

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 646

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1312, IDAHO
2 CODE, TO REDUCE THE AMOUNT OF BENEFITS PAID IN A COMPENSABLE WEEK BY THE
3 AMOUNT EQUAL TO COMPENSATION RECEIVED FOR LOSS OF WAGES UNDER A WORKER'S
4 COMPENSATION LAW OF ANY STATE OR UNDER A SIMILAR LAW OF THE UNITED STATES
5 AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-1351, IDAHO
6 CODE, TO PROVIDE THAT NO CHARGE SHALL BE MADE TO A COVERED EMPLOYER'S
7 ACCOUNT FOR BENEFITS PAID TO A WORKER WHO TURNS DOWN AN OFFER OF SUITABLE
8 WORK BECAUSE OF PARTICIPATION IN AN APPROVED JOB TRAINING PROGRAM AND TO
9 MAKE A TECHNICAL CORRECTION.
10

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

12 SECTION 1. That Section 72-1312, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 72-1312. COMPENSABLE WEEK. "Compensable week" means a week of
15 unemployment, all of which occurred within the benefit year, for which an
16 eligible claimant is entitled to benefits and during which:

17 (1) The claimant had either no work or less than full-time work; and

18 (2) No benefits have been paid to the claimant; and

19 (3) The claimant complied with all of the personal eligibility
20 conditions of section 72-1366, Idaho Code; and

21 (4) The total wages payable to the claimant for less than full-time
22 work performed in such week amounted to less than one and one-half (1 1/2)
23 times his weekly benefit amount; provided, however, that any benefits which
24 a claimant receives for any week shall be reduced by:

25 (a) An amount equal to the amount received as pension, retirement pay,
26 annuity, or any other similar payment which is based on the previous
27 work of such individual which is reasonably attributable to such week,
28 if the payment is made under a plan maintained or contributed to by the
29 base period employer and the claimant has made no contributions to the
30 plan;

31 (b) An amount equal to compensation received for loss of wages under
32 a worker's compensation law of any state or under a similar law of the
33 United States; and

34 (5) All of which occurred after a waiting week as defined in section
35 72-1329, Idaho Code.

36 SECTION 2. That Section 72-1351, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 72-1351. EXPERIENCE RATING AND VOLUNTARY TRANSFERS OF EXPERIENCE
39 RATING ACCOUNTS. (1) Subject to the other provisions of this chapter, each
40 eligible and deficit employer's, except cost reimbursement employers,

1 taxable wage rate shall be determined in the manner set forth below for each
2 calendar year:

3 (a) (i) Each eligible employer shall be given an "experience factor"
4 which shall be the ratio of excess of contributions over benefits
5 paid on the employer's account since December 31, 1939, to his
6 average annual taxable payroll rounded to the next lower dollar
7 amount for the four (4) fiscal years immediately preceding the
8 computation date, except that when an employer first becomes
9 eligible, his "experience factor" will be computed on his average
10 annual taxable payroll for the two (2) fiscal years or more, but
11 not to exceed four (4) fiscal years, immediately preceding the
12 computation date. The computation of such "experience factor"
13 shall be to six (6) decimal places.

14 (ii) Each deficit employer shall be given a "deficit experience
15 factor" which shall be the ratio of excess of benefits paid on the
16 employer's account over contributions since December 31, 1939,
17 to his average annual taxable payroll rounded to the next lower
18 dollar amount for one (1) or more fiscal years, but not to exceed
19 four (4) fiscal years, for which he had covered employment ending
20 on the computation date; provided, however, that any employer
21 who on any computation date has a "deficit experience factor"
22 for the period immediately preceding such computation date but
23 who has filed all reports, paid all contributions and penalties
24 due on or before the cut-off date, and has during the last four
25 (4) fiscal years paid contributions at a rate of not less than
26 the standard rate applicable for each such year and in excess of
27 benefits charged to his experience rating account during such
28 years, shall have any balance of benefits charged to his account
29 which on the computation date immediately preceding such four (4)
30 fiscal years ~~were~~ was in excess of contributions paid, deleted
31 from his account, and the excess benefits so deleted shall not be
32 considered in the computation of his taxable wage rate for the
33 rate years following such four (4) fiscal years. For the rate year
34 following such computation date, he shall be given the standard
35 rate for that year.

