal of Policy Within Time Prescribed by Statute. Each insurance carrier shall report the cancellation and/or nonrenewal of any workers' compensation insurance policy to the Industrial Commission or its designated agent within the time frames prescribed by Section 72-311, Idaho Code. Receipt of cancellation or nonrenewal notices by the Commission's designated agent shall be deemed to have been received by the Commission. (4-7-11)

09. Report Election of Coverage on Form IC52 or Similar Format. Each insurance carrier shall report election of coverage or revocation of election of coverage on or in a format substantially the same as Form IC52, "Election of Coverage," which follows this chapter as Appendix A. This report shall be submitted to the Industrial Commission in writing on eight and one-half by eleven inch (8 1/2" x 11") paper. (4-7-11)

10. Report Deductible Policy. On or before March 3rd of each year, every insurance carrier shall submit a report of all deductible policies that were issued and in effect during the previous calendar year. That report shall be submitted in a form substantially similar to the current "Deductible Policy Report" available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. The report shall include the following information: insured name, policy number, effective and expiration dates, deductible amount, the premium charged for the policy before credit for the deductible and the final premium after credit for the deductible. ()

101. Report Outstanding Awards. Each insurance carrier shall report to the Industrial Commission at the end of each calendar quarter, or more often as required by the Commission, any outstanding award. (4-7-11)

a. The report of outstanding awards shall be filed with the Industrial Commission by the end of the month following the end of each calendar quarter. (4-7-11)

b. The report shall be filed even if there are no outstanding awards. In that event, the carrier shall certify the fact that there are no outstanding awards to be reported. (4-7-11)

c. The report shall be submitted on or in a format that is substantially the same as the current Form IC36A, "Report of Outstanding Awards – Insurance Carriers" ~~which follows this chapter as Appendix B~~ available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by eleven inches (8 ½" x 11") in size. (4-7-11)()

d. The report shall be signed and certified to be correct by a corporate officer. If an insurance carrier has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the insurance carrier shall prepare, certify and file a consolidated report of outstanding awards. (4-7-11)

e. The report shall list all outstanding awards, commencing with the calendar quarter during which the award is made or benefits are first paid, whichever occurs earlier. (4-7-11)

142. Comply with Law and Rules. Each insurance carrier shall comply with the statutes of the state of Idaho and the rules of the Industrial Commission to ensure that payments of compensation shall be sure and certain and not unnecessarily delayed. (4-7-11)

0134. -- 050. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

271. RULES GOVERNING REPORTING INDEMNITY PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.

Pursuant to Section 72-327, Idaho Code, the state insurance fund and every insurance carrier authorized to transact workers' compensation insurance in Idaho shall report annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period. (4-7-11)

01. Filing. The report of indemnity payments shall be filed with the Industrial Commission simultaneously with the first Semi-Annual Premium Tax Report which, pursuant to Section 72-523, Idaho Code, is due each year on March 3rd. (4-7-11)

02. Form. The report of indemnity payments shall be submitted in writing on, or in a format substantially the same as Form IC327, "Report of Indemnity Payments," ~~contained in Appendix C at the end of this chapter~~ available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. (4-7-11)()

03. Report Required When No Indemnity Paid. If an entity required to report under this rule has no claims against which indemnity payments have been made during the reporting period, a report shall be filed so indicating. (4-7-11)

04. Penalty for Late Filing. A penalty shall be assessed by the Commission for filing

the report of indemnity payments later than March 3 each year. (4-7-11)

a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less. (4-7-11)

b. A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days. (4-7-11)

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and shall be submitted with the April 1 payment of the industrial special indemnity fund assessment, following notice by the Commission of the penalty assessment. (4-7-11)

05. Estimating Indemnity Payments for Entities That Fail to Report Timely. If an entity required to report indemnity payments under these rules fails to report within the time allowed in these rules, the Commission will estimate the indemnity payments for that entity by using the indemnity amount reported for the preceding reporting period and adding twenty percent (20%). (4-7-11)

06. Adjustment for Overpayments or Underpayments. Overpayments or underpayments, including those resulting from estimating the indemnity payments of entities that fail to report timely, will be adjusted on the billing for the subsequent period. (4-7-11)

272. -- 999. (RESERVED)

APPENDIX A

IC52 ELECTION OF COVERAGE

Check the appropriate box	
_ Election	_ Revocation of Election

The undersigned hereby notifies the Industrial Commission of the following:

- _ Household domestic service
- _ Casual employment
- _ Employment of outworkers
- _ Employment of members of an employer's family dwelling in his household. (Applies only to sole-proprietorships)
- _ Employment as the owner of a sole proprietorship
- _ Employment of a working member of a partnership or a limited liability company (Circle

either partnership or Limited Liability Company; if the election applies only to certain partners/members, name the covered partners/members.)

— Employment of an officer of a corporation who at all times during the period involved owns not less than ten percent (10%) of all of the issued and outstanding voting stock of the corporation and, if the corporation has directors, is also a director thereof (If the election applies only to certain corporate officers, name the covered officers)

— Employment for which a rule of liability for injury, occupational disease, or death is provided by the laws of the United States

— Pilots of agricultural spraying or dusting planes

— Associate real estate brokers and real estate salesmen paid solely by commission

— Volunteer ski patrollers

— Officials of athletic contests involving secondary schools

(Name of Insurance Company)

Policy Number _____

Insured Name _____

Effective Date of Election/Revocation _____

(Signature of authorized representative)

(Employer's signature)

[APPENDIX B is being deleted]

[APPENDIX C is being deleted]

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.11 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- SELF-INSURED EMPLOYERS

DOCKET NO. 17-0211-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective *sine die*, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-301, 72-304 and 72-302, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 251 through 257](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jane McClaran, Financial Officer, (208) 334-6042.

