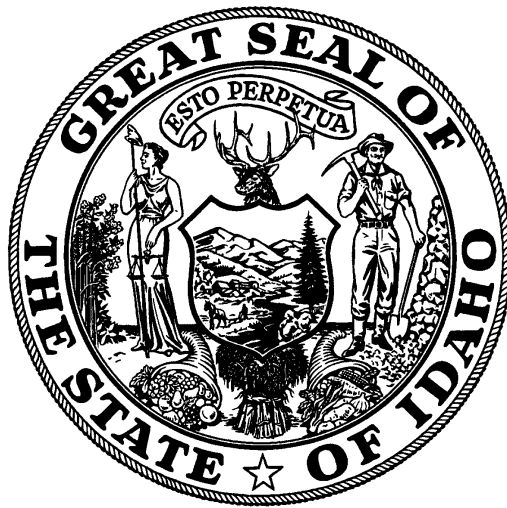


PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
Senate Commerce &
Human Resources Committee
66th Idaho Legislature
First Regular Session – 2021**



Prepared by:

*Office of the Administrative Rules Coordinator
Division of Financial Management*

January 2021



State of Idaho
DIVISION OF FINANCIAL MANAGEMENT
Executive Office of the Governor

BRAD LITTLE
Governor

ALEX J. ADAMS
Administrator

January 11, 2021

MEMORANDUM

TO: **Members of the 2021 Idaho State Legislature**

FROM: **Alex J. Adams, Administrator** *Alex J. Adams*
Bradley A. Hunt, Rules Coordinator *Bradley A. Hunt*

SUBJECT: **Overview of Executive Agency Rulemaking in 2020**

Background. Governor Little initiated a rules moratorium for calendar year 2020 and thus the volume of rulemaking is down substantially relative to most years. Most rules published in the Legislative Rules Review book are simply re-published because the 2020 Legislature adjourned *sine die* without passing a concurrent resolution approving any pending fee rules as specified in Section 67-5224, Idaho Code. The necessary fee rules were re-published in the following special bulletins:

- [April 15](#) – Temporary Fee Rules
- [September 16](#) – Proposed Fee Rules
- [November 18](#) – Pending Fee Rules

Changes in Existing Fee Rules. Since all fee rules expired upon sine die, there is no existing rule available to amend. Therefore, only a clean version of the rule chapter is able to be presented to the Legislature in January 2021. In some cases, fee rules were modified based on public comment, or to implement Executive Order [2020-13](#), among other reasons. Given the unprecedented volume, all edits are incorporated within a single docket and presented as a clean fee rule chapter. There are several ways that legislators may view previous rules for comparison purposes:

- An [archive of any rule](#) since 1996 is available on the DFM website. This allows legislators to see the evolution of a rule over time.
- The Legislative Services Office analyzes all proposed rules. You can find their analysis of proposed rules which, in some cases, may discuss changes to rules between sine die and the proposed rules. These may be found on the [Legislature's website](#).
- Changes made between the proposed and pending rule stages were noted in the [November 18th](#) bulletin where applicable.

Process for Approving/Extending Rules. Below, you will find a brief description on legislative actions and outcomes regarding the rules review process and contents of the Legislative Rules Review Books:

- Pending Fee Rules must be affirmatively approved by both bodies via adoption of concurrent resolution to become final.
- Temporary Rules must be affirmatively approved by both bodies via adoption of concurrent resolution to be extended.
- Pending Rules become final and effective sine die unless rejected, in whole or in part, via concurrent resolution adopted by both bodies.
 - Pending rules may be approved, in whole or in part, or rejected if determined to be inconsistent with legislative intent of the governing statute.
 - If rejected, new or amended language must be identified at a numerical or alphabetical designation within the rule and specified in the concurrent resolution.
- A link to LSO's proposed rule analysis is provided at the beginning of each docket and includes any required supporting documentation (e.g. Cost Benefit Analysis (CBA), Incorporation By Reference Synopsis (IBRS)) as part of the analysis.
- All 2021 review books can be accessed on the DFM website [here](#).

Contact Information. If questions arise during the rules review process, please do not hesitate to contact the Rules Coordinator, Brad Hunt: Brad.Hunt@dfm.idaho.gov; 208-854-3096.

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2021 unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 initiated proposed rulemaking procedures. The action is authorized pursuant to Title 72, Chapter 13, Section 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.

09.01.01, Subsections 27, 35, 36 and 37 – “Appeals to Appeals Examiner”

These proposed changes clean up and update the rule language to reflect:

- Electronic transmission (email) is an acceptable method for transmitting a protest or appeal;
- The date the department receives a protest for a decision on an appeal for unemployment insurance benefits or a wage and hour claim will be the date deemed filed, or if the protest is received on a holiday, the next business day; and
- The date of mailing or service indicated on the determination shall be deemed the date of service.

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 Sept. 2, 2020 Idaho [Administrative Bulletin, Vol. 20-9, pages 18-20](#).

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

There is no fiscal impact to the state of Idaho for any part of this rule change. This rule change will not increase costs to any state agency or the general funds because the proposed changes align the rule with current, acceptable practices and time frames for electronic transmission of a protest or appeal.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amy Hohnstein, Appeals Bureau Chief, (208) 332-3572, ext. 3330

Dated this 25th Day of September, 2020.

Amy Hohnstein
Appeals Bureau Chief
Idaho Department of Labor
317 W Main Street
Boise, Idaho 83735
Tel: (208) 332-3572, ext. 3330

THE FOLLOWING NOTICE 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 Title 72, Chapter 13, Section 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 16, 2020.