36 (iii) In the event an employer's coverage has been terminated
37 because he has ceased to do business or because he has not had
38 covered employment for a period of four (4) years, and if said
39 employer thereafter becomes a covered employer, he will be
40 considered as though he were a new employer, and he shall not be
41 credited with his previous experience under this chapter for the
42 purpose of computing any future "experience factor."

43 (b) Schedules shall be prepared listing all eligible employers in
44 inverse numerical order of their experience factors, and all deficit
45 employers in numerical order of their deficit experience factors.
46 There shall be listed on such schedules for each such employer in
47 addition to the experience factor: (i) the amount of his taxable
48 payroll for the fiscal year ending on the computation date, and (ii)
49 a cumulative total consisting of the sum of such employer's taxable
50 payroll for the fiscal year ending on the computation date and the

1 corresponding taxable payrolls for all other employers preceding him on
2 such schedules.

3 (c) The cumulative taxable payroll amounts listed on the schedules
4 provided for in paragraph (b) of this subsection shall be segregated
5 into groups whose limits shall be those set out in the table provided in
6 section 72-1350(7), Idaho Code. Each of such groups shall be identified
7 by the rate class number listed in the table which represents the
8 percentage limits of each group. Each employer on the schedules shall
9 be assigned a taxable wage rate in accordance with section 72-1350,
10 Idaho Code.

11 (d) (i) If the grouping of rate classes requires the inclusion
12 of exactly one-half (1/2) of an employer's taxable payroll,
13 the employer shall be assigned the lower of the two (2) rates
14 designated for the two (2) classes in which the halves of his
15 taxable payroll are so required.

16 (ii) If the group of rate classes requires the inclusion of a
17 portion other than exactly one-half (1/2) of an employer's taxable
18 payroll, the employer shall be assigned the rate designated for
19 the class in which the greater part of his taxable payroll is so
20 required.

21 (iii) If one (1) or more employers on the schedules have experience
22 factors identical to that of the last employer included in a
23 particular rate class, all such employers shall be included
24 in and assigned the taxable wage rate specified for such
25 class, notwithstanding the provisions of paragraph (c) of this
26 subsection.

27 (e) If the taxable payroll amount or the experience factor or both
28 such taxable payroll amount and experience factor of any eligible or
29 deficit employer listed on the schedules is changed, the employer shall
30 be placed in that position on the schedules which he would have occupied
31 had his taxable payroll amount and/or experience factor as changed
32 been used in determining his position in the first instance, but such
33 change shall not affect the position or rate classification of any
34 other employer listed on the schedules and shall not affect the rate
35 determination for previous years.

36 (2) For experience rating purposes, all previously accumulated
37 benefit charges to covered employers' accounts, except cost reimbursement
38 employers, shall not be changed except as provided in this chapter. Benefits
39 paid prior to June 30 shall, as of June 30 of each year preceding the calendar
40 year for which a covered employer's taxable wage rate is effective, be
41 charged to the account of the covered employer, except cost reimbursement
42 employers, who paid the largest individual amount of base period wages
43 as shown on the determination used as the basis for the payment of such
44 benefits, except that no charge shall be made to the account of such covered
45 employer with respect to benefits paid under the following situations:

46 (a) If paid to a worker who terminated his services voluntarily without
47 good cause attributable to such covered employer, or who had been
48 discharged for misconduct in connection with such services;

49 (b) If paid in accordance with the provisions of section 72-1368(10),
50 Idaho Code, and the decision to pay benefits is subsequently reversed;

1 (c) For that portion of benefits paid to multistate claimants pursuant
2 to section 72-1344, Idaho Code, which exceeds the amount of benefits
3 that would have been charged had only Idaho wages been used in paying the
4 claim;

5 (d) If paid in accordance with the extended benefit program triggered
6 by either national or state indicators;

7 (e) If paid to a worker who continues to perform services for such
8 covered employer without a reduction in his customary work schedule,
9 and who is eligible to receive benefits due to layoff or a reduction in
10 earnings from another employer;

11 (f) If paid to a worker who turns down an offer of suitable work because
12 of participation in a job training program pursuant to the requirements
13 of section 72-1366(8), Idaho Code.