DATED this 25th day of November, 2013.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-301, and 72-304, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change allows the Industrial Commission to require a self-insured employer to provide a Guaranty Resolution that confirms the agreement of joint venturers or a parent corporation to guarantee the payment of all Idaho workers' compensation claims of employees of the self-insured employer. The rule also provides no credit for excess insurance coverage provided by a surplus lines carrier. The rule change also allows the Industrial Commission to presume that the most recent proof of coverage information contained in the Industrial Commission's database is correct for purposes of determining coverage by a self-insured employer. The rule also removes reporting forms from the rule and provides that the forms are available from the Commission or on the Commission's website.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no fiscal impact to the General Fund or to the Commission's fund as a result of these proposed changes. There is a potential positive fiscal impact to the dedicated Industrial Administration fund, but the amount is unknown.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no negative fiscal impact resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because a subcommittee of the Commission's Advisory Committee, which included insurance carrier representatives and self-insured employers, has been providing input to the Industrial Commission in the drafting of these rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jane McClaran, (208) 334-6042.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 27th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0211-1301

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

Idaho Industrial Commission office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays designated by the state of Idaho. The mailing address for filing documents is Idaho Industrial Commission, PO BOX 83720, Boise, ID 83720-0041. The Commission office is located at 700 S. Clearwater Lane, Boise, ID 83712. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to and in compliance with the Public Records Act. ()

0047. -- 0409.(RESERVED)

0120. DEFINITIONS.

For the purposes of this chapter, the following definitions are applicable: (4-7-11)

01. Compensation. All benefits payable under the provisions of the Idaho Workers Compensation Law. (3-29-12)

02. Indemnity Benefits. All payments made to or on behalf of workers' compensation claimants, including temporary or permanent disability benefits, permanent partial impairment benefits, death benefits paid to dependents, retraining benefits, and any other type of income

benefits, but excluding medical and related benefits. (4-7-11)

03. Indemnity Claim. Any claim made for the payment of indemnity benefits. (4-7-11)

04. Payroll. The gross amount paid by an employer for salaries, wages or commissions earned by its own direct employees, but not including any money paid to another entity or received from another entity for leased employees. (4-7-11)

011. -- 012. (RESERVED)

013. RULES GOVERNING QUALIFICATIONS OF SELF-INSURED EMPLOYERS.

In order to be considered for approval by the Industrial Commission to self-insure under Section 72-301, Idaho Code, an employer shall comply with the following requirements: (4-7-11)

01. Payroll. Have an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000); (4-7-11)

02. Application. Submit a completed application, available from the Industrial Commission's Fiscal [Section Bureau](#), along with the application fee of two hundred fifty dollars (\$250), to the Idaho Industrial Commission, Attention: Fiscal [Section Bureau](#), ~~at 700 S. Clearwater Lane, PO Box 83720-0041, Boise, Idaho 83720-0041~~; telephone (208) 334-6000. ~~(4-7-11)~~()

03. Documentation. Submit documentation satisfactory to the Commission demonstrating the sound financial condition of the employer, such as the most recent CPA reviewed or, if available, audited, financial statement; (4-7-11)

04. Adjuster. Designate in writing a licensed Idaho resident adjuster; (4-7-11)

05. Previous Claims. Provide a history of all workers' compensation claims filed with the employer or the employer's workers' compensation carrier, as well as all compensation paid, during the previous five (5) calendar years. (3-29-12)

06. Excess Insurance. Provide an insurance plan **that must include excess insurance coverage** and copies of all proposed policies of excess workers' compensation insurance coverage. ~~(3-29-12)~~()

07. Actuarial Study. Provide an actuarial study prepared by a qualified actuary determining adequate rates for the proposed self-funded worker's compensation plan based upon a fifty percent (50%) confidence level. (3-29-12)

08. Feasibility Study. Provide a self-insurance feasibility study that includes an analysis of the advantages and disadvantages of self insurance as compared to current coverage, and the related costs and benefits. (3-29-12)

09. Custodial Agreement. Set up a custodial agreement with the State Treasurer for securities required to be deposited under Sections 72-301 and 72-302, Idaho Code; (4-7-11)

10. Supplemental Information. Provide supplemental information as requested; (4-7-11)

11. Initial Security Deposit. Prior to final approval, deposit an initial security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, or a self-insurer's bond in substantially the form set forth in Subsection 014.02, of this rule, in the amount of one hundred and fifty thousand dollars (\$150,000), plus five percent (5%) of the first ten million dollars (\$10,000,000.00) of the employer's average annual payroll in the state of Idaho for the three (3) preceding years; along with such additional security as may be required by the Commission based on prior claims history; (4-7-11)

12. Initial Guaranty Agreement. The Commission may allow or, where financial reports or other factors such as the high risk industry of the employer indicate the need, require an employer that is organized as a joint venture or a wholly owned subsidiary to provide a guaranty agreement from each member of the joint venture or the parent company. This guaranty agreement confirms the continuing agreement of each of the joint venture members or the parent company to guarantee the payment of all Idaho workers' compensation claims of employees of that joint venture or subsidiary employer seeking to become self-insured. The guaranty agreement shall be in substantially the same form as the current sample Indemnity and Guaranty Agreement and, as applicable, the companion Consent of the Board of Directors, available from the Commission and posted on the Commission's website at www.iic.idaho.gov. ()

123. Written Approval. Obtain written approval from the Industrial Commission. (4-7-11)

014. CONTINUING REQUIREMENTS FOR SELF-INSURED EMPLOYERS.

Upon receiving the approval of the Industrial Commission to be a self-insured employer under Section 72-301, Idaho Code, to continue such approval a self-insured employer shall comply with the following requirements: (4-7-11)

01. Payroll Requirements. Maintain an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000). Any self-insured employer that does not meet the payroll requirement of this rule for two consecutive semi-annual premium tax reporting periods shall be allowed to maintain their self-insured status for six (6) months from the end of the last reporting period in order to permit them time to increase their payroll or obtain workers' compensation coverage with an insurance carrier authorized to write workers' compensation insurance in the state of Idaho. (3-29-12)

