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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

A.E and K.S.;

Plaintiffs,

v.

BRAD LITTLE, in his official capacity as  
Governor of the State of Idaho; JANI  
REVIER, in her official capacity as the  
Director of the Idaho Department of  
Labor;

Defendants.

Case No.

**VERIFIED COMPLAINT FOR  
EXPEDITED DECLARATORY  
JUDGMENT AND PRELIMINARY AND  
PERMANENT INJUNCTIVE RELIEF**

**Filing fee: waived, IRCP 10.1**

COME NOW, the above named Plaintiffs, A.E. and K.S., by and through their attorneys, Howard A. Belodoff and Martin C. Hendrickson, with Idaho Legal Aid Services, Inc., to seek an *expedited* declaratory judgment and *preliminary and permanent* injunctive relief against the above-named Defendants, by alleging as follows:

## **PRELIMINARY STATEMENT**

1. Plaintiffs initiate this action against the Governor of the State of Idaho and the Director of the Department of Labor for violating their statutory obligations to ensure Plaintiffs and thousands of other Idaho residents receive federal pandemic unemployment insurance benefits.

2. This action arises out of the State of Idaho's premature termination of the federal pandemic unemployment benefits provided by Congress in the Coronavirus Aid, Relief, and Economic Security ("CARES") Act to over 14,000 Idahoans, including Plaintiffs.

3. The essential benefits provided by the CARES Act include Pandemic Unemployment Assistance ("PUA"), for workers not otherwise eligible for regular unemployment benefits; Pandemic Emergency Unemployment Compensation ("PEUC"), which extends regular unemployment benefits for workers who have exhausted them; and Federal Pandemic Unemployment Compensation ("FPUC"), which increased the amount of unemployment benefits that recipients receive each week. PUA, PEUC, and FPUC are available through September 6, 2021 under federal law.

4. These benefits have served as a vital lifeline for thousands of Idahoans and their families during a time of unprecedented economic hardship caused by the COVID-19 pandemic.

5. By prematurely terminating the State's administration of these benefits, the State has violated the Legislature's directive to maximize unemployment insurance benefits available to eligible Idaho residents who lost their employment through no fault of their own.

6. The State's unlawful action has unnecessarily and prematurely severed the lifeline of thousands of struggling Idahoans and risks plunging thousands of Idaho residents into housing instability as well as severe emotional and economic crisis.

7. If the Court does not enjoin the State’s withdrawal from federal pandemic PUA, PEUC, and FPUC benefits offered through the CARES Act, Plaintiffs and thousands of other Idaho residents will suffer immediate, substantial, and irreparable injury.

8. Plaintiffs seek to have the Court enjoining and declaring that Defendants’ premature termination of federal pandemic CARES Act PUA, PEUC, and FPUC benefits violates Idaho Code § 72-1341 of the Idaho Employment Security Law.

### **JURISDICTION**

9. This Court has original jurisdiction over this action under Idaho Code § 1-705.

10. Venue is proper in this Court under Idaho Code § 5-402 because the State of Idaho is named as a defendant in this action and Ada County encompasses the capital City of Boise.

11. Plaintiffs seek equitable relief in the form of a declaratory judgment under Idaho Code § 10-1201 and a preliminary and permanent injunction under Rule 65 of the Idaho Rules of Civil Procedure.

### **PARTIES**

12. Plaintiff A.E. is a 38 year old resident of Salmon, Idaho.<sup>1</sup>

13. Plaintiff A.E. worked for a construction company for approximately one year before being laid off and has not been rehired due to the COVID-19 pandemic because of the lack of work.

14. Plaintiff A.E. applied for state unemployment benefits and received \$197.00 per week.

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<sup>1</sup> The Plaintiffs, A.E. and K.S., are identified only by initials to “protect [] from harassment, injury, ridicule or personal embarrassment” and to preserve confidential medical information. See *United States v. Doe*, 655 F.2d 920, 922 n. 1 (9th Cir.1980).

15. Plaintiff A.E. was receiving a net of \$450 per week which included Pandemic Emergency Unemployment Compensation (“PEUC”), which extends regular unemployment compensation benefits for workers who have exhausted state benefits and \$300 in FPUC (Federal Pandemic Unemployment Compensation).

16. Plaintiff’s weekly state unemployment and federal pandemic unemployment benefits were used to pay for rent, utilities, food, transportation and insurance, and necessary medications.

17. Plaintiff A.E. has been unable to find suitable employment despite actively seeking work.

18. Plaintiff A.E. has complied with the Idaho Department of Labor work search requirements even when it was not required by the State.

19. Despite searching for suitable and stable work, Plaintiff A.E. only had one job offer.

20. Plaintiff A.E. has accepted a construction job offer but it will not start until October 2021.

21. Plaintiff A.E. had no income when all state and federal pandemic unemployment benefits were terminated after the week ending June 19, 2021, even though he remains eligible to receive CARES Act pandemic benefits.

22. Plaintiff A.E. has relied upon his father, a retired Idaho Fish and Game Warden, who allowed him to live in his RV without paying rent and who pays for the utilities until he starts work in October.

23. Plaintiff A.E. currently relies upon \$234 per month in SNAP benefits to purchase food.

24. Plaintiff A.E. has never in his entire life had to apply for public assistance prior to the premature termination of his federal pandemic unemployment benefits.

25. Plaintiff A.E. suffers from diabetes and high blood pressure and was unable to pay for his insulin and purchase the food he needs to control his diabetes after his unemployment benefits were terminated by Defendants.

26. Plaintiff A.E. was forced to enroll in Medicaid to purchase his prescription medicines in order to avoid serious health consequences.

