

Moved by McGee

Seconded by Hammond

IN THE SENATE
SENATE AMENDMENT TO H.B. NO. 297

AMENDMENT TO THE BILL

1
2 On page 1 of the printed bill, delete lines 10 through 41; delete page 2;
3 and on page 3, delete lines 1 through 6, and insert:

4 "SECTION 2. That Section 63-3029E, Idaho Code, be, and the same is
5 hereby repealed.

6 SECTION 3. That Section 63-3029F, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 63-3029F. SPECIAL CREDIT AVAILABLE -- NEW EMPLOYEES. (1) For the
9 period January 1, 2011, through December 31, 2013, aAny taxpayer rated em-
10 ployer under chapter 13, title 72, Idaho Code, that is not a governmental or
11 nonprofit entity shall be allowed a credit, in an amount determined under
12 subsection (23) of this section, against the tax imposed by this chapter,
13 other than the tax imposed by section 63-3082, Idaho Code, for any taxable
14 year during which the taxpayer's rated employer's employment of new employ-
15 ees, as defined under section 63-3029E(1), Idaho Code, increases above the
16 taxpayer's average employment for either: (a) the prior taxable year, or (b)
17 the average of three (3) prior taxable years, whichever is higher. No credit
18 shall be allowed under this section unless the number of new employees equals
19 or exceeds one (1) person. The new employee must have been hired on or after
20 April 15, 2011, received qualifying employer-provided health care benefits
21 as determined by the state tax commission and be employed in a county in the
22 state of Idaho with an unemployment rate based on the benchmarked annual un-
23 employment rate as determined by the department of labor on the date the new
24 employee was hired of:

25 (a) Ten percent (10%) or more at average annual earnings of twelve dol-
26 lars (\$12.00) or more per hour; or

27 (b) Less than ten percent (10%) at average annual earnings of fifteen
28 dollars (\$15.00) or more per hour.

29 (2) (a) The credit authorized in subsection (1) of this section shall
30 be:

31 (i) Five hundred dollars (\$500) per new employee described in
32 subsection (2) (d) of this section; or

33 (ii) One thousand dollars (\$1,000) per new employee described in
34 subsection (2) (c) of this section, but not both.

35 (b) The total credit allowed by this section shall not exceed three
36 and one-quarter percent (3.25%) of net income from the taxpayer's cor-
37 porate, proprietorship, partnership, small business corporation or
38 limited liability company trade or business in which the employment
39 occurred. Additionally, the total amount of this and all other credits

1 allowed under this chapter except for the credits allowed under section
 2 63-3029, Idaho Code, shall not exceed fifty percent (50%) of the tax li-
 3 ability of the taxpayer. The tax liability of the taxpayer shall be the
 4 tax after deducting the credit allowed by section 63-3029, Idaho Code.

5 ~~(c) The one thousand dollar (\$1,000) credit shall apply to an employee
 6 who, in the calendar year ending during the taxable year for which the
 7 credit is claimed, received annual earnings at an average rate of fif-
 8 teen dollars and fifty cents (\$15.50) or more per hour worked and who,
 9 during such calendar year, was eligible to receive employer provided
 10 coverage under an accident or health plan described in section 105 of
 11 the Internal Revenue Code.~~

12 ~~(d) The five hundred dollar (\$500) credit shall apply to an employee
 13 not described in subsection (2) (c) of this section and who is employed
 14 in a revenue-producing enterprise as defined in section 63-3029E, Idaho
 15 Code~~ As used in this section:

16 (a) The term "new employee" means a person subject to Idaho income tax
 17 withholding whether or not any amounts are required to be withheld,
 18 employed by the taxpayer in a trade or business and covered for unem-
 19 ployment insurance purposes under chapter 13, title 72, Idaho Code,
 20 during the taxable year for which the credit allowed by this section is
 21 claimed. A person shall be deemed to be so engaged if such person per-
 22 forms duties on:

23 (i) A regular full-time basis; or

24 (ii) A part-time basis if such person is customarily performing
 25 such duties at least twenty (20) hours per week.

26 No credit shall be earned unless the new employee shall have performed
 27 such duties for the taxpayer for a minimum qualifying period of nine (9)
 28 consecutive months with any part of the qualifying period ending during
 29 the taxable year for which the credit is claimed.