02. Security Deposit with Treasurer. (4-7-11)

a. Maintain a primary security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, a self-insurer's bond in substantially the form set forth below, or in such other form approved by the Commission, in the amount of one hundred fifty thousand dollars (\$150,000), plus five percent (5%) of the employers' average annual payroll in the state of Idaho for the three (3) preceding years, not in excess of ten million dollars (\$10,000,000). In addition thereto, the self-insured employer shall deposit additional security in such amount as the Commission determines is necessary to secure the self-insured employer's

total unpaid liability for compensation under the Workers' Compensation Law. No approved security shall be accepted for deposit above its par value. Additional deposits of approved security may be required semi-annually if the market value of an approved investment falls below its par value or if the total value of the employer's security deposit falls below the total security required to be maintained on deposit when calculated in accordance with this rule. ~~(3-29-12)~~()

b. Self-insured employers shall receive a credit for the primary security deposit against the self-insured employer's obligation to post the additional security required by Subsection 014.02.a. of this rule. (3-29-12)

c. Excess insurance coverage approved by the Commission may apply as a credit against the self-insured employer's obligation to post the additional security required by Subsection 014.02.a. of this rule. The Commission must be provided with thirty (30) days advance written notice of any change or cancellation of an approved excess insurance policy. No credit will be given for any excess insurance coverage provided by a surplus lines carrier, as described in Chapter 12, Title 41, Idaho Code. ~~(3-29-12)~~()

d. All security deposited by the self-insured employer shall be maintained as provided by Section 72-302, Idaho Code. (4-7-11)

e. Any withdrawal or partial release of security deposited hereunder must be requested in writing and approved by the Commission. (4-7-11)

SELF-INSURER'S COMPENSATION BOND

KNOW ALL MEN BY THESE PRESENTS, THAT _____, a corporation of the State of _____, hereinafter called the Principal, as Principal, and the _____, a surety corporation authorized to transact a surety business in the State of Idaho, as Surety, are held and firmly bound unto the State of Idaho, for the use and benefit of all those employees of the Principal to whom or to the dependents of whom the Principal may, during the life of this bond, become liable for benefits under the Idaho Workers' Compensation Law, as hereinafter more fully referred to, in the sum equal to and limited by the sum or sums that may become due and/or payable by said Principal to said employees under the terms, provisions and limitations of said Workers' Compensation Law, and in accordance with the terms, agreements, conditions and limitations of this obligation not exceeding, however, the sum of _____ dollars, for the payment of which, well and truly made, the Principal well and truly binds itself, its successors and assigns, and the Surety binds itself, its successors and assigns, jointly and severally, well and truly by these presents.

WHEREAS, in accordance with the provisions of Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, and Principal has elected to secure compensation to its employees by depositing and maintaining with the Industrial Commission of Idaho a surety bond issued and executed by the surety herein named, which surety is duly qualified to transact such business in the state of Idaho subject to the approval of the Industrial Commission of the State of Idaho.

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall pay compensation according to the terms, provisions, and limitations of Idaho Code, Title 72,

Chapter 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, to its injured employees or the dependents of its killed employees contemplated by the terms of and covered under the said law, and shall furnish medical, surgical, nursing and the hospital services and attention and funeral expenses as provided for in said law (all of which shall be understood to be included in the term "compensation" as hereinafter used), then this obligation shall be null and void, otherwise to remain in full force and effect, subject, however to the following express conditions and agreements:

That any employee or the dependent of any employee of the Principal entitled to compensation under said Workers' Compensation Law, shall have the right to enforce in his own name the liability of the Surety hereunder, in whole or in part, for such compensation, either by at any time filing a separate claim against the Surety or by at any time making the Surety a part of the original claim against the employer; provided, however, that payment in whole or in part of such compensation by either the Principal or the Surety shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

That as between the employee and the Surety, notice to or knowledge of the occurrence of injury on the part of the employer shall be deemed notice to or knowledge, as the case may be, on the part of the Surety; that the obligation of the Surety, and the Surety, shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the Principal for the payment of compensation under the provisions of the Workers' Compensation Law aforesaid, and that the insolvency or bankruptcy of the Principal and its discharge therein, shall not relieve the Surety from the payment of compensation for injuries, including death resulting therefrom, sustained during the life of this bond by an employee of the Principal covered under the Workers' Compensation Law.

That upon request of the Industrial Commission of Idaho, it will make such changes in this form of bond by endorsement to be attached hereto or by the execution of a surety bond replacing this one, as the said Commission may deem requisite, to bring this bond into conformity with its rulings as to the form of surety bond required of employers under Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto.

This bond is issued for an indefinite term to begin on the _____ day of _____, 20____, and will continue in full force and effect until terminated in either of the following two manners: This bond may be cancelled by the Surety by filing sixty (60) days written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

IN TESTIMONY WHEREOF, the said Principal and said Surety have caused these presents to be executed in due form this _____ day of _____, 20____.

Countersigned

By

Resident Agent

Principal

SEAL

SEAL

By

By

Samples of this form are available from the Fiscal Section Bureau of the Industrial Commission, 700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041, Telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. (4-7-11)()

03. Continue or Provide Guaranty Agreement. ()

a. A self-insured employer that is organized as a joint venture or a wholly owned subsidiary shall continue in effect any guaranty agreement that the Commission has previously allowed or required, until termination is permitted by the Commission. ()

b. Where an adverse change in financial condition or other relevant factors such as claims history or industry risk indicates the need, a self-insured employer that is organized as a joint venture or a wholly owned subsidiary may be allowed to, or shall upon request, provide a guaranty agreement from each member of the joint venture or the parent company. This guaranty agreement confirms the continuing agreement of each of the joint venture members or the parent company to guarantee the payment of all Idaho workers' compensation claims of employees of that joint venture or subsidiary self-insured employer. The guaranty agreement shall be in substantially the same form as the current sample Indemnity and Guaranty Agreement, and as applicable, the companion Consent of the Board of Directors, available from the Commission and posted on the Commission's website at www.iic.idaho.gov. ()

034. Maintain a Licensed Resident Adjuster. Maintain a resident licensed claims adjuster located within the state of Idaho who shall have full authority to service said claims on behalf of the employer including, but not limited to, the following: (4-7-11)

- a.** Investigate and adjust all claims for compensation; (4-7-11)
- b.** Pay all compensation benefits due; (4-7-11)
- c.** Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-7-11)
- d.** Enter into compensation agreements and lump sum settlements with Claimants; (4-7-11)
- e.** Provide at the employer's expense necessary forms to any employee who wishes to file a claim under the Workers' Compensation Law. (4-7-11)