27. Plaintiff A.E. is immunocompromised due to his diabetes.

28. The diabetes lowers Plaintiff A.E.'s immune system defenses and affects its ability to fight off infections and viruses such as COVID-19.

29. Plaintiff A.E. has limited employment options because he needs to protect himself from unvaccinated and maskless persons who may have the COVID-19 virus due to his diabetes.

30. Plaintiff A.E. is around his father almost daily. His father also has diabetes.

31. Plaintiff A.E. has to protect himself because he is worried about transmitting COVID-19 to his father and the health consequence he would suffer as a senior citizen.

32. Plaintiff K.S. is a 35 year old resident of Meridian, Idaho.

33. Plaintiff K.S. was employed by All Social Inc. for approximately four months before being laid off in middle of March 2020 after the company sustained losses due to the COVID-19 pandemic.

34. Plaintiff K.S. was not rehired despite the company receiving a \$600,000 PPP loan.

35. The company laid off its 30 to 40 Idaho employees and is no longer operating because it lost investors due to the COVID-19 pandemic.

36. Plaintiff K.S. applied for and received a net of \$309 per week in state unemployment benefits.

37. After Plaintiff K.S.'s state unemployment benefits ran out he applied for and received Pandemic Emergency Unemployment Compensation ("PEUC"), which extends regular unemployment compensation benefits for workers who had exhausted state benefits and \$300 in FPUC (Federal Pandemic Unemployment Compensation).

38. All of the weekly federal pandemic benefits were used by Plaintiff K.S. to pay for rent, utilities, food, transportation and insurance expenses, credit card payments, cell phone costs, and necessary medical care and medications.

39. Plaintiff K.S. is unable to pay his girlfriend \$400 per month for his share of the housing costs and the utilities.

40. Plaintiff K.S. has had no sources of income after all his state and federal coronavirus unemployment benefits ended on June 19, 2021, even though he remains eligible to receive CARES Act pandemic benefits.

41. Plaintiff K.S. can no longer afford to pay for his housing, utilities, transportation, insurance, and credit card expenses which he uses to pay living expenses after his federal pandemic unemployment benefits were terminated on June 19th.

42. Plaintiff K.S. is currently making the minimum payment on his credit card and is incurring interest charges of 24.74%.

43. Plaintiff K.S. has never had to apply for unemployment benefits in his entire life.

44. Plaintiff K.S. is immunocompromised. This lowers his immune system's defenses and affects its ability to fight off infections and diseases such as COVID-19.

45. Plaintiff K.S. for the last 18 years has suffered from Crohn's Disease which causes inflammation of his digestive tract and can lead to abdominal pain, severe diarrhea, fatigue, weight loss and malnutrition.

46. Plaintiff K.S. has to receive an injection every few weeks because there is no cure.

47. Plaintiff K.S. has regular doctor appointments to be examined and have blood tests taken. He has to have x-rays every couple of months.

48. When Plaintiff K.S. was laid off he lost his health insurance and could not afford his medication or medical treatment.

49. Plaintiff K.S. had to be hospitalized for several days in April 2021 because he suffered from an obstruction in his small intestine.

50. Plaintiff K.S. was forced to enroll in Idaho Medicaid to pay for his medical care and prescriptions in order to avoid serious health consequences.

51. Plaintiff K.S. can only take a job where he can be protected from the COVID-19 virus and where he can have access, whenever necessary, to bathroom facilities due to Crohn's disease and being immunocompromised.

52. Plaintiff K.S. has been unable to find suitable employment despite actively seeking work, submitting applications, and being interviewed for positions.

53. Plaintiff K.S. has complied with the Idaho Department of Labor work search requirements even when it was not required to receive the unemployment insurance benefits.

54. Plaintiff K.S. has suffered panic attacks, anxiety, nausea, sweating, heart palpitations, and stress as a result of the premature termination of his federal pandemic unemployment benefits.

55. Plaintiff K.S. has been prescribed medication to address his mental health needs because it could trigger his Crohn's Disease symptoms.

56. Plaintiff K.S. has had to seek counseling to cope with his mental health needs.

57. Plaintiff K.S. pays \$160 out of his limited savings for his twice a month counseling sessions and may have to discontinue counseling because he cannot afford it.

58. Defendant Brad Little is being sued in his official capacity as Governor of the State of Idaho.

59. Defendant Jani Revier is being sued in her official capacity as Director of the Idaho Department of Labor.

#### **STATEMENT OF FACTS**

60. Since March of 2020, the United States has experienced an unprecedented public health crisis due to the COVID-19 pandemic.

61. As a result of the COVID-19 pandemic, unemployment in the United States reached its highest level since the Great Depression.<sup>2</sup>

62. The COVID-19 pandemic resulted in mass layoffs and business closures across the United States and the State of Idaho.

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<sup>2</sup> See U.S. Bureau of Labor Statistics, Seasonally Adjusted Unemployment Rate Data [https://data.bls.gov/timeseries/LNS14000000?years\\_option=all\\_years](https://data.bls.gov/timeseries/LNS14000000?years_option=all_years) (last visited June 29, 2021) (unemployment rate of 14.8% for April 2020, the highest of any year for which the Bureau reports seasonally adjusted unemployment data); Kimberly Amadeo, Unemployment Rate by Year Since 1929 Compared to Inflation and GDP, The Balance, <https://www.thebalance.com/unemployment-rate-by-year-3305506> (March 16, 2021) (citing Bureau of Labor Statistics, Labor Force, Employment, and Unemployment, 1929-39: Estimating Methods, Page 2, Table 1, Table 1).