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:

- **09.01.01, Sections 027, 035, 036 and 037 – Appeals to Appeals Examiner** – Clean up and update the language to reflect:
 - Electronic transmission (email) is an acceptable method for transmitting a protest or appeal;
 - The date the department receives a protest for a decision on an appeal for unemployment insurance benefits or a wage and hour claim will be the date deemed filed, or if the protest is received on a holiday, the next business day; and
 - The date of mailing or service indicated on the determination shall be deemed the date of service.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because proposed changes have no effect on the rule and are for purposes of accommodating the new technologies available for transmitting documents.

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 Amy Hohnstein, Appeals Bureau Administrator, (208) 332-3570 x 3330

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 23, 2020.

Dated this 14th day of August, 2020.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0101-2001

027. WAGE CLAIM AND EMPLOYMENT SECURITY LAW DETERMINATIONS.

01. Determinations and Time for Filing Appeals. Department determinations under the Claims for Wages Act and Employment Security Law must be in writing and contain provisions advising 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, in accordance with Sections 45-617(5), 72-1361 and 72-1368(5), Idaho Code. ~~Every such determination, and~~ must contain and clearly identify the mailing address, fax number and electronic address for filing an appeal. The date of mailing or service indicated on the determination shall be deemed the date of service of the determination A determination is final unless, within fourteen (14) days after notice, as provided in Sections 45-617(5) and 72-1368(5), Idaho Code, an appeal is filed by an interested party with the Department in accordance with these rules. If an appeal from a wage claim determination is not timely filed, the amount awarded by a final determination will be immediately due and payable to the Department. (3-20-20)()

02. Appeals Heard By Appeals Examiners. Appeals from wage claim and Employment Security Law determinations will be heard by an appeals examiner in accordance with the Claims for Wages Act, the Employment Security Law, and these rules. (3-20-20)

03. Computation of Time. In computing any time period prescribed or allowed by the Employment Security Law or the Claims for Wages Act, the day of the act, event, or default is not to be included. Saturdays, Sundays, and holidays will be counted during the period, except, if the last day of the period is a Saturday, Sunday, or legal holiday, the period extends to the next business day following the Saturday, Sunday, or legal holiday. (3-20-20)

(BREAK IN CONTINUITY OF SECTIONS)

035. APPEALS TO APPEALS EXAMINER – FORM AND MANNER OF FILING OF NOTICES OF APPEAL.

01. Form of Notices of Appeal. Any appeal taken to an appeals examiner pursuant to the Employment Security Law and the Claims for Wages Act must be in writing, signed by an interested party, the appellant or representative, and contain words that, by fair interpretation, request the appeal process for a specific determination or other decision of the Department. (3-20-20)

02. Filing of Notices of Appeal. To appeal a determination or other decision of the Department, interested parties must follow these rules and the instructions on ~~these rules and~~ the document determination or other decision being appealed. If an appeal is delivered personally, the personal delivery date will be noted on the appeal and deemed the date of filing. ~~A faxed or electronically transmitted appeal received after 5 p.m., mountain time zone, on a business day will be deemed filed on the next business day.~~ A faxed or electronically transmitted appeal will be deemed filed on the date received by the Department (mountain time) or, if received on a weekend or holiday, ~~will be deemed filed~~ the next business day. If mailed, the appeal will be deemed filed on the date of mailing as determined by the postmark on the envelope containing the appeal, unless a party establishes by a preponderance of the evidence that but for error by the U.S. Postal Service, the envelope would have been postmarked within the period for timely appeal. If such a postal error is established, the appeal will be deemed to be timely filed. Ref. Section 72-1368(6), and Section 45-617, Idaho Code. (3-20-20)()

036. DATE OF MAILING SERVICE OF DETERMINATIONS.

The date indicated on Department determinations, ~~revised determinations, redeterminations~~ and decisions as the “Date of Mailing Service” or “Date of Mailed ing” will be presumed to be the date the document was deposited in the United States mail, or the date the document was electronically transmitted to an electronic-mail address approved by the Department pursuant to Section 72-1368(5), Idaho Code, unless shown otherwise by a preponderance of competent evidence. (3-20-20)()

037. EFFECT OF DELAY OR ERROR OF POSTAL SERVICE OR DEPARTMENT.

01. Department Determinations. If a party establishes by a preponderance of the evidence that because of delay or error by the U.S. Postal Service, or because of error on the part of the Department, ~~notice of a Department~~ determination was not delivered to the party's last known address, or transmitted electronically to the party's electronic-mail address approved by the Department, within fourteen (14) days of the date of mailing, ~~as provided by the Employment Security Law and by the Claims for Wages Act~~ or service indicated on the determination, the period for filing a timely appeal extends to fourteen (14) days from the date of actual notice. ~~(3-20-20)~~()

02. Decisions of the Appeals Examiner. If a party establishes by a preponderance of the evidence that, because of delay or error by the U.S. Postal Service, or because of error on the part of the Department, ~~notice of~~ a decision by an appeals examiner was not delivered to the party's last known address, or transmitted electronically to the party's electronic-mail address approved by the Department, within the time periods prescribed by the Employment Security Law or the Claims for Wages Act for filing an application for rehearing or an appeal to the Industrial Commission, as the case may be, then: ~~(3-20-20)~~()

a. For an application for rehearing that must be filed within ten (10) days of notice of service of a decision, the period for filing a timely application for rehearing extends to ten (10) days from the date of actual notice; and ~~(3-20-20)~~()

b. For an appeal to the Industrial Commission that must be filed within fourteen (14) days of notice of service of a decision, the period for filing a timely appeal extends fourteen (14) days from the date of actual notice. Ref. Section 72-1368 (5) and (6) and Section 45-617(7), Idaho Code. ~~(3-20-20)~~()

IDAPA 09 – IDAHO DEPARTMENT OF LABOR
09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES
DOCKET NO. 09-0130-2002
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 initiated proposed rulemaking procedures. The action is authorized pursuant to Title 72, Chapter 13, Section 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.