045. File Reports. Report to the Industrial Commission semi-annually, or more often as required by the Commission, total unpaid liability on all open claims. (3-29-12)

a. The semi-annual report of total unpaid liability shall be filed with the Industrial Commission by the end of the months of January and July. (3-29-12)

b. The report shall provide the aggregate number of open claims, including indemnity with medical and medical only claims, along with the amount of any compensation paid on open claims, as of the end of each June and December. (3-29-12)

c. The report shall be filed even if there are no open claims. In that event, the employer shall certify the fact that there are no open claims to be reported. (3-29-12)

d. The report shall be submitted on or in a format that is substantially the same as the current Form IC-211, "Self-Insured Employer Report of Total Unpaid Liability," which follows this chapter as Appendix A available from the Fiscal Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by eleven inches (8 ½" x 11") in size. ~~(3-29-12)~~()

e. The report shall be signed and certified to be correct by a corporate officer. If an employer has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the employer shall prepare, certify and file a consolidated report of all unpaid liability. (3-29-12)

f. A self-insured employer shall also make such other reports to the Commission as it may require in reference to matters under the Workers' Compensation Law. (4-7-11)

056. Submit to Audits by Industrial Commission. Each year a self-insured employer shall provide the Industrial Commission with a copy of its annual financial statements, or other acceptable documentation. Each self-insured employer shall submit to audit by the Commission or its designee at any time and as often as it requires to verify the amount of premium such self-insured employer would be required to pay as premium to the State Insurance Fund, and to verify compliance with the provisions of these rules and the Idaho Workers' Compensation Law. For the purpose of determining such premium for uninsured contractors of a self-insured employer, the most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining such coverage. ~~(4-7-11)~~()

067. Comply with Law and Rules. Comply with the statutes of the state of Idaho and the rules of the Industrial Commission to the end that payment of compensation shall be sure and certain and not unnecessarily delayed. The Commission may withdraw its approval of any employer to operate as a self-insurer if it shall appear to the Commission that workers secured by said self-insured employer are not adequately protected and served, or the employer is failing to comply with the provisions of these rules or the Workers' Compensation Law. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

271. RULE GOVERNING REPORTING INDEMNITY AND MEDICAL PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.

Pursuant to Section 72-327, Idaho Code, every authorized self-insurer authorized to self-insure its workers' compensation obligations in Idaho shall report annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period. (4-7-11)

01. Filing. The report of indemnity and medical payments shall be filed with the Industrial Commission simultaneously with the first Semi-Annual Premium Tax Report; which, pursuant to Section 72-523, Idaho Code, is due each year on March 3rd. (3-29-12)

02. Form. The report of indemnity and medical payments shall be submitted in writing on, or in a format substantially the same as the current Form IC2-327, "Workers' Compensation Claims Involving Medical Payments Only and Claims Involving Indemnity Payments Report," ~~contained in Appendix B at the end of this chapter~~ available from the Fiscal Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. (~~3-29-12~~)()

03. Report Required When No Indemnity Paid. If an entity required to report under this rule has no claims against which indemnity payments have been made during the reporting period, a report shall be filed so indicating. (4-7-11)

04. Penalty for Late Filing. A penalty shall be assessed by the Commission for filing the report of indemnity and medical payments later than March 3rd each year. (3-29-12)

a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less. (4-7-11)

b. A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days. (4-7-11)

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and shall be submitted with the April 1 payment of the industrial special indemnity fund assessment, following notice by the Commission of the penalty assessment. (4-7-11)

05. Estimating Indemnity Payments for Entities That Fail to Report Timely. If an entity required to report indemnity and medical payments under these rules fails to report within the time allowed in these rules, the Commission will estimate the indemnity payments for that entity by using the indemnity amount reported for the preceding reporting period and adding twenty percent (20%). (3-29-12)

06. Adjustment for Overpayments or Underpayments. Overpayments or underpayments, including those resulting from estimating the indemnity payments of entities that fail to report timely, will be adjusted on the billing for the subsequent period. (4-7-11)

272. -- 999. (RESERVED)

[APPENDIX A and APPENDIX B are being removed]

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.02 - RULES GOVERNING EMERGENCY RELIEF FOR VETERANS

DOCKET NO. 21-0102-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 65-202 and 65-204, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 307 and 308](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rule change will result in an anticipated cost of \$2,500 annually in General Funds. It will also have a positive impact to veterans by affording Tribal Veterans Representatives with increased opportunities for training about how to assist veterans in properly completing their claims and applications for federal veterans' benefits. This will increase the likelihood of the success of such veterans' claims, which will increase the amount of money provided to Idaho in federal veterans' benefits.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tamara Mackenthun, Deputy Administrator, (208) 577-2313.

DATED this 24th day of October, 2013.

Tamara Mackenthun, Deputy Administrator
Division of Veterans Services
351 Collins Rd.
P. O. Box 83720
Boise, ID 83720-0092
Phone: (208) 577-2313
Fax: (208) 577-2311

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 65-202 and 65-204, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho veterans who may be associated with a Tribe should be afforded the same opportunity to receive information about and take advantage of earned veterans' benefits administered by the U.S. Department of Veterans Affairs. This is most effectively accomplished by receiving information and guidance from recognized veterans service organizations. Tribal Veterans Representatives are recognized as such and currently do not have the same opportunity that county and service organization Veterans Service Officers are currently afforded to attend training provided by the Division with travel reimbursement. This rule change will allow Native American Tribal Veterans Representatives to obtain funding from the Division of Veterans Services for reimbursement of travel expenses for one (1) regional training conference each year in support of the statewide service officer program, in the same manner that other county and service organization veterans service officers are afforded. This proposed rule would include Native American Tribes as an eligible organization which may send veterans service officers and representatives to training sessions administered by the Division and apply for reimbursement of travel expenses for one (1) participant to attend one (1) training conference per year. Reimbursement would not be provided if travel expenses were reimbursed by other sources.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

This rule change will result in an anticipated cost of \$2,500 annually in General Funds. It will also have a positive impact to veterans by affording Tribal Veterans Representatives with increased opportunities for training about how to assist veterans in properly completing their

claims and applications for federal veterans' benefits. This will increase the likelihood of the success of such veterans' claims, which will increase the amount of money provided to Idaho in federal veterans' benefits.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule changes are simple in nature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tamara Mackenthun, Deputy Administrator, (208) 577-2313.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 21st day of August 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0102-1301

027. VETERANS SERVICE OFFICER SUPPORT.

Veterans service officers, whether of the counties or the recognized veterans service organizations, must have a current knowledge and understanding of United States Department of Veterans Affairs programs to adequately serve the citizens of the state in the recovery of earned veterans benefits. (3-30-01)

01. Training. The Division of Veterans Services will conduct a minimum of one (1) regional training conference each year in support of the statewide service officer program. (5-3-03)