30 (b) The provisions of paragraph (a) of this subsection notwithstand-
 31 ing, no credit shall be allowed for employment of persons by a taxpayer
 32 who acquires a trade or business from another taxpayer or who operates
 33 in a place of business the same or substantially identical trade or
 34 business as operated by another taxpayer within the prior twelve (12)
 35 months, except as the prior taxpayer would have qualified under the
 36 provisions of paragraph (c) of this subsection. Employees transferred
 37 from a related taxpayer shall not be included in the computation of the
 38 credit.

39 (c) The number of employees during any taxable year for any taxpayer
 40 shall be the mathematical average of the number of employees reported to
 41 the Idaho department of labor for employment security purposes during
 42 the twelve (12) months of the taxable year which qualified under para-
 43 graph (a) of this subsection. In the event the business is in operation
 44 for less than the entire taxable year, the number of employees of the
 45 business for the year shall be the average number actually employed dur-
 46 ing the months of operation, providing that the qualifications of para-
 47 graph (a) of this subsection are met.

48 (d) "Same or a substantially identical trade or business" means a trade
 49 or business in which the products produced or sold, or the activities
 50 conducted are the same in character and use and are produced, sold or

1 conducted in the same manner as, or for the same types of customers as,
2 the products or activities produced, sold or conducted in another trade
3 or business.

4 (e) The term "positive-rated employer" means an employer under the em-
5 ployment security law with a taxable wage rate that is less than the wage
6 rate assigned to standard-rated employers as determined by the director
7 of the department of labor according to section 72-1350, Idaho Code.

8 (f) The term "standard-rated employer" means an employer under the em-
9 ployment security law assigned a standard taxable wage rate by the di-
10 rector of the department of labor according to section 72-1350, Idaho
11 Code.

12 (g) The term "deficit-rated employer" means an employer under the em-
13 ployment security law with a taxable wage rate that is higher than the
14 wage rate assigned to standard-rated employers as determined by the di-
15 rector of the department of labor according to section 72-1350, Idaho
16 Code.

17 (3) If the sum of the credit carryovers from the credit allowed by sub-
18 section (2) of this section and the amount of credit for the taxable year from
19 the credit allowed by subsection (2) of this section exceed the limitation
20 imposed by subsection (2) of this section for the current taxable year, the
21 excess attributable to the current taxable year's credit shall be a credit
22 carryover to the three (3) succeeding taxable years. The entire amount of
23 unused credit shall be carried forward to the earliest of the succeeding
24 years, wherein the oldest available unused credit shall be used first, so
25 long as the employment level for which the credit was granted is still main-
26 tained. For positive-rated employers the credit authorized in subsection (1)
27 of this section shall be six percent (6%) of the gross salary paid to the el-
28 igible new employee during the initial twelve (12) months of employment and
29 claimed during the qualifying taxable year. For standard-rated employers
30 the credit authorized in subsection (1) of this section shall be four percent
31 (4%) of the gross salary paid to the eligible new employee during the initial
32 twelve (12) months of employment and claimed during the qualifying taxable
33 year. For deficit-rated employers the credit authorized in subsection (1)
34 of this section shall be two percent (2%) of the gross salary paid to the
35 eligible new employee during the initial twelve (12) months of employment
36 and claimed during the qualifying taxable year. If the credit authorized by
37 this section exceeds the tax liability of the taxpayer, the excess shall be
38 refunded.

39 (4) To claim the credit, rated employers must attach to the employer's
40 income tax return the taxable wage rate notice issued by the department of
41 labor for the income tax year for which the credit is claimed.

42 (5) The state tax commission shall promulgate rules in compliance with
43 chapter 52, title 67, Idaho Code, to administer the provisions of this sec-
44 tion."

45 On page 3, in line 7, following "SECTION" delete "3" and insert: "4";
46 and on page 4, delete lines 5 through 9, and insert:

47 "SECTION 5. An emergency existing therefor, which emergency is hereby
48 declared to exist, this act shall be in full force and effect on and after
49 passage and approval, and retroactively to January 1, 2011. The provisions

1 of Sections 1 and 3 of this act shall be null, void and of no force and effect
2 on and after January 1, 2014."

3 CORRECTION TO TITLE

4 On page 1, in line 3, following "TITLE;" insert: "REPEALING SECTION
5 63-3029E, IDAHO CODE, RELATING TO DEFINITIONS AND CONSTRUCTION OF TERMS FOR
6 INCOME TAX CREDIT;"