09.01.30.125 – “Alien Eligibility” – Replace outdated references to the federal Immigration and Naturalization Service with the federal department’s current title - U.S. Department of Homeland Security.

09.01.30.425 – “New Claims” – Replace outdated references to “Idaho Works” with “American Job Centers.”

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 Sept. 2, 2020 [Idaho Administrative Bulletin, Vol. 20-9, pages 21-24](#).

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

There is no fiscal impact to the state of Idaho for any of this rule change. The rule change will not increase costs to any state agency or the general funds of the state of Idaho because the rule change relates to simple wording updates.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Josh McKenna 208) 332-3577 ext. 3919.

Dated this 25th day of September, 2020.

Josh McKenna
UI Benefits Bureau Chief
Idaho Department of Labor/ UI Division
317 Main Street
Boise ID 83735
Phone: (208) 332-3577 ext. 3919
Fax: (208) 639-3255

THE FOLLOWING NOTICE 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 Title 72, Chapter 13, Section 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 16, 2020.

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:

- **09.01.30.125 – Alien Eligibility** – Replace outdated references to the federal Immigration and Naturalization Service with the federal department’s current title - U.S. Department of Homeland Security.
- **09.01.30.425 – New Claims** – Replace outdated references to “Idaho Works” with “American Job Centers.”

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because proposed changes have no effect on the rule and are for purposes of clean-up only.

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 Josh McKenna, UI Benefits Bureau Chief, (208) 332-3570 x 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 23, 2020.

Dated this 14th day of August, 2020.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-2002

125. ALIEN ELIGIBILITY.

~~01. Alien Eligibility. Benefits are not payable based on services performed by an alien unless the alien was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time the services were performed. Ref. Sec. 72-1366(19), Idaho Code. (3-19-99)~~

021. Benefit Eligibility. To be eligible for benefits, an alien must fall within one (1) of the following three (3) categories at the time the work on which the claim is based was performed. ~~In addition, and~~ at the time benefits are claimed, the alien must have current, valid authorization to work from the ~~Immigration & Naturalization Service~~ U.S. Department of Homeland Security in order to meet the continuing eligibility requirement of being able and available to work (unless the alien claimant is a Canadian resident who is claiming benefits under the Interstate Benefit Payment Plan, in which case the claimant must satisfy only Canadian availability requirements). Ref. Sec. 72-1366(4), (19), Idaho Code. (3-19-99)()

a. Permanent Residence. ~~The category of individuals who are "lawfully admitted for permanent residence," includes a~~ Aliens who have been lawfully admitted to the United States as "immigrants" and those whose status has been adjusted from that of "non-immigrant" under the Immigration and Nationality Act. Evidence of this status is the Alien Registration Receipt Card, or "green card," issued to each lawful permanent resident by the Immigration and Naturalization Service. (3-19-99)()

b. Performing Services. ~~The category of individuals who are~~ "Lawfully present for purposes of performing services" includes three (3) groups of aliens: (3-19-99)()

i. Canadian and Mexican residents who commute daily or seasonally and are authorized to work in the United States; (3-19-99)

ii. Legally-admitted non-immigrants who are granted a status by the ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security which authorizes them to work in the United States during their stay; and (3-19-99)()

iii. Other aliens with ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security authorization to work in the United States regardless of their status. (3-19-99)()

c. Permanently Residing Under Color of Law. The category of individuals who are "permanently residing in the United States under color of law" includes the following groups of aliens: (3-19-99)

i. Refugees, asylees, and parolees, as identified in the Immigration and Nationality Act; (3-19-99)()

ii. Aliens presumed by the ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security to be lawfully admitted for permanent residence; and (3-19-99)()

iii. Aliens who, after review of their particular circumstances under ~~INS~~ U.S. Department of Homeland Security statutory or regulatory procedures, have been granted a status which allows them to remain in the United States for an indefinite period of time. For informal ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security action to authorize an alien's residence under "color of law," the ~~Immigration and Naturalization Service~~ U.S. Department of Homeland Security must know of the alien's presence, and must provide the alien with official, documented assurance that enforcement of deportation is not planned. (3-19-99)()

(BREAK IN CONTINUITY OF SECTIONS)

425. NEW CLAIMS/ADDITIONAL CLAIMS.

Ref. Sec. 72-1308, Idaho Code.

(3-19-99)

01. Claims for Benefits, Delayed Filing. When the Central Claims Office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to the Central Claims Office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved is timely if filed during the same week or the next week after the claim is filed. (3-20-20)

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to a Department system malfunction, the effective date is the Sunday of the week in which the claimant first reported to the Central Claims Office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-28-18)

03. Filing of New Claims, Additional, and Reopen Claims. Intrastate and interstate claims, including, without limitation, new claims, additional claims, and reopen claims, may be filed electronically or by telephone at the Department's discretion. (3-20-20)

a. Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho's Internet claim system or, if filing through an ~~Idaho Works location~~ **American Job Center**, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant completes the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an ~~Idaho Works location~~ **American Job Center** is effective as of the Sunday of the week of the date shown on the date/time stamp. (3-20-20)()

b. Interstate Claims. Any claim filed by an interstate claimant is accepted in the same manner and conditions for which claims are accepted from intrastate claimants. (3-20-20)

c. Telephone Claims. A claimant may also file a claim by calling the Central Claims Office. A claim filed via telephone is effective as of the Sunday of the week in which the claimant first calls the Central Claims Office to initiate the claim. (3-20-20)

d. Claimants' Electronic Verification. A unique confidential number or other electronic method of verification approved by the Department may be used by a claimant or an employer to submit information or engage in transactions with the Department through electronic or telephonic means. Use of this method of verification has the same force and effect as a manual signature. (3-20-20)