02. Reimbursement. Eligible counties, *and* service organizations, *and Native American Tribes* sending service officers to scheduled training sessions may apply to the Division of Veterans Services for reimbursement of travel expenses for one (1) participant. Payment will not be provided for expenses reimbursed by other sources and shall be limited to one (1) regional training conference per year. (~~3-30-01~~)()

03. Rate of Reimbursement. Reimbursement of travel expenses shall be for mileage

and meals and at the same rate as established by the State Board of Examiners. (3-30-01)

04. Requests for Reimbursement. All requests for reimbursement must be submitted from an official county service officer or from an administrative officer of a congressionally chartered veterans service organization. Requests for reimbursement shall be submitted in a format as prescribed by the Division of Veterans Services. Requests must be submitted within thirty (30) days after the conclusion of a training conference. All reimbursements are subject to the availability of funds. (5-3-03)

05. Validation. Request for reimbursement shall be validated by cross-referencing attendance lists from service officer training conferences. (3-30-01)

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.08 - RULES GOVERNING VETERANS RECOGNITION FUND GRANT PROGRAM

DOCKET NO. 21-0108-1301 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 65-202 and 65-204, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 309 through 312](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Grant funds will be obtained from investment of moneys appropriated from excess earnings from funds maintained by the Division of Veterans Services. No General Funds will be allocated to this program.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Tamara Mackenthun, Deputy Administrator, (208) 577-2313.

DATED this 24th day of October, 2013.

Tamara Mackenthun, Deputy Administrator
Division of Veterans Services
351 Collins Rd.
P. O. Box 83720
Boise, ID 83720-0092
Phone: (208) 577-2313
Fax: (208) 577-2311

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 65-202 and 65-204, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rules are needed to provide basic administrative procedures for the award of funds from the Idaho Veterans Recognition Fund established by Idaho Code, Title 65, Chapter 7, Idaho Veterans Recognition Act. This is a new chapter of rules which provides procedures for the application, review and award of grant moneys for programs to support veterans.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

Grant funds will be obtained from investment of moneys appropriated from excess earnings from funds maintained by the Division of Veterans Services. No General Funds will be allocated to this program.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule changes are simple in nature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tamara Mackenthun, Deputy Administrator, (208) 577-2313.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 21st day of August 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0108-1301

IDAPA 21
TITLE 01
CHAPTER 08

21.01.08 - RULES GOVERNING VETERANS RECOGNITION
FUND GRANT PROGRAM

000. LEGAL AUTHORITY.

Section 65-204, Idaho Code, authorizes the Administrator of the Division of Veterans Services to promulgate rules with respect to all matters of administration under Title 65, Chapter 2, Idaho Code, including the disbursement of funds held under Section 65-704, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 21.01.08, “Rules Governing Veterans Recognition Fund Grant Program.” ()

02. Scope. These rules establish a grant application and award process, set forth the programs and projects eligible for grants, and provide for the disbursement of funds. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. ()

003. ADMINISTRATIVE APPEALS.

The award of funding under the Program is a discretionary action to be performed by the Idaho Governor and Legislature with recommendations from the Idaho Veterans Recognition Committee. There is no provision for administrative appeal under these rules. ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS -- TELEPHONE AND FACSIMILE NUMBERS -- WEBSITE ADDRESS.

The principal place of business of the Office of the Idaho Division of Veterans Services is in Boise, Idaho. The office is located at 351 Collins Road, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is 351 Collins Road, Boise, Idaho 83702. The telephone number of the office is (208) 577-2310. The facsimile number of the office is (208) 577-2311. The Division's website address is <http://veterans.idaho.gov/>.

()

006. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Administrator. The Administrator and chief officer of the Division of Veterans Services in the Department of Self Governing Agencies, or his designee. ()

02. Applicant. An individual or organization who has submitted a written request for grant funds. ()

03. Committee. The Idaho Veterans Recognition Committee, established by Section 65-705, Idaho Code. ()

04. Division. The Division of Veterans Services in the Department of Self Governing Agencies. ()

05. Program. The Veterans Recognition Fund Grant Program established by Title 65, Chapter 7, Idaho Code, and these rules. ()

011. -- 099. (RESERVED)

100. POLICY AND OBJECTIVE.

The objective of the Program is to fund programs to support Idaho veterans of the armed forces of the United States. The policy of the Division is to fund programs operated both within and outside state and local government. The Division will refer applicants for grants to support the needs of individuals to the Veterans Services Emergency Relief Program. ()

101. ELIGIBLE APPLICANTS.

Individuals, organizations, and governmental entities, including bureaus of the Division, may submit applications for funding from the Program. ()

102. GRANT PURPOSES AND PRIORITIES.

01. Eligible Activities and Costs. Any purpose meeting the objective of supporting veterans of the armed forces of the United States and not excluded in Subsection 102.02 of these rules is eligible to receive a grant under the Program. Eligible activities and costs include: ()

a. Programs to inform veterans and the public of services and programs for veterans, including programs offered by the Division; ()

b. Programs providing career training to veterans, including programs providing educational scholarships; ()

c. Programs providing training to individuals and organizations supporting veterans, including employees of public and private organizations assisting veterans with healthcare, education, and assistance in obtaining public benefits; ()

d. The acquisition of equipment for programs supporting the health, rehabilitation, or recreational activities of veterans; and ()

e. Programs providing social, health, rehabilitation, or recreational activities or care to veterans. ()

02. Ineligible Activities and Costs. Grant funds shall not be used for political, lobbying, religious, or illegal activities. Ineligible lobbying activities do not include: ()

a. Advocacy on behalf of individual Applicants for public benefits; and ()

b. The provision of educational information to public officials concerning the needs of veterans that does not advocate for or support specific legislative proposals. ()

03. Funding Priorities. The Committee will give priority to: ()

a. Applicants with grant proposals that will serve the greatest number of veterans; ()

b. Applicants with grant proposals for which there is no other source of funding; and ()

c. Applicants with grant proposals for start-up funds for programs that will become self-sustaining. ()

103. -- 199. (RESERVED)

200. APPLICATION, REVIEW, AND AWARD.

01. Application. Applicants shall submit grant proposals in the format required by the Administrator and approved by the Committee. Copies of the application format requirements and the list of supporting information will be made available on the Division website or may be obtained by contacting the Administrator at the address set forth in Section 005 of these rules.