63. As a response to the economic effects of the COVID-19 pandemic, Congress passed the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, which was signed into law on March 27, 2020. This law is codified as 15 U.S.C. § 9001, et seq.

64. The CARES Act temporarily enhances unemployment insurance payments by establishing the following benefits:

a. Pandemic Unemployment Assistance (“PUA”) for workers who were not eligible for regular state unemployment benefits and whose unemployment was caused by COVID-19.<sup>3</sup> This includes the self-employed, independent contractors, gig workers, and people who started a job recently before becoming unemployed. *See* 15 U.S.C. § 9021. Their unemployment must have a nexus with COVID-19. *See* 15 U.S.C. § 9021(a)(3)(A)(ii)(I). The amount of PUA benefits an eligible claimant receives depends on the state’s regular state weekly unemployment benefit amounts and the claimant’s past earnings, yielding a minimum weekly benefit in Idaho of \$78 and a maximum of \$488.

b. Pandemic Emergency Unemployment Compensation (“PEUC”), which extends regular unemployment compensation benefits for workers who exhaust state benefits. The amount of PEUC benefits a claimant receives is equivalent to their weekly benefit amount under regular state unemployment benefits.<sup>4</sup>

c. Federal Pandemic Unemployment Compensation (“FPUC”), increased the amount of unemployment compensation benefits, whether regular state, PUA,

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<sup>3</sup> 15 U.S.C. § 9021.

<sup>4</sup> 15 U.S.C. § 9025.

PEUC, other related unemployment programs, by \$600-per-week from March 27, 2020, through July 31, 2020.<sup>5</sup>

65. The extra \$600 per week unemployment insurance provided to Idaho residents through the Federal Pandemic Unemployment Compensation (FPUC) program ended on July 25, 2020.

66. The federal pandemic PUA, PEUC, and FPUC benefits are administered and funded under the Social Security Act.<sup>6</sup>

67. On December 26, 2020, the unemployment provisions in the CARES Act, including PUA and PEUC, were extended through March 14, 2021, by the Continued Assistance for Unemployed Workers Act of 2020 (“CAUWA”). Pub. L. No. 116-260, § 200–01, 206.

68. The CAUWA reauthorized FPUC in the amount of \$300 per week, payable from December 26, 2020, through March 14, 2021.<sup>7</sup>

69. On March 11, 2021, PUA, PEUC, and FPUC were extended through September 6, 2021, by the American Rescue Plan Act of 2021 (“ARPA”).<sup>8</sup>

70. Funds have been appropriated by Congress and are available to the State of Idaho and eligible Idaho residents through the September 6, 2021 expiration of PUA, PEUC, and FPUC.

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<sup>5</sup> 15 U.S.C. § 9023. FPUC is also included in the “weekly benefit amount” under PUA and PEUC. 15 U.S.C. § 9021(d)(1); 15 U.S.C. § 9025(a)(4)(A).

<sup>6</sup> The PUA benefits, including FPUC and administration costs, are funded by 42 U.S.C. §§ 1104(a) and 1105(a). 15 U.S.C. § 9021(g). The PEUC benefits, including FPUC, are funded by 42 U.S.C. §§ 1104(a) and 1105(a), while PEUC administration costs are funded by 42 U.S.C. § 1101(a). 15 U.S.C. § 9025(d).

<sup>7</sup> Pub. L. No. 116-260, § 203.

<sup>8</sup> Pub. L. No. 117-2, § 9011, 9013, 9016.

71. The Social Security Act requires that the implementing state’s laws provide for “[s]uch methods of administration...as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due.” 42 U.S.C. § 503(a)(1).

72. The CARES Act requires the U.S. Secretary of Labor to provide federal pandemic benefits through agreements between the states and the federal government.<sup>9</sup>

73. The Idaho Department of Labor entered an agreement with the U.S. Department of Labor on behalf of the State of Idaho accepting all PUA, PEUC, and FPUC benefits for eligible claimants.<sup>10</sup>

74. The federal government has paid and will pay the State of Idaho the full benefit amounts of PUA, FPUC, and PEUC and all administrative expenses related to the CARES Act.<sup>11</sup>

75. The federal pandemic PUA, FPUC, and PEUC benefit amounts and administrative expenses are fully funded by the federal government.<sup>12</sup>

76. The same state agency that administers regular state unemployment benefits also administers federal pandemic CARES Act PUA, FPUC, and PEUC benefits and makes eligibility determinations.<sup>13</sup>

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<sup>9</sup> 15 U.S.C. § 9021(b).

<sup>10</sup> *See* 15 U.S.C. §§ 9021(f), 9023(a), 9025(a)(1).

<sup>11</sup> *See* 15 U.S.C. §§ 9021(f)(2) (PUA), 9023(d)(1)(A) (FPUC), 9025(c)(1), (d)(2) (PEUC).

<sup>12</sup> *See* 15 U.S.C. §§ 9021(g)(1)-(2) (incorporating 42 U.S.C. §§ 1101(a), 1104(a) and 1105(a)), 9023(d), 9025(d)(1)-(2) (incorporating 42 U.S.C. §§ 1101(a), 1104(a) and 1105(a)).

<sup>13</sup> *See* 15 U.S.C. §§ 9021(f)(1), 9023(b)(1), 9025(a)(2).

77. The Idaho Department of Labor administers Idaho's unemployment insurance programs and provided eligible Idahoans with the CARES Act's federal pandemic unemployment benefits.

78. The Idaho Department of Labor processes claims for unemployment insurance and distributes payment to eligible individuals. Idaho Code § 72-1366.