04. Registration/Reporting Requirements -- Interstate Claimants. Interstate claimants are required to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. (3-20-20)

07. Requirement to Provide Information. If a claimant fails to provide the Department with all necessary information pertinent to eligibility, the claimant is denied benefits until the information is provided. Any individual making a claim for benefits must provide the Department with: (3-20-20)

- a.** The claimant's legal name; (3-15-02)
- b.** The claimant's Social Security Number; (3-15-02)
- c.** The address where the claimant's mail is delivered; (3-15-02)
- d.** The claimant's place of last employment; (3-15-02)
- e.** The name, correct mailing address, dates of employment, and the reason for separation from all of the claimant's most recent and base-period employers; (3-20-20)
- f.** If requested by the Department, a list of all other employment in the past twenty-four (24) months;

- (3-15-02)
- g.** The claimant's plans for finding other employment at the earliest possible time; and (3-15-02)
- h.** Other information necessary for the proper processing of the claim. (3-15-02)
- i.** Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess compliance with personal eligibility requirements. (3-20-20)
- j.** If the claimant's identifying information does not match with data provided by the Social Security Administration, the Division of Motor Vehicles, or other public entities for identity verification purposes, the claimant will be provided notice and an opportunity to provide proof of identity before benefits are denied. (3-20-20)
- 08. Separation Notice.** (3-19-99)
- a.** Notice to Employer of Separation. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), when contacted by a Department representative for a response, must respond to the Department with the reasons for the separation whenever the claimant: (3-20-20)
- i.** Left his employment voluntarily; (3-19-99)
- ii.** Was discharged from his employment due to misconduct; (3-19-99)
- iii.** Is unemployed due to a strike, lockout, or other labor dispute; (3-30-07)
- iv.** Is not working due to a suspension; or (3-30-07)
- v.** Was separated for any other reason except lack of available work. (3-19-99)
- b.** Employer Response. The employer's response must be given by the employer or on the employer's behalf by someone having personal knowledge of the facts concerning the separation. The employer should provide to the Department, via electronic media or mail, copies of any documentation supporting their position. (3-30-07)
- 09. Additional Claim or Reopened Claim.** A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. (3-20-20)
- 10. Use of Wage Credits.** All unemployment insurance wage credits from any source that are assignable to the state of Idaho will be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-19-99)
- 11. Valid Claim.** To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A and 72-1312, Idaho Code. (3-19-99)

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09.01.60 – COMPLAINT PROCEDURES UNDER THE WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)

DOCKET NO. 09-0160-2001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 initiated proposed rulemaking procedures. The action is authorized pursuant to Title 72, Chapter 13, Section 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.

09.01.60 “Complaint Procedures Under the Workforce Innovation and Opportunity Act (WIOA)” - The department proposes to delete this rule chapter. All provisions are duplicated in department procedures and federal law (Title 29 Subtitle Part A Part 38, Code of Federal Regulations - - Implementation of the Non Discrimination and Equal Opportunity Provisions of the Workforce Opportunity Act).

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 Sept. 2, 2020 [Idaho Administrative Bulletin, Vol. 20-9, pages 25](#).

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

There is no fiscal impact to the state of Idaho for any of this rule change. Eliminating this rule will not increase costs to any state agency or the general funds of the state of Idaho because all provisions are duplicated in department procedures and federal law, as outlined above.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amy Hohnstein, Appeals Bureau Chief, (208) 332-3572, ext. 3330

Dated this 25th Day of September, 2020.

Amy Hohnstein
Appeals Bureau Chief
Idaho Department of Labor
317 W Main Street
Boise, Idaho 83735
Tel: (208) 332-3572, ext. 3330

THE FOLLOWING NOTICE 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 Title 72, Chapter 13, Section 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 16, 2020.

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:

- 09.01.60 “Complaint Procedures Under the Workforce Innovation and Opportunity Act (WIOA)” - The department proposes to delete this rule chapter. All provisions are duplicated in department procedures and federal law (Title 29 Subtitle Part A Part 38, Code of Federal Regulations - Implementation of the Non-Discrimination and Equal Opportunity Provisions of the Workforce Opportunity Act).

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the contents of this chapter are currently included in departmental procedures and federal law (Title 29 Subtitle Part A Part 38, Code of Federal Regulations - Implementation of the Non-Discrimination and Equal Opportunity Provisions of the Workforce Opportunity Act).

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 Amy Hohnstein, Appeals Bureau Administrator, (208) 332-3570 x 3330.

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 23, 2020.

Dated this 17th day of July, 2020.

IDAPA 09.01.60 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.08.01 – ADOPTION OF THE INTERNATIONAL FIRE CODE
DOCKET NO. 18-0801-2001
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-254, 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 State Fire Marshal adopts the International Fire Code (IFC) then adjusts, via negotiated rulemaking, provisions of the IFC that we wish to exempt Idaho from enforcing at least at the state level. Under the 2018 fire code (IFC) that will go into effect on January 1, 2021, there was a new section added regulating food trucks. Two sub sections require additional inconveniences on the part of the food truck owner and additional money to the entrepreneur. Section 319.2 states that permits shall be required as set forth in Section 105.6. This rulemaking seeks to change the language so that permits be required “if required by the local jurisdiction.”

The SFM is unaware of any company that provides this inspection and certification in Idaho. This rulemaking will leave it to the individual jurisdictions to determine inspection and enforcement feasibility.

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 2, 2020, [Idaho Administrative Bulletin, Vol. 20-9, pages 69-70](#).

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 Knute Sandahl at knute.sandahl@doi.idaho.gov or (208) 334-4377.