()

02. Review of Grant Proposals. The Administrator or his designee shall review proposals for completeness and compliance with these rules and will make recommendations for awards to the Committee. ()

03. Grant Awards. The Committee will evaluate grant proposals annually during a meeting to be held in conjunction with the April meeting of the Idaho Veterans Affairs Commission. The Committee shall provide its proposed award of funds to the Administrator, who shall include them in the annual Division budget request to the Governor. Funding approved during the budget process shall be paid to grant applicants by the Division after the beginning of the fiscal year for which it was budgeted. ()

04. Grant Conditions and Requirements. The Committee may establish conditions or requirements for the expenditure of grant funds in a written agreement between the Committee, the Division, and the grant recipient. Conditions and requirements may include, but are not necessarily limited to: ()

- a. The provision of matching funds from the grant recipient; ()
- b. The repayment of all or a portion of the grant funds upon specified events; ()
- c. The issuance of grant funds on a cost reimbursement basis; ()
- d. The submission of status and final reports; ()
- e. A completion date for the project or program; ()
- f. Bidding requirements for the expenditure of grant funds; ()
- g. Acknowledgement of a Veterans Recognition Fund grant in public information campaigns or press releases; and ()
- h. A written accounting of the use of grant funds and copies of all receipts associated with the expenditure of grant funds. ()

201. COMPLIANCE WITH LAW AND CONFLICT OF INTEREST.

All grant recipients shall comply with applicable law in the conduct of programs supported by a Program grant. Public entities and employees receiving or administering grant funds shall comply with all ethics, personnel, bidding, and accounting requirements generally applicable to the entity or individual. Unless specifically provided in the grant, no official or officer of a grant recipient, individual grant recipient, or family member of an official or officer of a grant recipient or family member of an individual grant recipient shall personally profit financially from a Program grant. ()

202. TERMINATION OF FUNDING.

Grant funding may be terminated by the Committee at any time for use of grant funds or conduct in violation of these rules, the terms of the grant, or violation of any applicable law. Upon receipt

of a written notice of termination, the grantee will immediately cease all expenditures of grant funds and return all unspent grant funds. The Committee may require a written accounting of the use of grant funds upon the termination of funding and may deny payment for costs claimed by the grant recipient and not substantiated by written documentation. ()

203. -- 999. (RESERVED)

IDAPA 28 - DEPARTMENT OF COMMERCE

28.02.07 - RULES GOVERNING THE ADMINISTRATION OF THE IGEN GRANT PROGRAM

DOCKET NO. 28-0207-1301 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4702 and 67-4729, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013, Idaho Administrative Bulletin, [Vol. 13-10, pages 389 through 391](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Megan Ronk at 208-334-2470.

DATED this 26th day of November 2013.

Megan Ronk
Division Administrator/Chief Administrative Officer
Idaho Department of Commerce
700 W State Street
Boise, ID 83702
Phone: 208-334-2470
Fax: 208-334-2631

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-4702 and 67-4729, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rules establish procedures for the administration of the IGEM (Idaho Global Entrepreneurial Mission) Grant Program.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to adopt a temporary rule which confers a benefit through the establishment and administration of this grant program.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule contact Megan Ronk, Chief Communications & Governmental Affairs Officer, Idaho Department of Commerce at (208) 334-2470.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 30th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 28-0207-1301

IDAPA 28
TITLE 02
CHAPTER 07

28.02.07 - RULES GOVERNING THE ADMINISTRATION OF THE IGEN GRANT PROGRAM

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Sections 67-4702 and 67-4729, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter shall be cited as IDAPA 28.02.07, Idaho Department of Commerce, “Rules Governing the Administration of the IGEN Grant Program.” ()

02. Scope. These rules establish procedures for the administration of the IGEN Grant Program. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of these rules are available from the Idaho Department of Commerce. ()

003. ADMINISTRATIVE APPEALS.

The award of grants under the IGEN Grant Program is a discretionary action to be performed by the Idaho Department of Commerce. There is no provision for administrative appeal under these rules. ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into the rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The headquarters of the Idaho Department of Commerce is in Boise, Idaho. Office hours are from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The Department’s mailing address

for information regarding the IGEM Grant Program is: Idaho Department of Commerce, P.O. Box 83720, Boise ID 83720-0093. The street address is 700 West State Street, Boise, Idaho. The telephone number is (208) 334-2470 and the FAX number is (208) 334-2631. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter: ()

01. Department. Idaho Department of Commerce. ()

02. Eligible Applicant. Idaho research universities: Boise State University, Idaho State University, and University of Idaho. ()

03. IGEM Council. Idaho Global Entrepreneurial Mission Council as defined in Section 67-4726, Idaho Code. ()

04. IGEM Executive Committee. The IGEM Executive Committee is made up of the IGEM Council chairman, the director of the Idaho Department of Commerce, and the Idaho State Board of Education member of the IGEM Council. ()

05. IGEM Grant Program. A grant program established by the IGEM Council for the purpose of funding projects intended to further the purpose as described in Section 100 of these rules. ()

06. University. As used in these rules, University means Boise State University, Idaho State University, and the University of Idaho. ()

011. ABBREVIATIONS.

As used in this chapter: ()

01. IGEM. Idaho Global Entrepreneurial Mission. ()

02. RFP. Request for Proposal. ()

012. -- 099. (RESERVED)

100. PURPOSE.

The IGEM Grant Program funds commercialization grants supporting University and industry research partnerships for the purpose of enhancing technology transfer and commercialization of research and technologies developed at the Universities to create high-quality jobs and new industries in the private sector in Idaho. ()

101. -- 199. (RESERVED)

200. REQUEST FOR PROPOSAL (RFP).

The IGEM Council will release a RFP outlining the process and requirements for Eligible Applicants to apply for IGEM Grant Program awards. The RFP shall include requirements for performance measures and reporting. Awarded programs that fail to meet the requirements set forth in the RFP may be terminated. ()

201. -- 299. (RESERVED)

300. SELECTION PREFERENCE.

In selecting IGEM proposals for award, the IGEM Council shall give greater weight to proposals that partner with Idaho based entities. ()

301. MATCHING REQUIREMENT.

All approved awards must contain a match requirement. The match may be monetary or in-kind as established in the RFP. ()

302. -- 399. (RESERVED)

