

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 646, As Amended

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 TEMPORARY DISABILITY BENEFITS RECEIVED 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 unem-  
15 ployment, all of which occurred within the benefit year, for which an eli-  
16 gible 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 condi-  
20 tions 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 temporary disability benefits received 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 RAT-  
39 ING ACCOUNTS. (1) Subject to the other provisions of this chapter, each eli-  
40 gible and deficit employer's, except cost reimbursement employers, taxable

1 wage rate shall be determined in the manner set forth below for each calendar  
2 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, to  
17 his average annual taxable payroll rounded to the next lower dol-  
18 lar amount for one (1) or more fiscal years, but not to exceed four  
19 (4) fiscal years, for which he had covered employment ending on the  
20 computation date; provided, however, that any employer who on any  
21 computation date has a "deficit experience factor" for the period  
22 immediately preceding such computation date but who has filed all  
23 reports, paid all contributions and penalties due on or before the  
24 cut-off date, and has during the last four (4) fiscal years paid  
25 contributions at a rate of not less than the standard rate appli-  
26 cable for each such year and in excess of benefits charged to his  
27 experience rating account during such years, shall have any bal-  
28 ance of benefits charged to his account which on the computation  
29 date immediately preceding such four (4) fiscal years ~~were~~ was in  
30 excess of contributions paid, deleted from his account, and the  
31 excess benefits so deleted shall not be considered in the compu-  
32 tation of his taxable wage rate for the rate years following such  
33 four (4) fiscal years. For the rate year following such computa-  
34 tion date, he shall be given the standard rate for that year.

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

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

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

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

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

19 (iii) If one (1) or more employers on the schedules have experi-  
20 ence factors identical to that of the last employer included in a  
21 particular rate class, all such employers shall be included in and  
22 assigned the taxable wage rate specified for such class, notwith-  
23 standing the provisions of paragraph (c) of this subsection.

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

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

43 (a) If paid to a worker who terminated his services voluntarily without  
44 good cause attributable to such covered employer, or who had been dis-  
45 charged for misconduct in connection with such services;

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

48 (c) For that portion of benefits paid to multistate claimants pursuant  
49 to section 72-1344, Idaho Code, which exceeds the amount of benefits

1 that would have been charged had only Idaho wages been used in paying the  
2 claim;

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

5 (e) If paid to a worker who continues to perform services for such cov-  
6 ered employer without a reduction in his customary work schedule, and  
7 who is eligible to receive benefits due to layoff or a reduction in earn-  
8 ings from another employer;

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

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

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

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

45 (b) Whenever any individual or type of organization, whether or not a  
46 covered employer within the meaning of section 72-1315, Idaho Code, in  
47 any manner succeeds to, or acquires, part of the business of an employer  
48 who at the time of acquisition was a covered employer, and such portion  
49 of the business is continued by the successor, so much of the separate  
50 experience rating account of the predecessor as is attributable to the

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

13 (c) (i) If the successor was a covered employer prior to the date of the  
14 acquisition of all or a part of the predecessor's business his tax-  
15 able wage rate, effective the first day of the calendar quarter im-  
16 mediately following the date of acquisition, shall be a newly com-  
17 puted rate based on the combined experience of the predecessor and  
18 successor, the resulting rate remaining in effect the balance of  
19 the rate year.

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

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