Dated this 1st day of October, 2020.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720, Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING NOTICE 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 41-254, 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 16, 2020.

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 State Fire Marshal adopts the International Fire Code (IFC) then adjusts, via negotiated rulemaking, provisions of the IFC that we wish to exempt Idaho from enforcing at least at the state level. Under the 2018 fire code (IFC) that will go into effect on January 1, 2021, there was a new section added regulating food trucks. Two sub sections require additional inconveniences on the part of the food truck owner and additional money to the entrepreneur. Section 319.2, International Fire Code, states that permits shall be required as set forth in Section 105.6, International Fire Code. This rulemaking seeks to change the language so that permits be required "if required by the local jurisdiction."

The SFM is unaware of any company that provides this inspection and certification in Idaho. This rulemaking will leave it to the individual jurisdictions to determine inspection and enforcement feasibility.

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: 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 3, 2020 Idaho Administrative Bulletin, [Vol. 20-6, pages 183-184](#). A public meeting was held June 17, 2020.

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 Knute Sandahl at knute.sandahl@doi.idaho.gov or (208) 334-4377. 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 23, 2020.

Dated this 23rd day of July, 2020.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0801-2001

021. MOBILE FOOD PREPARATION VEHICLES, SECTION 319, INTERNATIONAL FIRE CODE.

01. Permit Required. To Section 319.2, International Fire Code, add permissive language: “IF REQUIRED BY A LOCAL JURISDICTION, permits may be required as set forth in Section 105.6.” ()

02. Fuel Gas Systems. To Section 319.10.3, International Fire Code, add permissive language: “IF REQUIRED BY THE LOCAL JURISDICTION, LP-gas containers installed on the vehicle and fuel-gas piping systems may be inspected annually by an approved inspection agency or a company that is registered with the U.S. Department of Transportation to requalify LP-gas cylinders, . . . Upon satisfactory inspection, the approved inspection agency shall affix a tag on the fuel gas system or within the vehicle indicating the name of the inspection agency and the date of satisfactory inspection, OR PROVIDE DOCUMENTATION OF INSPECTION UPON REQUEST OF THE LOCAL JURISDICTION.” ()

02+2. CHAPTER 5 FIRE SERVICE FEATURES.

Make the following changes within Chapter 5 of the International Fire Code; (3-20-14)

01. Section 501. (4-7-11)

a. To section 501.3 after the phrase, Construction documents for proposed, add the word “driveways.” (4-7-11)

b. To section 501.4 after the phrase, When fire apparatus access roads, add the word “driveways.” (4-7-11)

02. Section 502. (3-29-17)

a. To section 502, add the following word “DRIVEWAY.” (3-29-17)

b. To section 502, add the words “FIRE STATION.” (3-29-17)

03. Section 503. (4-7-11)

a. To section 503 add the words, “AND DRIVEWAYS” to the section heading. (4-7-11)

b. To section 503.1.1 add the following sentence, “Driveways need to be provided and maintained in accordance with Sections 503.1.1 through 503.13.” (3-29-17)

c. To section 503.6 delete the sentence, “The installation of security gates across a fire apparatus access road shall be approved by the fire chief.” (4-7-11)

d. Add the following section, “503.7 Driveways. Need be provided when any portion of an exterior wall of the first story of a building is located more than 150 feet (45720mm) from a fire apparatus access road. Driveways will provide a minimum unobstructed width of 12 feet (3658mm) and a minimum unobstructed height of 13 feet 6 inches (4115mm). Driveways in excess of 150 feet (45720mm) in length need to be provided with turnarounds. Driveways in excess of 200 feet (60960mm) in length and less than 20 feet (6096mm) in width may require turnouts in addition to turnarounds.” (4-7-11)

e. Add the following section, “503.7.1 Limits. A driveway cannot serve in excess of five single family dwellings.” (4-7-11)

f. Add the following section, “503.7.2 Turnarounds. Driveway turnarounds need to have an inside turning radius of not less than 30 feet (9144mm) and an outside turning radius of not less than 45 feet (13716mm). Driveways that connect with an access road or roads at more than one point may be considered as having a turnaround if all changes of direction meet the radius requirements for driveway turnarounds.” (4-7-11)

g. Add the following section, “503.7.3 Turnouts. Where line of sight along a driveway is obstructed by a man-made or natural feature, turnouts need to be located as may be needed by the fire code official to provide for safe passage of vehicles. Driveway turnouts will be of an all-weather road surface at least 10 feet (3048mm) wide and 30 feet (9144mm) long.” (4-7-11)

h. Add the following section, “503.7.4 Bridge Load Limits. Vehicle load limits will be posted at both entrances to bridges on driveways and private roads. Design loads for bridges will be established by the fire code official.” (4-7-11)

i. Add the following section, “503.7.5 Address markers. All buildings need to have a permanently posted address, which will be placed at each driveway entrance and be visible from both directions of travel along the road. In all cases, the address needs to be posted at the beginning of construction and maintained thereafter. The address need be visible and legible from the road on which the road on which the address is located. Address signs along one-way roads will be visible from both the intended direction of travel and the opposite direction. Where multiple address’s are required at a single driveway, they need to be mounted on a single post, and additional signs will be posted at locations where driveways divide.” (4-7-11)

j. Add the following section, “503.7.6 Grade. The gradient for driveways cannot exceed 10 percent unless approved by the fire code official.” (4-7-11)

k. Add the following section, “503.7.7 Security Gates. Where security gates are installed, they need to have an approved means of emergency operation. The security gates and emergency operation will be maintained operational at all times.” (4-7-11)

l. Add the following section, “503.7.8 Surface. Driveways need to be designed and maintained to support the imposed loads of local responding fire apparatus and will be surfaced as to provide all weather driving capabilities.” (4-7-11)

04. Section 507. To section 507.2 Type of water supply, delete the existing language and add the following, “A water supply will consist of water delivered by fire apparatus, reservoirs, pressure tanks, elevated tanks, water mains or other sources approved by the fire code official capable of providing the needed fire flow. Exception. The water supply prescribed by this code needs to apply to structures served by a municipal fire department or a fire protection district and within ten miles (16093m) of a responding fire station.” (4-7-11)

0223. -- 026. (RESERVED)

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)
59.01.01 – RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)
DOCKET NO. 59-0101-2001
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 59-1314(1), 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 7, 2020 Idaho Administrative Bulletin, [Vol. 20-10, pages 103-109](#).