79. To be eligible for regular state unemployment insurance, an unemployed claimant must provide all necessary eligibility information and meet the following requirements under Idaho Code § 72-1366.

a. register for work and report to the job service office;

b. meet the minimum wage requirements in a "base period" as provided in Idaho Code § 72-1367;

c. be able to work, be available for suitable work, and be seeking work;

d. make a claim for benefits for the week in question.

80. Thousands of Idaho residents were entitled to receive and had been receiving federal pandemic CARES Act PUA, PEUC, and FPUC benefits since March 2020.

### **Defendants Prematurely Terminated Federal Unemployment Benefits in Contravention of Idaho Statutes**

81. On May 19, 2021, Governor Little notified the U.S. Secretary of Labor that Idaho would be ending its participation in federal pandemic PUA, PEUC, and FPUC benefits on June 19, 2021, nearly three months prior to the federal expiration of these benefits.

82. Plaintiffs have not received any PUA, PEUC, or FPUC benefits for periods of unemployment after June 19, 2021.

83. If the Department of Labor resumes participation in PUA, FPUC, and PEUC for qualifying periods of unemployment after June 19, 2021, full federal funding for the benefit amounts and administrative costs will be available to the State of Idaho to pay Plaintiffs and the thousands of other Idahoans whose federal pandemic benefits were prematurely terminated.

84. The decision to prematurely terminate the receipt of federal pandemic benefits contravenes Idaho Code § 72-1341 of the Idaho Employment Security Law which governs Idaho's Unemployment Insurance program.

85. The Idaho Legislature expressed the "Declaration of state public policy" for the Idaho Employment Security Law as: "The public policy of this state is as follows: Economic insecurity due to unemployment is a serious threat to the well-being of our people. Unemployment is a subject of national and state concern." Idaho Code § 72-1302.

86. The Idaho Legislature further declared in the Idaho Employment Security Law, "the general welfare of our citizens requires the enactment of this measure and sets aside unemployment reserves to be used for workers who are unemployed through no fault of their own." Idaho Code § 72-1302.

87. These factual findings and policy statements by the Legislature must guide the interpretation and application of Idaho's Employment Security Law.

88. The Idaho Employment Security Law must be liberally construed to implement the Legislature's intent to help alleviate the social and economic hardships caused by unemployment which does not result from the fault of the employee. *See Parker v. St. Maries Plywood*, 101 Idaho 415, 419, 614 P.2d 955, 959 (1980).

89. Defendant Revier, as the Director of the Idaho Department of Labor, is authorized to administer the Idaho Employment Security Law. Idaho Code § 72-1333(1).

90. In administering the Idaho Employment Security Law, the Legislature required Defendant Revier, in furtherance of Idaho’s declared public policy, to “cooperate with the United States department of labor, and is directed to take such action as may be necessary to secure to Idaho all advantages under federal laws, . . .” Idaho Code § 72-1341(1).

91. Defendant Revier, as Director, is further required to “cooperate with the United States department of labor with regards to the receipt or expenditure by this state of moneys granted under any federal acts . . .” Idaho Code § 72-1341(1).

92. Defendant Revier is authorized “to facilitate the administration of any state or federal unemployment insurance or public employment service law.” Idaho Code § 72-1341(2).

93. In order to effectuate the public policies expressed by the Legislature in the Idaho Employment Security Law, Defendant Revier is obligated to accept all federal unemployment insurance funds made available by the federal government pursuant to the CARES Act under 42 U.S.C. §§ 1101, 1104, and 1105.<sup>14</sup>

94. Governor Little’s and Director Revier’s premature termination of Idaho’s participation in PUA, PEUC, and FPUC benefits conferred under the CARES Act violates their statutory duty to secure such benefits for thousands of eligible Idahoans, including Plaintiffs.

### **The Devastating Impact of the Unlawful Termination of Federal Benefits**

95. Idaho’s termination of PUA, PEUC, and FPUC benefits has resulted in Plaintiffs A.E and K.S. not being able to pay for basic living expenses including housing, utilities, food,

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<sup>14</sup> The CARES Act benefits are funded by federal unemployment programs established under 42 U.S.C. §§ 1101(a), 1104(a), and 1105(a). Specifically, PUA benefits, including FPUC and administration costs, are funded by 42 U.S.C. §§ 1104(a) and 1105(a). *See* 15 U.S.C. § 9021(g). PEUC benefits, including FPUC, are funded by 42 U.S.C. §§ 1104(a) and 1105(a), while PEUC administration costs are funded by 42 U.S.C. § 1101(a). *See* 15 U.S.C. § 9025(d).

transportation, and medical treatment and prescriptions. These expenses, such as transportation and medical treatment and prescriptions, are necessary to seeking, obtaining, and maintaining employment.

96. As of June 19, 2021, there were 3,307 recipients of PUA and 4,573 recipients of PEUC. See <https://lmi.idaho.gov/Portals/0/2021/UI/2021-Unemployment-Claims-by-Program.pdf?v=0805> Attached as Exhibit 1.

97. The premature termination of PUA, PEUC, and FPUC pandemic benefits has resulted in a reduction, as of June 30th, in 8,924 PUA and PEUC recipients losing their unemployment assistance at the same time Idaho is experiencing a surge in COVID-19 cases due to the highly contagious delta variant which has increased the seven-day moving average of new cases.

