

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 432

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE WORKFORCE DEVELOPMENT COUNCIL; AMENDING TITLE 72, IDAHO  
2 CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 72, IDAHO CODE, TO  
3 CREATE THE WORKFORCE DEVELOPMENT COUNCIL, TO PROVIDE COMPOSITION AND  
4 APPOINTMENT AND TO PROVIDE FOR AN EXECUTIVE DIRECTOR, TO PROVIDE FOR  
5 YOUTH EMPLOYMENT AND JOB TRAINING PROGRAMS AND TO PROVIDE FOR CREATION  
6 OF THE WORKFORCE DEVELOPMENT TRAINING FUND; AMENDING SECTION 72-1333,  
7 IDAHO CODE, TO REMOVE EMPLOYEES OF THE IDAHO CAREER INFORMATION SYS-  
8 TEM AS EXEMPT EMPLOYEES AND TO MAKE TECHNICAL CORRECTIONS; REPEALING  
9 SECTION 72-1336, IDAHO CODE, RELATING TO THE ADVISORY BODY AND SPECIAL  
10 COMMITTEES; REPEALING SECTION 72-1336A, IDAHO CODE, RELATING TO YOUTH  
11 EMPLOYMENT AND JOB TRAINING PROGRAMS; REPEALING SECTION 72-1345A,  
12 IDAHO CODE, RELATING TO THE IDAHO CAREER INFORMATION SYSTEM; REPEALING  
13 SECTION 72-1347B, IDAHO CODE, RELATING TO THE WORKFORCE DEVELOPMENT  
14 TRAINING FUND; AMENDING SECTION 72-1347A, IDAHO CODE, TO REMOVE OBSO-  
15 LUTE LANGUAGE, TO REMOVE A PROVISION REGARDING APPROVAL OF AN ADVISORY  
16 COUNCIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1348,  
17 IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE TECHNICAL CORREC-  
18 TIONS; AND DECLARING AN EMERGENCY.  
19

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

21 SECTION 1. That Title 72, Idaho Code, be, and the same is hereby amended  
22 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
23 ter 12, Title 72, Idaho Code, and to read as follows:

24 CHAPTER 12

25 WORKFORCE DEVELOPMENT COUNCIL

26 72-1201. CREATION OF WORKFORCE DEVELOPMENT COUNCIL -- COMPOSITION --  
27 APPOINTMENT -- EXECUTIVE DIRECTOR. (1) There is hereby established in the  
28 executive office of the governor the workforce development council. Members  
29 of the council and an executive director shall be appointed by and serve at  
30 the pleasure of the governor. The governor shall prescribe the structure,  
31 duties and functions of the council, which shall include but not be limited  
32 to the following:

33 (a) To serve as the state's coordinating body on matters related to  
34 workforce development policy and programs;

35 (b) To develop and provide oversight of procedures, criteria and per-  
36 formance measures for the workforce development training fund estab-  
37 lished under section 72-1203, Idaho Code; and

38 (c) To serve as the state workforce investment board in accordance with  
39 section 101 of the federal workforce innovation and opportunity act, 29  
40 U.S.C. 3101 et seq., as amended, and federal regulations promulgated  
41 thereunder.

1 (2) The council may appoint special committees in connection with this  
2 section.

3 (3) The council may apply for and accept grants and contributions of  
4 funds from any public or private source.

5 (4) The executive director is authorized to hire and supervise support  
6 staff consistent with the mission and priorities of the council. The exec-  
7 utive director shall be a nonclassified employee exempt from the provisions  
8 of chapter 53, title 67, Idaho Code. Support staff shall be classified em-  
9 ployees under the provisions of chapter 53, title 67, Idaho Code.

10 (5) Members of the council and any special committees who are not state  
11 employees shall be compensated for actual and necessary expenses as provided  
12 by section 59-509(b), Idaho Code.

13 72-1202. YOUTH EMPLOYMENT AND JOB TRAINING PROGRAMS. (1) Subject to  
14 the availability of funds from public and private sources, the council shall  
15 develop and implement youth employment and job training programs to increase  
16 employment opportunities for Idaho's youth.

17 (2) The council shall establish eligibility criteria for participants.  
18 At a minimum, participants shall be lawful residents of the United States and  
19 the state of Idaho, and eligibility criteria shall not render employment and  
20 job training programs ineligible for federal funding.