400. TERMINATION OF FUNDING.

Funding for projects may be terminated by the Department at any time for failure to meet the program requirements set out in the RFP or for the misuse of IGEM funds. Upon receipt of a written notice of termination from the Department, the grantee must immediately stop all expenditures of IGEM funds and return all unspent IGEM funds to the Department. The Department will make a final payment to the grantee based on the work completed, allowable costs incurred, and the documentation provided by the grantee as required by these rules. ()

401. -- 499. (RESERVED)

500. COMMERCIALIZATION REVENUE.

Any commercialization revenue generated through the IGEM University research initiative and by IGEM funded research faculty will be distributed as outlined in Section 67-4731, Idaho Code. ()

501. -- 999. (RESERVED)

IDAPA 28 - DEPARTMENT OF COMMERCE

28.03.01 - RULES OF THE IDAHO OPPORTUNITY FUND

DOCKET NO. 28-0301-1301 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4733, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013, Idaho Administrative Bulletin, [Vol. 13-9, pages 189 through 193](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact on the state general fund. House Bill 100 formally established the Idaho Opportunity Fund in the Idaho State Treasury. In Fiscal Year 2014 the Idaho Opportunity Fund will be funded as follows:

- \$400,000 ongoing appropriation in Department of Commerce budget (General Fund); and
- \$3,000,000 in onetime funding in Department of Commerce budget (General Fund).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Megan Ronk at 208-334-2470.

DATED this 26th day of November 2013.

Megan Ronk
Division Administrator/Chief Administrative Officer
Idaho Department of Commerce
700 W State Street
Boise, ID 83702
Phone: 208-334-2470
Fax: 208-334-2631

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-4733, Idaho Code, and Sections 67-4732 through 67-4736, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These comprehensive rules will govern the Idaho Opportunity Fund as enacted in House Bill 100. House Bill 100 formally established the Idaho Opportunity Fund and added five new Sections to 67-4732 through 67-4736, Idaho Code. These rules are necessary to outline the specific parameters for the award and disbursement of Idaho Opportunity Fund grants to cities and counties.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule is being adopted to bring the rule into compliance with the statutory changes made by House Bill 100. The temporary rule also confers a benefit to cities and counties that may be eligible for these funds.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

House Bill 100 formally established the Idaho Opportunity Fund in the Idaho State Treasury.

In Fiscal Year 2014 the Idaho Opportunity Fund will be funded as follows:

\$400,000 ongoing appropriation in Department of Commerce budget (General Fund); and
\$3,000,000 in onetime funding in Department of Commerce budget (General Fund).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, it was not feasible to conduct negotiated rulemaking because of the need to adopt this rule as a temporary rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Megan Ronk, Chief Communications & Governmental Affairs Officer, Idaho Department of Commerce at (208) 334-2470.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 31st day of July, 2013

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 28-0301-1301

**IDAPA 28
TITLE 03
CHAPTER 01**

28.03.01 - RULES OF THE IDAHO OPPORTUNITY FUND

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 67-4733, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 28.03.01, “Rules of the Idaho Opportunity Fund.” ()

02. Scope. These rules implement House Bill H100, enacted by the First Regular Session of the Sixty-second Legislature and signed into law on March 21, 2013. These rules amend Chapter 47, Title 67, Idaho Code, by the addition of new sections 67-4732 through 67-4736, Idaho Code. The three (3) new sections provide a short title and legislative intent, provide rulemaking authority to the Director of the Department of Commerce create the Opportunity Fund in the State Treasury, provide for the makeup and use of the fund, provide that agreements are required for disbursement of funds and provide for annual reporting by the Director of the Department of Commerce. ()

002. WRITTEN INTERPRETATIONS.

The Department has no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.

The award of grants under the Opportunity Fund are made at the discretion of the Director of the Department of Commerce. In light of the discretionary nature of awarding these grants, there is no administrative appeal under these rules. ()

004. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The mailing address of the Department for information regarding the Opportunity Fund Act is: 700 West State Street, PO Box 83720, Boise, ID 83702-0093; the telephone number is (208) 334-2470; and the facsimile number is (208) 334-2631. Documents may be filed at the state office during regular business hours of 8am to 5pm, Monday through Friday, excluding holidays. ()

005. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (title 9, chapter 3, Idaho Code). ()

006. -- 009. (RESERVED)

013. DEFINITIONS.

01. Company Performance Agreement. An agreement between a local government and a Grantee Business, in addition to any requirements in rules adopted by the Department. ()

02. Department. Idaho Department of Commerce. ()

03. Grantee Business. A non-governmental company or organization that receives funding through a Company Performance Agreement. ()

04. Local Government Grant Agreement. An agreement between the Department and one (1) or more local governments. ()

06. Public Cost. Any cost incurred by the state of Idaho or local government of the state of Idaho for the purpose of promoting economic development to retain, expand, or attract

quality jobs in industries deemed vital to the health of the local and statewide economy. Public costs do not include impact fees or easements. ()

014. GRANT AWARDS.

01. Funding. The Director of the Department may, in his sole discretion, award Opportunity Fund grants to local government for public costs incurred with the purpose to retain, expand or attract jobs which shall include: ()

a. Construction of or improvements to new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations; ()

b. Flood zone or environmental hazard mitigation; or ()

c. Construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects. ()

02. Local Match. The local government must provide allowable local match. Allowable match includes those costs which are allowable within the Opportunity Fund and must be provided by the local government as cash, in-kind services, fee waivers (such as development impact fees), donation of assets, the provision of infrastructure or a combination thereof. The match must represent a material commitment from the local government that is commensurate with the local government's financial condition. The Director of the Department has the authority to approve other forms of local match or waive the local match requirements. ()

03. Local Government Grant Agreements. Local Government Grant Agreements will be entered into between the Department and one (1) or more local governments, and shall contain the following provisions: ()

a. A commitment on the part of the local government to match, in whole or in part, the funds allocated by the Department; ()

b. A provision requiring the local government to recapture any funds to which the local government is entitled under the Company Performance Agreement; ()

c. A provision requiring repayment from the local government to the Department for any funds used for unapproved purposes or disbursed prior to compliance with the Company Performance Agreement or achievement of the job creation or other performance targets; ()

d. A provision allowing the Department access to records possessed by the local government necessary to ensure compliance with the Company Performance Agreement and with the requirements of the Opportunity Fund; ()

e. A provision establishing a schedule for the disbursement of funds from the Opportunity Fund to the local government that reflects the disbursement schedule established in the Company Performance Agreement; and ()

f. Any other lawful provision the Department deems necessary to ensure the proper use of state funds. ()