98. Through the week of August 10, 2021, the Idaho Department of Health and Welfare's COVID-19 web site reports nearly 4,000 new confirmed and probable cases with a statewide seven-day weekly average of 566, a level not seen since January, 2021; 322 hospitalized cases (August 11, 2021); 108 hospitalized in ICU (August 11, 2021); a positivity rate of 12.3% which is the highest since the last week of December, 2020 (week of August 1, 2021); 205,786 total COVID-19 cases; a total of 2,245 COVID-19-related deaths; a total of 9,282 hospitalizations; a total of 1,544 admissions to the ICU; and a total of 11,317 health care workers who have been infected. At the same time, Idaho's vaccination rate of 46.8% of adults 12 and older is one of the lowest in the United States. See <https://coronavirus.idaho.gov/>.<sup>15</sup>

99. In addition to the recipients of federal pandemic unemployment benefits,

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<sup>15</sup> Available at <https://covid.cdc.gov/covid-data-tracker/#vaccinations>.

approximately 5,000 regular state unemployment benefit recipients had their weekly benefits cut by \$300 per week due to the cutoff of the FPUC supplement.

100. An economist for the Idaho Department of Labor published “Why Idaho’s Employers Struggle to Find Workers” debunking Governor Little’s rationale for terminating federal pandemic PUA, PEUC, and FPUC benefits. *See*

<https://idahoatwork.com/2021/07/27/why-idaho-employers-struggle-to-find-workers/#more-12976> . Attached as Exhibit 2. The economist’s research determined:

- A. Labor shortages were common before the pandemic.
- B. Idaho’s seasonally adjusted unemployment rate in April was 3.1% – just five-tenths of a percentage point higher than its all-time low of 2.6%.
- C. Only five states had lower rates in April. Idaho’s April rate was less than half of its historic average of 5.4% from 1978 through 2019.
- D. Idaho employers added jobs faster than any other state in the past 12 months.
- E. Idaho and Utah were the only two states whose nonfarm payroll employment rose between March 2020 and March 2021.
- F. COVID-19 caused some Idahoans to temporarily drop out of the labor force. The Census Bureau estimates 3,992 Idahoans did not work during the two-week period because they were sick with coronavirus symptoms and another 6,845 did not work because they were caring for someone with COVID-19 symptoms. Another 6,529 did not work because they were concerned about getting or spreading the coronavirus.
- G. The Current Population Survey, the source of U.S. labor force statistics, found the number of Idahoans 55 years and older in the state’s labor force fell 11% from 257,100 in March 2020 to 227,400 in March 2021.
- H. Much of the drop was more permanent as some people retired early. The Census Bureau found 16,590 Idahoans decided to apply earlier than expected for Social Security benefits because of the COVID-19 pandemic.
- I. The Current Population Survey found that 5,169 Idahoans were not looking for work because of family responsibilities, compared with 2,087 in March 2020.



J. Many of these individuals are staying home because of a lack of childcare or elder care. More than 200 Idaho child-care providers closed last year and finding childcare has become increasingly difficult.

K. The pandemic also reduced the number of people willing to provide care for the elderly in their homes, resulting in some family members becoming full-time caretakers.

L. Other factors include the rapid rise in housing costs — both rents and home purchases — is exacerbating Idaho's dearth of affordable housing, making it harder to attract new workers to the state.

M. Some of the current difficulties are likely to persist because of long-term demographic challenges.

101. Other studies have found no evidence that PUA, PEUC, and FPUC benefits have driven job losses or slowed rehiring during the past year.

102. In April 2021, Idaho reinstated the pre-pandemic work search requirements for unemployment insurance claimants. Idahoans collecting unemployment benefits must look for full-time employment. The work search requirements applied to regular and federal CARES Act unemployment insurance programs. See <https://idahoatwork.com/2021/04/26/claimants-must-look-for-work-to-receive-unemployment-benefits/>

103. Idaho's seasonally adjusted unemployment rate dropped from 3.1% in April to 3% for May. Total employment grew to 874,143, up 0.2% (+1,978), while total unemployment dropped 3% (-865) to 27,351. See <https://idahoatwork.com/2021/06/18/idahos-may-unemployment-rate-drops-to-3/#more-13152>

104. Idaho's seasonally adjusted unemployment rate in June was unchanged at 3.0%. Total employment grew to 875,305, up 0.1% (+1,152), while total unemployment dropped -0.8% (-221) to 27,103. See <https://idahoatwork.com/2021/07/16/idahos-june-unemployment-rate-unchanged-at-3/>

105. Idaho’s seasonally adjusted unemployment rate held steady at 3% from June to July. Total employment grew to 876,204, up 0.1% (+1,094), while total unemployment dropped 1.6% (-429) to 26,717. See <https://idahoatwork.com/2021/08/20/idahos-july-unemployment-rate-unchanged-at-3/>

106. The premature termination of CARES Act federal pandemic benefits had no discernable effect on the unemployment rate from pre-termination levels.

### **Count I – Declaratory Judgment**

107. Plaintiffs reallege and incorporate paragraphs 1 through 104.

108. There exists an actual controversy and justiciable issue between Plaintiffs and Defendants within the meaning of the Idaho Declaratory Judgment Act, Idaho Code §§10-1201 through 10-1216.

109. The Idaho Declaratory Judgment Act provides the Court may issue a declaratory judgment adjudicating the rights and other legal relations of the Plaintiffs.

110. There is an actual controversy between the parties because the Defendants exceeded their statutory authority in prematurely terminating federal pandemic unemployment benefits Plaintiffs had been receiving and for which they continue to be eligible to receive.

111. The justiciable issue is whether the Idaho Employment Security Law requires Defendants to secure, without any administrative or benefit costs to the State of Idaho, all possible federal pandemic CARES Act PUA, PEUC, and FPUC benefits available under 42 U.S.C. §§ 1101, 1104, and 1105.