21 (3) To the extent practicable, the council shall enlist state and fed-  
22 eral agencies, local governments, nonprofit organizations, private busi-  
23 nesses and any combination of such entities to act as sponsors for programs  
24 administered pursuant to this section. Selection of sponsors shall be based  
25 on criteria that include the availability of other resources on a matching  
26 basis, including contributions from private sources, other federal, state  
27 and local agencies, and moneys available through the federal workforce inno-  
28 vation and opportunity act, 29 U.S.C. 3101 et seq., as amended.

29 (4) Participants in youth employment and job training programs under  
30 this section shall not be employees of the state of Idaho entitled to person-  
31 nel benefits under the state personnel system, chapter 53, title 67, Idaho  
32 Code.

33 72-1203. WORKFORCE DEVELOPMENT TRAINING FUND. (1) There is estab-  
34 lished in the state treasury a special trust fund, separate and apart from  
35 all other public funds of this state, to be known as the workforce develop-  
36 ment training fund, hereinafter "training fund." Except as provided herein,  
37 all proceeds from the training tax defined in subsection (7) of this sec-  
38 tion shall be paid into the training fund. The state treasurer shall be the  
39 custodian of the training fund and shall invest said moneys in accordance  
40 with law. Any interest earned on the moneys in the training fund shall be de-  
41 posited in the training fund. Moneys in the training fund shall be disbursed  
42 in accordance with the directions of the council.

43 (2) All moneys in the training fund are appropriated to the council for  
44 expenditure in accordance with the provisions of this section. The purpose  
45 of the training fund is to provide or expand training and retraining oppor-  
46 tunities in an expeditious manner that would not otherwise exist for Idaho's  
47 workforce. The training fund is intended to supplement but not to supplant

1 or compete with moneys available through existing training programs. The  
2 moneys in the training fund shall be used for the following purposes:

3 (a) To provide training and retraining for skills necessary for spe-  
4 cific economic opportunities and industrial expansion initiatives;

5 (b) To provide innovative training solutions to meet industry-specific  
6 workforce needs or local workforce challenges;

7 (c) To provide public information and outreach on career education and  
8 workforce training opportunities, including existing education and  
9 training programs and services not funded by the training fund; and

10 (d) For all administrative expenses incurred by the council, including  
11 those expenses associated with the collection of the training tax and  
12 any other administrative expenses associated with the training fund.

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

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

21 (5) The activities funded by the training fund will be coordinated with  
22 similar activities funded by the state division of career technical educa-  
23 tion.

24 (6) The council shall report annually to the governor and the joint fi-  
25 nance-appropriations committee the commitments and expenditures made from  
26 the training fund in the preceding fiscal year and the results of the activi-  
27 ties funded by the training fund.

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

36 (8) The provisions of chapter 13, title 72, Idaho Code, which apply to  
37 the payment and collection of contributions, also apply to the payment and  
38 collection of the training tax, including the same calculations, assess-  
39 ments, methods of payment, penalties, interest, costs, liens, injunctive  
40 relief, collection procedures and refund procedures. The director of the  
41 department of labor is granted all rights, authority and prerogatives nec-  
42 essary to administer the provisions of this subsection. Moneys collected  
43 from an employer delinquent in paying the training tax shall first be applied  
44 to any penalties and interest imposed pursuant to the provisions of chapter  
45 13, title 72, Idaho Code, and then pro rata to the training fund established  
46 in subsection (1) of this section. Any penalties and interest collected  
47 pursuant to this subsection shall be paid into the state employment security  
48 administrative and reimbursement fund, section 72-1348, Idaho Code, and  
49 any penalties or interest refunded under this subsection shall be paid from  
50 that same fund. Training taxes paid pursuant to this section shall not be

1 credited to the employer's experience rating account and may not be deducted  
 2 by any employer from the wages of individuals in its employ. All training  
 3 taxes shall be deposited in the clearing account of the employment security  
 4 fund, section 72-1346, Idaho Code, for clearance only and shall not become  
 5 part of such fund. After clearance, the moneys shall be deposited in the  
 6 training fund. The director of the department of labor may authorize refunds  
 7 of training taxes erroneously collected and deposited in the training fund.