04. Company Performance Agreements. Company Performance Agreements will be entered into between one (1) or more local governments and a Grantee Business, and may contain the following provisions: ()

a. A commitment to create or retain a specified number of jobs within a specified salary range at a specific location; ()

b. A commitment regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained; ()

c. A commitment to complete the construction related to the agreed upon capital expenditures; ()

d. A provision that a reasonable percentage of the total amount of the grant be withheld until specified performance targets are met; ()

e. A provision that a reasonable percentage of the total amount of the grant be withheld until the specified number of jobs are maintained for a specified period of time; ()

f. A commitment to provide proof satisfactory to the local government and the Department of new jobs created or existing jobs retained and the salary level of those jobs;()

g. A provision that funds received under the Company Performance Agreement may be used only for a purpose as authorized by the Opportunity Fund; ()

h. A provision allowing the Department or the local government to inspect the records of the Grantee Business as required to confirm compliance with the Company Performance Agreement or with the requirements of the Opportunity Fund. The provision shall limit the access of the Department and/or local government to only those records of the Grantee Business that are necessary to ensure compliance; ()

i. A provision establishing the method for determining compliance with the Company Performance Agreement; ()

j. A provision establishing a schedule for disbursement of funds under the Company Performance Agreement that allows disbursement of funds only in proportion to the amount of performance completed under the Company Performance Agreement; ()

k. A provision requiring repayment of grant funds and corresponding terms for repayment, if applicable, in the event a Grantee Business subsequently fails to comply with the terms of the Company Performance Agreement; ()

l. A provision that any repayments of grant funds required if the performance targets are not achieved may be prorated to reflect a partial attainment of job creation or other

performance targets; and ()

m. Any other lawful provision the Department or the local government finds necessary to ensure the proper use of state or local funds. ()

05. Disbursements. Funds will be disbursed from the Opportunity Fund to the local government as defined in the Local Government Grant Agreement and after the local government has demonstrated that the Grantee Business has complied with the terms of the Company Performance Agreement. ()

06. Award Amounts. The amount of each grant shall be determined by the Director, in his sole discretion. ()

016. REPORTING.

01. Quarterly. The Director of the Department shall report to the Economic Advisory Council quarterly on the grant activity and performance. ()

02. Annually. The Director of the Department shall publish an annual report regarding the state of the Opportunity Fund no later than September 30 each year. The report shall contain information on the commitment of funds, disbursement and use of the funds, the number of jobs committed and created, the total capital expenditures resulting from grant funds and the median wage of total jobs created. The annual report will be made available to the Governor, the Joint Finance-Appropriations Committee and the public. ()

017. -- 999. (RESERVED)

IDAPA 28 - DEPARTMENT OF COMMERCE

28.03.04 - RULES OF THE BUSINESS AND JOBS DEVELOPMENT GRANT FUND

DOCKET NO. 28-0304-1301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4733, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013, Idaho Administrative Bulletin, [Vol. 13-9, pages 194 and 195](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact to the general fund. A \$400,000 ongoing appropriation in Department of Commerce budget (General Fund) that was available to the Department for Business & Jobs Development Fund grants is now available to the Department under the new Idaho Opportunity Fund per changes made to the department's budget for FY2014.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Megan Ronk at 208-334-2470.

DATED this 26th day of November 2013.

Megan Ronk
Division Administrator/Chief Administrative Officer
Idaho Department of Commerce
700 W State Street
Boise, ID 83702
Phone: 208-334-2470
Fax: 208-334-2631

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-4733, Idaho Code, and Sections 67-4732 through 67-4736, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The grants issued through the Business & Jobs Development Fund provide funding to Idaho cities and counties for infrastructure development to support the retention of existing businesses and recruitment of new businesses to the state. In compliance with House Bill 100, the Department has adopted a new temporary rule, which is promulgated under Docket No. 28-0301-1301 and published in this Bulletin, to replace this program. The new chapter, IDAPA 28.03.01, "Idaho Opportunity Fund," provides the same funding with new and additional parameters. Therefore, this chapter is repealed in its entirety.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

In compliance with House Bill 100 this rule is being repealed in its entirety and replaced by a new temporary rule that is being promulgated in this Bulletin under Docket No. 28-0301-1301.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fees or charges are being imposed as a result of this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact to the general fund. A \$400,000 ongoing appropriation in Department of Commerce budget (General Fund) that was available to the Department for Business & Jobs Development Fund grants is now available to the Department under the new Idaho Opportunity Fund per changes made to the department's budget for FY2014.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to adopt a temporary rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Megan Ronk, Chief Communications & Governmental Affairs Officer, Idaho Department of Commerce at (208) 334-2470.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 31st day of July, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 28-0301-1301

IDAPA 28.03.04 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.06 - RETIREMENT RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0106-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective **December 6, 2011**, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The proposed rule adds new Rule 174. As a qualified governmental plan under the Internal Revenue Code, PERSI is not subject to ERISA but is subject to the pre-ERISA (as of September 1, 1974) vesting requirements (26 IRC Section 411(e)(2)). This rule sets out PERSI's good faith interpretation of those requirements.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013, Idaho Administrative Bulletin, **Vol. 13-9, pages 234 and 235**.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 1st day of October, 2013.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720
Boise, ID 83720-0078
Phone: 208-287-9230

Fax: 208-334-3408

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Add new Rule 174. As a qualified governmental plan under the Internal Revenue Code, PERSI is not subject to ERISA but is subject to the pre-ERISA (as of September 1, 1974) vesting requirements (26 IRC Section 411(e)(2)). This rule sets out PERSI's good faith interpretation of those requirements.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 12th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0106-1301

163. -- 17~~4~~3. (RESERVED)

174. PRE-ERISA VESTING RULES (RULE 174).

01. Termination or Partial Termination. Upon the effective date of any termination or partial termination or upon a complete discontinuation of contributions: ()

a. No persons who were not theretofore members shall be eligible to become members: ()

b. No further benefits shall accrue; and ()

c. The accrued benefits of all members not theretofore vested and not theretofore forfeited shall immediately become fully vested. ()