112. The actions taken by Governor Little and Director Revier to effect the premature termination of CARES Act PUA, FPUC, and PEUC benefits do not constitute “cooperat[ion] with the United States department of labor, . . . as may be necessary to secure to Idaho all advantages

under federal laws providing for federal-state cooperation in the administration of unemployment insurance laws, . . . .”

113. A declaratory judgment by this Court will terminate this controversy and will establish Plaintiffs’ legal rights with regard to Defendants’ premature termination of the federal CARES Act PUA, PEUC, and FPUC benefits.

### **Count II – Injunctive Relief**

114. Plaintiffs reallege and incorporate paragraphs 1 through 111.

115. On June 19, 2021, Defendants prematurely terminated Plaintiffs’ federal pandemic CARES Act PUA, PEUC, and FPUC benefits prior to the September 6, 2021 expiration of those benefits.

116. Governor Little and Director Revier exceeded their statutory authority in effecting the premature termination of federal pandemic CARES Act PUA, FPUC, and PEUC benefits.

117. Plaintiffs have suffered immediate, substantial, and irreparable harms for which they have no adequate remedy at law. The loss of the financial ability to pay for housing, utilities, medical care, the inability to access adequate food and pay for transportation necessary for them to seek and obtain employment constitutes irreparable harm not adequately compensable by an award of damages.

118. Nor can delayed payment of federal pandemic benefits, as a result of the ultimate conclusion of this controversy on the merits, adequately compensate for the immediate and dire consequences the Plaintiffs have suffered and will continue to suffer.

119. Plaintiffs are likely to succeed on the merits because Courts in the states of Maryland, Arkansas, and Oklahoma have enjoined the termination of federal pandemic CARES Act PUA, PEUC, and FPUC benefits conferred under similar state employment statutes.

120. The balance of harms favors the payment of and continuation of the prematurely terminated CARES Act PUA, PEUC, and FPUC federal pandemic benefits to Plaintiffs and all eligible Idahoans until September 6, 2021.

121. These funds have already been appropriated by Congress and are available to be received by the Idaho Department of Labor so they can be distributed to eligible Idahoans.

122. The State's costs to administer and pay the CARES Act PUA, PEUC, and FPUC federal pandemic benefits are covered by CARES Act funding.

123. Therefore, the State is neither harmed nor inconvenienced by the payment, reinstatement, and continuation of all prematurely terminated of CARES Act benefits until the September 6, 2021 expiration.

124. The harm to Plaintiffs created by the loss of benefits far outweighs any inconvenience to the state.

125. Ordering Defendants to pay, reinstate, and continue all prematurely terminated federally funded pandemic CARES Act PUA, PEUC, and FPUC benefits needed by Plaintiffs and to eligible Idahoans is in the public interest as expressed by the Legislature's declared public policy in the Idaho Employment Security Act.

WHEREFORE, Plaintiffs respectfully request the Court grant the following relief:

- (1) Issue a Declaratory Judgment: (i) finding and declaring that Defendants' premature termination of federal pandemic CARES Act PUA, PEUC, and FPUC benefits is invalid and of no force or effect because it violates Idaho Employment Security Law §§ 72-101 *et seq.*; ii) finding and declaring that Plaintiffs were and are entitled to receive federal pandemic PUA, PEUC, and FPUC benefits from June 19, 2021 through

September 6, 2021; (iii) awarding attorney fees, as provided by law; and (iv) granting Plaintiffs such further relief as the Court deems just and appropriate.

(2) Grant a preliminary and permanent injunctive relief pursuant to a declaratory judgment that:

(a) Orders Governor Little to rescind the notice of the State's premature termination of its participation in federal pandemic CARES Act PUA, PEUC, and FPUC benefits;

(b) Orders Governor Little and Director Revier, on behalf of the State of Idaho, to immediately notify the U.S. Department of Labor of the State's continued participation in the CARES Act programs for the duration of those programs;

(c) Orders Governor Little and Director Revier, their officers, employees, and agents, all persons acting in concert or participation with any Defendant, or under any Defendant's supervision, direction, or control, from withdrawing the State of Idaho from unemployment benefits offered through the CARES Act;

(d) Enjoins Defendants from terminating the federal pandemic CARES Act PUA, PEUC, and FPUC benefits until their expiration under federal law;

(e) Orders Defendants to immediately take all actions necessary to continue participation in the federal pandemic CARES Act PUA, FPUC, and PEUC programs;

(f) Orders Defendants pay all CARES Act federal pandemic PUA, FPUC, and PEUC benefits for which the Plaintiffs and other Idaho recipients are eligible, including retroactive benefits that would have been paid had the Defendants not prematurely terminated the CARES Act federal pandemic benefits.

- (3) Retain jurisdiction over this action to ensure Defendants' compliance with the Court's orders.
- (4) Waive the requirement for the posting of a bond as security for the entry of relief.
- (5) Award reasonable attorney fees and costs under the Private Attorney General and any other applicable attorney fee statute.
- (6) For such other and further relief as the Court deems just and proper.

DATED this 20th day of August, 2021.

/s/ Howard A. Belodoff  
Howard A. Belodoff

/s/ Martin C. Hendrickson  
Martin C. Hendrickson

Idaho Legal Aid Services, Inc.  
Attorney for Plaintiffs

**VERIFICATION**

I declare under penalty of perjury pursuant to the law of the State of Idaho that I have read the foregoing Verified Complaint and the facts therein are true and correct and the Exhibits are true and correct copies of the documents related to the subject matter of this Verified Complaint.

DATED this 20th day of August, 2021.

/s/ A.E.  
Plaintiff A.E.

/s/ K.S.  
Plaintiff K.S.