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

10 72-1333. DEPARTMENT OF LABOR -- AUTHORITY AND DUTIES OF THE DIREC-  
 11 TOR. (1) The director shall administer the employment security law, chapter  
 12 13, title 72, Idaho Code, the minimum wage law, chapter 15, title 44, Idaho  
 13 Code, the provisions of chapter 6, title 45, Idaho Code, relating to claims  
 14 for wages, the provisions of section 44-1812, Idaho Code, relating to min-  
 15 imum medical and health standards for paid firefighters, the disability  
 16 determinations service established pursuant to 42 U.S.C. 421, and shall  
 17 perform such other duties relating to labor and workforce development as may  
 18 be imposed ~~upon him~~ by law. The director shall be the successor in law to  
 19 the office enumerated in section 1, article XIII, of the constitution of the  
 20 state of Idaho. The director shall have the authority to employ individuals,  
 21 make expenditures, require reports, make investigations, perform travel and  
 22 take other actions deemed necessary. The director shall organize the de-  
 23 partment of labor, which is hereby created, and which shall, for the purposes  
 24 of section 20, article IV, of the constitution of the state of Idaho, be an  
 25 executive department of the state government. The director shall have an  
 26 official seal, which shall be judicially noticed.

27 (2) The director shall have the authority pursuant to chapter 52, title  
 28 67, Idaho Code, to adopt, amend, or rescind rules as ~~he deems~~ deemed neces-  
 29 sary for the proper performance of all duties imposed ~~upon him~~ by law.

30 (3) Subject to the provisions of chapter 53, title 67, Idaho Code, the  
 31 director is authorized and directed to provide for a merit system for the de-  
 32 partment covering all persons, except the director, the division adminis-  
 33 trators, ~~employees of the Idaho career information system,~~ and two (2) ex-  
 34 empt positions to serve at the pleasure of the director.

35 (4) The director shall make recommendations for amendments to the em-  
 36 ployment security law and other laws ~~he~~ the director is charged to implement  
 37 as ~~he deems~~ deemed proper.

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

46 (6) The director shall provide administrative support for the commis-  
 47 sion on human rights pursuant to section 67-5905, Idaho Code.

1 SECTION 3. That Sections 72-1336, 72-1336A, 72-1345A and 72-1347B,  
2 Idaho Code, be, and the same are hereby repealed.

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

5 72-1347A. EMPLOYMENT SECURITY RESERVE FUND -- SPECIAL ADMINISTRATION  
6 FUND. (1) There is established in the state treasury a special trust fund,  
7 separate and apart from all other public funds of this state, to be known as  
8 the employment security reserve fund, hereinafter "reserve fund." Except as  
9 provided herein, all proceeds from the reserve tax defined in subsection (2)  
10 of this section shall be paid into the reserve fund. The moneys in the re-  
11 serve fund may be used by the director for loans to the employment security  
12 fund, section 72-1346, Idaho Code, as security for loans from the federal un-  
13 employment insurance trust fund, and for the repayment of any interest-bear-  
14 ing advances, including interest, made under title XII of the social secu-  
15 rity act, 42 U.S.C. 1321 through 1324, and shall be available to the director  
16 for expenditure in accordance with the provisions of this section. The state  
17 treasurer shall be the custodian of the reserve fund and shall invest said  
18 moneys in accordance with law. The state treasurer shall disburse the moneys  
19 from the reserve fund in accordance with the directions of the director.