14 (3) A covered employer whose experience rating account is chargeable,
15 as prescribed by this section, is an interested party as defined in section
16 72-1323, Idaho Code. A determination of chargeability shall become final
17 unless, within fourteen (14) days after notice as provided in section
18 72-1368(5), Idaho Code, an appeal is filed by an interested party with the
19 department in accordance with the department's rules.

20 (4) An experience rating record shall be maintained for each covered
21 employer. The record shall be credited with all contributions which the
22 covered employer has paid for covered employment prior to the cut-off date,
23 pursuant to the provisions of this and preceding acts, and which covered
24 employment occurred prior to the computation date. The record shall also
25 be charged with the amount of benefits paid which are chargeable to the
26 covered employer's account as provided by the appropriate provisions of the
27 employment security law and regulations thereunder in effect at the time
28 such benefits were paid. Nothing in this section shall be construed to grant
29 any covered employer or individual in his service a priority with respect to
30 any claim or right because of amounts paid by such covered employer into the
31 employment security fund.

32 (5) (a) Whenever any individual or type of organization, whether or
33 not a covered employer within the meaning of section 72-1315, Idaho
34 Code, in any manner succeeds to, or acquires all or substantially all,
35 of the business of an employer who at the time of acquisition was a
36 covered employer, and in respect to whom the director finds that the
37 business of the predecessor is continued solely by the successor, the
38 separate experience rating account of the predecessor shall, upon the
39 joint application of the predecessor and the successor within the one
40 hundred eighty (180) days after such acquisition and approval by the
41 director, be transferred to the successor employer for the purpose of
42 determining such successor's liability and taxable wage rate and any
43 successor who was not an employer on the date of acquisition shall as of
44 such date become a covered employer as defined in this chapter. Such one
45 hundred eighty (180) day period may be extended at the discretion of the
46 director.

47 (b) Whenever any individual or type of organization, whether or not
48 a covered employer within the meaning of section 72-1315, Idaho Code,
49 in any manner succeeds to, or acquires, part of the business of an
50 employer who at the time of acquisition was a covered employer, and

1 such portion of the business is continued by the successor, so much
2 of the separate experience rating account of the predecessor as is
3 attributable to the portion of the business transferred, as determined
4 on a pro rata basis in the same ratio that the wages of covered employees
5 properly allocable to the transferred portion of the business bears to
6 the payroll of the predecessor in the last four (4) completed calendar
7 quarters immediately preceding the date of transfer, shall, upon the
8 joint application of the predecessor and the successor within one
9 hundred eighty (180) days after such acquisition and approval by the
10 director, be transferred to the successor employer for the purpose of
11 determining such successor's liability and taxable wage rate and any
12 successor who was not an employer on the date of acquisition shall as of
13 such date become a covered employer as defined in this chapter. Such one
14 hundred eighty (180) day period may be extended at the discretion of the
15 director.

16 (c) (i) If the successor was a covered employer prior to the date of
17 the acquisition of all or a part of the predecessor's business his
18 taxable wage rate, effective the first day of the calendar quarter
19 immediately following the date of acquisition, shall be a newly
20 computed rate based on the combined experience of the predecessor
21 and successor, the resulting rate remaining in effect the balance
22 of the rate year.

23 (ii) If the successor was not a covered employer prior to the
24 date of the acquisition of all or a part of the predecessor's
25 business, his rate shall be the rate applicable to the predecessor
26 with respect to the period immediately preceding the date of
27 acquisition, but if there were more than one (1) predecessor
28 the successor's rate shall be a newly computed rate based on the
29 combined experience of the predecessors, becoming effective
30 immediately after the date of acquisition, and shall remain in
31 effect the balance of the rate year.

32 (d) For purposes of this section, an employer's experience rating
33 account shall consist of the actual contribution, benefit and taxable
34 payroll experience of the employer and any amounts due from the employer
35 under this chapter. When a transferred experience rating account
36 includes amounts due from the employer under this chapter, both the
37 predecessor employer and the successor employer shall be jointly and
38 severally liable for those amounts.