Data is subject to revisions

Idaho Department of Labor 2021 Unemployment Claims by Program						
		Initial Claims <sup>1</sup>	Continued Claims <sup>2</sup>			
Week Ending	Week Number	Initial Claims	UI Regular	Pandemic Unemployment Assistance (PUA) • Self-employed • Low Wage Earners	Pandemic Emergency Unemployment Compensation (PEUC)	Total <sup>3</sup>
1/2/21	1	4,612	13,338	11,523	3,355	28,216
1/9/21	2	4,685	14,390	10,881	3,424	28,695
1/16/21	3	3,714	13,864	11,088	3,685	28,637
1/23/21	4	4,289	14,228	11,279	3,884	29,391
1/30/21	5	4,859	14,627	11,326	4,446	30,399
2/6/21	6	6,457	14,846	9,592	5,720	30,158
2/13/21	7	11,221	15,074	8,342	6,943	30,359
2/20/21	8	6,110	15,363	7,743	7,122	30,228
2/27/21	9	5,013	15,307	6,973	7,992	30,272
3/6/21	10	4,198	13,968	6,436	7,761	28,165
3/13/21	11	3,683	12,838	7,087	8,013	27,938
3/20/21	12	4,047	11,407	6,934	7,799	26,140
3/27/21	13	5,983	10,784	6,480	7,395	24,659
4/3/21	14	5,223	11,497	6,021	6,654	24,172
4/10/21	15	6,229	10,612	5,110	5,944	21,666
4/17/21	16	4,484	10,141	5,102	5,700	20,943
4/24/21	17	3,393	9,411	4,841	5,990	20,242
5/1/21	18	3,392	9,680	4,874	6,493	21,047
5/8/21	19	2,330	8,113	4,198	5,590	17,901
5/15/21	20	2,024	7,429	3,940	5,450	16,819
5/22/21	21	1,888	7,021	3,869	5,268	16,158
5/29/21	22	1,655	6,704	3,661	4,994	15,359
6/5/21	23	1,339	6,458	3,538	4,848	14,844
6/12/21	24	1,369	6,294	3,446	4,791	14,531
6/19/21	25	1,265	6,125	3,307	4,573	14,005
6/26/21	26	1,203	5,825	3,085	4,358	13,268
7/3/21	27	1,431	5,848	128	373	6,349
7/10/21	28	1,504	5,507	135	256	5,898
7/17/21	29	1,163	5,210	77	245	5,532
7/24/21	30	1,057	4,950	22	251	5,223
7/31/21	31	936	4,781	8	292	5,081
8/7/21	32	1,039	4,453	54	223	4,730
8/14/21	33	1,033	4,304	14	236	4,554

**Definitions and Footnotes**

1. **Initial Claim** - An initial claim for UI benefits is filed over the phone or on-line through the Internet. By federal USDOL definition, the initial claim numbers in this table are assumed to be for UI - Regular State Benefits until claim adjudication takes place and a claim is reclassified for another CARES Act program.

2. **Continued Claim** - A continued claim represents the number of claims filed where an individual - after filing an initial claim - is requesting a benefit payment for a specific week. Continued claim counts for Federal Pandemic Unemployment Compensation program and the Lost Wages Assistance programs are not included - both programs provided supplemental income for existing claims already filed. Filing a separate claim was not necessary to receive these funds.

**Disclaimer**

The data contained in this chart represents a weekly snapshot in time and is subject to revision.

Source: Idaho Department of Labor, UI Reporting Bureau.

3. Total represents the sum of continued claims only.

## Why Idaho Employers Struggle to Find Workers

*Editor's note: Regional economist Kathryn Tacke passed away unexpectedly on July 2. This is the last article she submitted for publication. Her previous articles can be found at Labor's [Idaho@Work blog](#).*

What a difference a year makes. In April 2020, the pandemic and its effects pushed Idaho's unemployment rate to an all-time high of 11.6%. This April, media across Idaho reported on labor shortages and how some businesses are struggling to stay open because they can't find enough workers. The labor shortages are widespread — not only showing up in the state's fast-growing urban areas, but also in rural communities. The businesses finding it hardest to recruit workers are construction firms, home care agencies, employers of certified nurse aides, restaurants, motels, trucking and package delivery companies and some manufacturers. School districts throughout the state are finding it difficult to hire substitute teachers and paraprofessionals.

Why has the job market become so tight? Before the pandemic, labor shortages were common. Now, thousands of Idaho employers are trying to make their normal seasonal hires and add new jobs as the state continues its recovery and growth in manufacturing and construction industries accelerates. This article explains the complex reasons for all the "help wanted" signs in Idaho and why employers are getting little or no response to want ads.

### **Strong job growth, low unemployment**

Idaho's good fortune is one reason for the labor shortages. Its economy has proven hardy during the pandemic. Idaho's seasonally adjusted unemployment rate in April was 3.1% – just five-tenths of a percentage point higher than its all-time low of 2.6% in February 2020. Only five states had lower rates in April. Idaho's April rate was less than half of its historic average of 5.4% from 1978 through 2019.

Idaho employers added jobs faster than any other state in the past 12 months. Idaho and Utah were the only two states whose nonfarm payroll employment rose between March 2020 and March 2021.

Since the early 1970s, Idaho's job markets have been primarily employers' labor markets, where relatively high unemployment gave employers more of an advantage. Around 2005, most of them transformed to job seekers' markets, as employers found it difficult to recruit workers and workers felt more comfortable quitting jobs to take other jobs. The severe recession that began in December 2007 flipped the job market back to an



employers' market for a few years. But as Idaho's economy has grown at an exceptional pace since 2012, the advantage has returned to job seekers.