20 (2) A reserve tax is imposed on all covered employers required to pay  
21 contributions pursuant to section 72-1350, Idaho Code, except deficit-rated  
22 employers who have been assigned a taxable wage rate from deficit rate class  
23 six pursuant to section 72-1350(8)(a), Idaho Code. The reserve tax shall  
24 be due and payable at the same time and in the same manner as contributions.  
25 If the reserve fund is less than one percent (1%) of state taxable wages in  
26 the penultimate year as of September 30 of the preceding calendar year, the  
27 reserve tax rate for all eligible, standard-rated and deficit-rated employ-  
28 ers shall be equal to the taxable wage rate then in effect less the assigned  
29 contribution rate and training tax rate. The provisions of this chapter  
30 which apply to the payment and collection of contributions also apply to  
31 the payment and collection of the reserve tax, including the same calcula-  
32 tions, assessments, method of payment, penalties, interest, costs, liens,  
33 injunctive relief, collection procedures and refund procedures. In the  
34 administration of the provisions of this section and the collection of the  
35 reserve tax, the director is granted all rights, authority, and prerogatives  
36 granted the director under the provisions of this chapter. Moneys collected  
37 from an employer delinquent in paying contributions and reserve taxes shall  
38 first be applied to pay any penalty and interest imposed pursuant to the pro-  
39 visions of this chapter and shall then be applied pro rata to pay delinquent  
40 contributions to the employment security fund, section 72-1346, Idaho Code,  
41 and delinquent reserve taxes to the reserve fund pursuant to this section.  
42 Any interest and penalties collected pursuant to this subsection shall be  
43 paid into the state employment security administrative and reimbursement  
44 fund, section 72-1348, Idaho Code, and any interest or penalties refunded  
45 under this subsection shall be paid out of that same fund. Reserve taxes  
46 paid pursuant to this subsection may not be deducted in whole or in part by  
47 any employer from the wages of individuals in its employ. All reserve taxes  
48 collected pursuant to this subsection shall be deposited in the clearing  
49 account of the employment security fund, section 72-1346, Idaho Code, for

1 clearance only and shall not become part of such fund. After clearance, the  
 2 moneys shall be deposited in the reserve fund established in subsection (1)  
 3 of this section. No reserve tax shall be imposed for any calendar year if, as  
 4 of September 30 of the preceding calendar year, the balance of the reserve  
 5 fund equals or exceeds one percent (1%) of the state taxable wages for the  
 6 penultimate calendar year, or exceeds forty-nine percent (49%) of the ac-  
 7 tual balance of the employment security fund, section 72-1346, Idaho Code.  
 8 ~~Provided however, and notwithstanding any other provisions of this subsec-~~  
 9 ~~tion, for calendar year 2006, the imposition of a reserve tax shall not be~~  
 10 ~~precluded even if the balance of the reserve fund exceeds forty-nine percent~~  
 11 ~~(49%) of the actual balance of the employment security fund.~~

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

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

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

34 72-1348. STATE EMPLOYMENT SECURITY ADMINISTRATIVE AND REIMBURSEMENT  
 35 FUND. (1) There is created in the state treasury the "Sstate Employment  
 36 Security Aadministrative and Reimbursement Fund." Notwithstanding the  
 37 provisions of sections 72-1346 and 72-1347, Idaho Code, the fund shall con-  
 38 sist of:

39 (a) All penalties, and all interest on judgments or accounts secured  
 40 by liens, collected pursuant to the provisions of sections 72-1347A,  
 41 ~~72-1347B~~ and 72-1354 through 72-1364, Idaho Code, but only after such  
 42 interest and penalties have been deposited in the clearing account and  
 43 are thereafter transferred to this fund in such amounts as, in the dis-  
 44 cretion of the director, will leave a sufficient balance of interest and  
 45 penalties in the clearing account to pay refunds; and

46 (b) Reed act moneys appropriated for the purchase of land and buildings  
 47 pursuant to section 72-1346(5), Idaho Code.

48 (2) Moneys referred to in subsection (1) (a) of this section are perpet-  
 49 ually appropriated to the director and may be used upon written authoriza-

1 tion of the board of examiners for any lawful purpose, including, but not  
2 limited to:

3 (a) As a revolving fund to cover expenditures for which federal funds  
4 have been duly requested but not yet received, subject to reimbursement  
5 upon receipt of the federal funds;

6 (b) For the payment of costs of administration including costs not  
7 validly chargeable against federal grants;

8 (c) For the payment of refunds of penalties pursuant to section  
9 72-1357, Idaho Code; and

10 (d) For the purchase of land and buildings for the purpose of providing  
11 office space for the department.

12 (3) Moneys referred to in subsection (1) (b) of this section may be used  
13 by the department to acquire for and in the name of the state by term purchase  
14 agreement lands and buildings for office space for the department at such  
15 places as the director finds necessary. An agreement made for the purchase  
16 of premises pursuant to this subsection shall be subject to the approval of  
17 the attorney general as to form and title.

18 Premises purchased pursuant to this section shall be used for the de-  
19 partment, or, if it is desirable to move the department, similar space will  
20 be furnished by the state to the department without further payment therefor  
21 by the United States.

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