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 Cheryl George, (208) 287-9231.

Dated this 30th day of October, 2020.

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 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 59-1314, 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 21, 2020.

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 adoption of new Section 59-1303, Idaho Code, "Police Officer Member Status," during the 2020 legislative session, requires the deletion of Rule Sections 59.01.01.151, 59.01.01.152, and 59.01.01.005 Subsections .13, .20, and .30. This new section no longer has the terms "Active Law Enforcement Service," "Hazardous Law Enforcement Duties," "Employed in the Same Position until Retired," "Police Officer Member for Purposes of Retirement Eligibility" or "Same Position." Because these terms are no longer used in the statute, there is no need for these terms to be part of the Rules. Rule Section 59.01.01.508 requires a change due to Federal Law Secure Act changing the age for Required Minimum Distribution.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the PERSI Board's exclusive fiduciary responsibility for plan operation.

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 Cheryl George (208) 287-9231.

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 28, 2020.

Dated this 21st day of August, 2020.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0101-2001

005. DEFINITIONS.

The definitions in Section 59-1302, Idaho Code, and the following apply to this chapter: (3-20-20)

01. Active Member. A member participates in the active member allocation only if they are active and have at least twelve (12) months of accrued membership service on the last day of the fiscal year. For purposes of allocating extraordinary gains, active members also include: (3-20-20)

a. Seasonal employees who have a pattern of employment that includes at least six (6) months of membership service in each of the preceding three (3) consecutive years; and (3-20-20)

b. Employees who are on leave of absence on the last day of the fiscal year and either: (3-20-20)

i. Return to active service for at least thirty (30) days before December 31 immediately following the end of the fiscal year; or (3-20-20)

ii. Are entitled to benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). (3-20-20)

02. Actuary. This is the actuary retained by the Board. (3-20-20)

03. Administrator. The Board. (3-20-20)

04. Applicant. “Applicant” means an applicant for disability retirement under Section 59-1352, Idaho Code, or an individual requesting resumption of a disability retirement allowance under Section 59-1354A, Idaho Code. (3-20-20)

05. Base Plan or Account. This is the PERSI defined benefit plan not including gain sharing allocations or interest thereon, or the individual accounts therein. (3-20-20)

06. Board. “Board” means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, of the Firefighters’ Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman’s Retirement Fund created by Chapter 15, Title 50, Idaho Code. (3-20-20)

07. Choice Plan or Account. This includes two (2) elements: (3-20-20)

a. The defined contribution component of the PERSI plan consisting of gain sharing allocations together with earnings thereon or the individual accounts therein; and (3-20-20)

b. The plan designated to receive voluntary and employer contributions as provided in Section 59-1308, Idaho Code, or the individual accounts therein. (3-20-20)

08. Code. The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the IRS Code are to such sections as they may from time to time be amended or renumbered. (3-20-20)

09. Compensation. “Compensation” as used in Section 59-1342(6), Idaho Code, means “salary” as defined by Section 59-1302(31), Idaho Code. (3-20-20)

10. Court Security. “Court Security” as used in Section 59-1303(3)(g), Idaho Code, means the employee’s primary responsibilities are designated by court order to quell disturbances in the courthouse, to prevent the escape of prisoners, to exclude weapons from the courthouse, and to perform other related courthouse security matters. (3-20-20)

11. Date of Retirement. “Date of retirement” means the effective date on which a retirement allowance becomes payable. (3-20-20)

12. Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the IRS Code and section 1.401(a)(9)-4, Q&A-4, of the Treasury regulations. (3-20-20)

~~**13. Employed In The Same Position Until Retired.** As used in Section 59-1303(7), Idaho Code, “employed in the same position until retired” means the same job classification or position including continued employment in any revised job classification or new position title evolving from the same position as the result of personnel reclassification procedures provided the continued employment remains with the same state agency or within the same department of a political subdivision. (3-20-20)~~

~~**14. Employer.** “Employer” means the state of Idaho or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. A political subdivision and government entity also means an entity that meets each of the requirements of Paragraphs a. through c. of this definition, taking into account all of the facts and circumstances. Entities that may qualify as political subdivisions include, among others, general purpose governmental entities, such as cities and counties (whether or not incorporated as municipal corporations), and special purpose governmental entities, such as special assessment districts that provide for roads, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvements, and other governmental purposes for a State or local governmental unit. (3-20-20)~~

~~**a.** Sovereign powers. Pursuant to a state or local law of general application, the entity has a delegated right to exercise a substantial amount of at least one (1) of the following recognized sovereign powers of a state or local governmental unit: The power of taxation, the power of eminent domain, and police power. (3-20-20)~~

~~**b.** Governmental purpose. The entity serves a governmental purpose. The determination of whether an entity serves a governmental purpose is based on, among other things, whether the entity carries out the public purposes that are set forth in the entity’s enabling legislation and whether the entity operates in a manner that provides a significant public benefit with no more than incidental private benefit. (3-20-20)~~