Construction stands out for its job creation. Idaho's construction employment rose 7% between March 2020 and March 2021, faster than any other state. Construction employment fell in 34 states during that period. Idaho construction jobs for March reached a record high.

### **COVID-19-caused reductions in labor availability**

While jobs have grown since the pandemic's start, some Idahoans left the labor force.

COVID-19 caused some Idahoans to temporarily drop out of the labor force. Based on responses to the Household Pulse Survey conducted in late March 2021, the Census Bureau estimates 3,992 Idahoans did not work during the two-week period because they were sick with coronavirus symptoms and another 6,845 did not work because they were caring for someone with COVID-19 symptoms. Another 6,529 did not work because they were concerned about getting or spreading the coronavirus.

Many older workers dropped out of the labor force during the last year. The Current Population Survey, the source of U.S. labor force statistics, found the number of Idahoans 55 years and older in the state's labor force fell 11% from 257,100 in March 2020 to 227,400 in March 2021. Some of the drop occurred as seniors temporarily withdrew from the labor force because of fear of Covid-19 exposure. Much of the drop was more permanent as some people retired early. The Census Bureau's Household Pulse Survey conducted March 17 through March 29 found 16,590 Idahoans decided to apply earlier than expected for Social Security benefits because of the COVID-19 pandemic.

Some workers dropped out of the Idaho labor force during the last year because of child or elder care issues. Microdata from the March 2021 Current Population Survey found that 5,169 Idahoans were not looking for work because of family responsibilities, compared with 2,087 in March 2020. Many of these individuals are staying home because of a lack of childcare or elder care. COVID-19 restrictions increased the costs of operating childcare centers, which already operated on thin profit margins, causing many childcare providers to go out of business. Lori Fascilla, executive director for Boise-based Giraffe Laugh Early Learning Centers, told the Idaho Statesman in early May more than 200 Idaho child-care providers closed last year. Many of those that remain open are finding it difficult to hire enough qualified staff to operate at full capacity. As a result, finding childcare has become increasingly difficult. The pandemic also reduced the number of people willing to provide care for the elderly in their homes, resulting in some family members becoming full-time caretakers.

### **Long-term demographic challenges**

There are more people reaching retirement age than there are youth to replace them. Despite Idaho's rapid population growth and relatively youthful demographics, the number of teens entering the labor force has grown much more slowly than the number of people entering their retirement years. While the number of 16-year-olds grew 18%, (+3,970), between 2000 and 2019, the number of 65-year-olds grew 146% (+12,930),

according to Census Bureau statistics. Half of Idaho's counties saw their population of people between 15 to 24 years of age drop between 2000 and 2019.

Idaho employers will also be spending more time addressing retirements than they did 20 years ago. In 1992, 10% of their employees were 55 years of age and older, compared with 22% for 2020.

Contributing to the challenges posed by demographics is a decrease in youth's willingness to participate in the labor force. The 2000 Census found 55.7% of Idaho's 16-to-19 age group participated in the labor force. By 2019, according to the Census's American Community Survey, their participation rate dropped to 46.9%.

## **Other factors**

The rapid rise in housing costs — both rents and home purchases — is exacerbating Idaho's dearth of affordable housing, making it harder to attract new workers to the state.

A reduction in international migration into Idaho also may affect employers' efforts to fill jobs. In the era around 2005, when Idaho's economy also was growing at a feverish pace, a surge of immigrants from Central America helped fill some of the labor gaps, especially in the construction industry. For a few years, net international migration added about 2,700 people a year to Idaho's population. The severe recession roiling the labor market from 2009 to 2012 reduced international migration. From 2010 to 2018, net international migration added about 2,000 people a year to Idaho's population, according to the Census Bureau. Restrictions on migration caused it to drop sharply between 2018 and 2019, falling to only 170. The pandemic is likely to have brought the flow to a trickle, as it did for the nation. These in-migration numbers represent only the tip of the iceberg, since most foreign nationals that come to Idaho to work move from other states.

## **How long will labor markets be tight?**

If labor shortages persist at their current intensity, they could hamper economic growth. They also will likely add to the inflation caused by rising raw material costs, supply chain disruptions, and logistics bottlenecks. Many employers already are raising wages and expanding benefits as they bid for workers. Fortunately, some of the factors contributing to the current intensity are temporary and likely to work themselves out in the next few months—as more people become vaccinated, special benefit programs run out and availability of child and elder care improves. On the other hand, some of the current difficulties are likely to persist because of long-term demographic challenges. Most employers will be forced to spend more time and resources — attracting new workers and keeping existing workers.

## **What is Idaho doing to help connect employers and job seekers?**

There are many programs available to help provide job seekers who need training. The Idaho Department of Labor has programs from apprenticeships to services for veterans to youth training programs such as Job Corps. Learn more about services in this [video](#). [Idaho Launch](#) connects job seekers with Labor workforce consultants who can provide information on possible training funds available to job seekers. The [Next Steps Idaho website](#) provides information on education and career opportunities as well. And Gov. Brad Little signed

a [memorandum of understanding \(MOU\)](#) with Western Governors University in June to expand degree programs available to Idahoans needing additional education.

– Kathryn Tacke, regional economist, Idaho Department of Labor

This entry was posted in [Employment News](#) and tagged [idaho department of labor](#), [Kathryn Tacke](#) on [July 27, 2021](#) [<https://idahoatwork.com/2021/07/27/why-idaho-employers-struggle-to-find-workers/>] by [Idaho Department of Labor](#).

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### **About Idaho Department of Labor**

Our vision is to be Idaho's first choice for employment services. We connect job seekers with Idaho employers, deliver employment services to Idaho businesses and support people during career and life transitions.

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