~~**c.** Governmental control. A state or local governmental unit exercises control over the entity. For this purpose, control is defined in Subparagraph 005.08.c.i. of this rule and a state or local governmental unit exercises such control only if the control is vested in persons described in Subparagraph 005.08.c.ii. of this rule. (3-20-20)~~

~~**i.** Definition of control. “Control” means an ongoing right or power to direct significant actions of the entity. Rights or powers may establish control either individually or in the aggregate. Among rights or powers that may establish control, an ongoing ability to exercise one or more of the following significant rights or powers, on a discretionary and non-ministerial basis, constitutes control: the right or power both to approve and to remove a majority of the governing body of the entity; the right or power to elect a majority of the governing body of the entity in periodic elections of reasonable frequency; or the right or power to approve or direct the significant uses of funds or assets of the entity in advance of that use. Procedures designed to ensure the integrity of the entity but not to direct significant actions of the entity are insufficient to constitute control of an entity. Examples of such procedures include requirements for submission of audited financial statements of the entity to a higher level state or local governmental unit, open meeting requirements, and conflicts of interest limitations. (3-20-20)~~

~~**ii.** Control vested in a state or local governmental unit or an electorate. Control is vested in persons described as a state or local governmental unit possessing a substantial amount of each of the sovereign powers and acting through its governing body or through its duly authorized elected or appointed officials in their official capacities or an electorate established under applicable state or local law of general application, provided the electorate is not a private faction. (3-20-20)~~

~~**iii.** Definition of “private faction.” A private faction is any electorate if the outcome of the exercise of control described in Subparagraph 005.08.c.i. of this rule is determined solely by the votes of an unreasonably small number of private persons. The determination of whether a number of such private persons is unreasonably small depends on all of the facts and circumstances, including, without limitation, the entity’s governmental purpose, the number of members in the electorate, the relationships of the members of the electorate to one another, the manner of~~

apportionment of votes within the electorate, and the extent to which the members of the electorate adequately represent the interests of persons reasonably affected by the entity's actions. For purposes of this definition, an electorate is a private faction if any three (3) private persons that are members of the electorate possess, in the aggregate, a majority of the votes necessary to determine the outcome of the relevant exercise of control. Provided however, an electorate is not a private faction if the smallest number of private persons who can combine votes to establish a majority of the votes necessary to determine the outcome of the relevant exercise of control is greater than ten (10) persons. For example, if an electorate consists of twenty (20) private persons with equal, five-percent (5%) shares of the total votes, that electorate is not a private faction because a minimum of eleven (11) members of that electorate is necessary to have a majority of the votes. By contrast, for example, if an electorate consists of twenty (20) private persons with unequal voting shares in which some combination of ten (10) or fewer members has a majority of the votes, then that electorate does not qualify for the safe harbor from treatment as a private faction under this subparagraph. The following rules apply for purposes of determining numbers of voters and voting control in Subparagraph 005.08.c.iii. of this rule, related parties (as defined in 26 CFR Section 1.150-1(b)) are treated as a single person; and in computing the number of votes necessary to determine the outcome of the relevant exercise of control, all voters entitled to vote in an election are assumed to cast all votes to which they are entitled. (3-20-20)

154. Employment. "Employment" as used in Section 59-1302(14)(B)(b), Idaho Code, shall mean the period of time from a member's date of hire to the member's succeeding date of separation from that state agency, political subdivision or government entity. Placing a member on leave of absence with or without pay shall not be considered as a separation from the employer. (3-20-20)

165. Firefighters' Retirement Fund. "Firefighters' Retirement Fund" or "FRF" is the retirement fund provided by Chapter 14, Title 72, Idaho Code. (3-20-20)

176. Gain Sharing. This refers to the process of allocating extraordinary gains from the base plan into the defined contribution component of the PERSI plan as permitted in Section 414(k) of the Internal Revenue Code and as provided by Section 59-1309, Idaho Code, and these rules. (3-20-20)

187. General Member. "General member" is a PERSI member not classified as a police officer, firefighter, or paid firefighter. (3-20-20)

198. Likely. For the purpose of Section 59-1302(12)(b), Idaho Code, "likely" means with reasonable medical certainty. (3-20-20)

2019. Normal Retirement Age. The age (or combination of age and years of service) at which a Member is entitled to an actuarially unreduced retirement benefit under the Plan. A Member will be fully vested upon attainment of Normal Retirement Age. (3-20-20)

240. Occupational Hazard. "Occupational Hazard" means an injury or ailment solely resulting from the work an applicant does or from the environment in which an applicant works. (3-20-20)

221. Pension Protection Act Definitions. Solely for purposes of the implementation by PERSI of section 402(l) of the Internal Revenue Code, the following definitions apply: (3-20-20)

a. Chaplain. Any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency. (3-20-20)

b. Eligible Retired Public Safety Officer. An individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the state agency, political subdivision or government entity who maintains the eligible retirement plan from which distributions are made. (3-20-20)

c. Normal Retirement Age. The member's age at the time that the member is eligible to retire with an unreduced benefit. (3-20-20)

d. Public Safety Officer. An individual serving a public agency in an official capacity, with or without

compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew. (3-20-20)

~~232.~~ **Permissive Service Credits.** This includes all credits obtained through voluntary purchase but does not include service obtained through repayment of a separation benefit under Section 59-1363, Idaho Code. (3-20-20)

~~243.~~ **Police Officer.** “Police officer” means an employee who is serving in a position as defined in Section 59-1303, Idaho Code. (3-20-20)

~~25.~~ **Police Officer Member For Purposes Of Retirement Eligibility.** *The words “will be deemed to be a police officer member for purposes of retirement eligibility” as used in Section 59-1303(7), Idaho Code, means the member shall have a service retirement ratio of 1.000 provided for by Section 59-1341, Idaho Code.* (3-20-20)

~~264.~~ **Primary Employer.** The primary employer is the state agency, political subdivision or government entity from whom the employee receives the highest aggregate salary per month. (3-20-20)

~~275.~~ **Public Employee Retirement System of Idaho.** “Public Employee Retirement System of Idaho” or “PERSI” is the retirement system created by Chapter 13, Title 59, Idaho Code. (3-20-20)

~~286.~~ **Required Beginning Date.** The date specified in Section 508.02 of these rules. (3-20-20)

~~297.~~ **Retiree.** Retiree includes any member, contingent annuitant, or surviving spouse, receiving regular monthly allowances at the close of the fiscal year. It also includes members receiving a monthly disability retirement allowance, surviving spouses who elected an annuity option under Section 59-1361(5), Idaho Code, and members who were inactive at the close of the fiscal year but retire on or before the first day of January following the end of the fiscal year, retroactive to the first day of June of the fiscal year or earlier. (3-20-20)

~~30.~~ **Same Position.** *“Same position” as set forth in Section 59-1303(7), Idaho Code, means the same job classification or position title including continued employment in any revised job classification or new position title evolving from that same position as the result of personnel reclassification procedures provided the continued employment remains within the same state agency or within the same department of a political subdivision.* (3-20-20)

~~3128.~~ **Service.** For the purposes of Sections 536 and 539, “service” includes only service for which the member is normally in the administrative offices of the state agency, political subdivision or government entity or normally required to be present at any particular work station for the state agency, political subdivision or government entity. (3-20-20)

~~329.~~ **Surviving Spouse.** “Surviving spouse” is a person as defined in Section 15-2-802, Idaho Code. (3-20-20)

~~330.~~ **Teacher.** “Teacher” is defined as a school employee who is required to be certified. (3-20-20)

~~341.~~ **Transportation Of Prisoners.** “Transportation of prisoners” as used in Section 59-1303(3)(g), Idaho Code, means the employee’s primary responsibility is designated by court order to move prisoners from one (1) place to another. (3-20-20)

(BREAK IN CONTINUITY OF SECTIONS)

~~151.~~ **DEFINITION OF ACTIVE LAW ENFORCEMENT SERVICE.** *“Active law enforcement service” as used in Section 59-1303, Idaho Code, means the primary duties of an employee’s position requires the employee to investigate and arrest persons for criminal or suspected criminal violations or designate the employee to be responsible for the safekeeping and custody of persons held in a duly constituted confinement facility, actively participate in crime prevention or reduction, compel others to comply with*

~~the law, and must be able to prescribe and carry out the consequences of non-compliance.~~

~~(3-20-20)~~

~~**152. HAZARDOUS LAW ENFORCEMENT DUTIES.**~~

~~In applying Section 59-1303(4)(a)(i), Idaho Code, factors such as job conditions, physical exertion in apprehending suspects and other required knowledge, skill and physical ability will be considered. To qualify under Section 59-1303(4)(a)(ii), Idaho Code, job duties which are associated with life threatening situations must be an integral part of the job requirements. These duties are comparable to the job of patrol officer or detective. Pursuant to Section 59-1303(4)(a)(iii), Idaho Code, the major purpose of the position must be to compel others to comply with the law. The employee must be able to prescribe and carry out the consequences of non-compliance. All of Section 59-1303(4)(a), Idaho Code, must be met to be considered as hazardous law enforcement. PERSI staff is authorized to obtain all information pertinent to the position including questionnaires, job descriptions, interviews and any other pertinent records in order to make a report to the Board.~~

~~(3-20-20)~~

~~153~~**1.** -- 199. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

508. REQUIRED MINIMUM DISTRIBUTIONS.

01. Default Application of Federal Requirements. With respect to distributions under the Base Plan, and except as provided in Subsection 508.06, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the IRS Code in accordance with a good faith interpretation of section 401(a)(9), notwithstanding any provision of the Base Plan to the contrary. (3-20-20)

02. Required Beginning Date. Except as otherwise provided in Subsections 508.04 through 508.08, distributions under the Base Plan shall begin not later than April 1 following the later of (a) the commencement year or (b) the year in which the member retires. For purposes of Section 508, the "commencement year" is the calendar year in which the member reaches age seventy ~~two and one-half (70 1/2)~~. (3-20-20)()

03. PERSI Selects Retirement Option. Any member required to take minimum distributions, as provided in this Section 508, and fails to complete and submit an approved retirement application and select either a regular or optional retirement allowance by April 1 following the later of (a) the commencement year or (b) the year in which the member retires shall be deemed to have made the following selection: (3-20-20)

a. If single, a regular retirement allowance and no other selection shall be required or permitted. (3-20-20)

b. If married, Option 1 and no other selection shall be required or permitted, unless proof is provided that spouse has no community property interest in the benefit. (3-20-20)

04. Lifetime Distributions. Distribution shall be made over the life of the participant or the lives of the participant and his beneficiary; or over a period certain not extending beyond the life expectancy of the member or the joint life and last survivor expectancy of the member and his beneficiary. (3-20-20)

05. Timing of Required Distributions. A required distribution shall be deemed to have been made during the commencement year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the commencement year. (3-20-20)

06. Adjustment of Required Distributions. Benefits paid prior to the commencement year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein. (3-20-20)

07. Benefits Deferred Beyond Service Retirement. The first payment of benefits of an inactive member following deferment beyond service retirement will be in a lump sum that includes payment for those

months of service dating from the date of service retirement when a monthly retirement payment would have started through the current monthly payment. Subsequent payments will be for the monthly retirement allowance only.
(3-20-20)

08. Death Benefits. All death benefits payable under the Base Plan will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable.
(3-20-20)