

IN THE SENATE

SENATE BILL NO. 1017

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1351, IDAHO CODE,
2 TO PROVIDE THAT BENEFITS PAID TO A CLAIMANT TERMINATED BECAUSE THEIR EM-
3 PLOYER WAS CALLED TO ACTIVE MILITARY DUTY SHALL NOT BE USED AS A FACTOR
4 IN DETERMINING THE TAXABLE WAGE RATE OF THE EMPLOYER.
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6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 72-1351, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 72-1351. EXPERIENCE RATING AND VOLUNTARY TRANSFERS OF EXPERIENCE RAT-
10 ING ACCOUNTS. (1) Subject to the other provisions of this chapter, each eli-
11 gible and deficit employer's, except cost reimbursement employers, taxable
12 wage rate shall be determined in the manner set forth below for each calendar
13 year:

14 (a) (i) Each eligible employer shall be given an "experience factor"
15 which shall be the ratio of excess of contributions over benefits
16 paid on the employer's account since December 31, 1939, to his
17 average annual taxable payroll rounded to the next lower dollar
18 amount for the four (4) fiscal years immediately preceding the
19 computation date, except that when an employer first becomes el-
20 igible, his "experience factor" will be computed on his average
21 annual taxable payroll for the two (2) fiscal years or more, but
22 not to exceed four (4) fiscal years, immediately preceding the
23 computation date. The computation of such "experience factor"
24 shall be to six (6) decimal places.

25 (ii) Each deficit employer shall be given a "deficit experience
26 factor" which shall be the ratio of excess of benefits paid on the
27 employer's account over contributions since December 31, 1939, to
28 his average annual taxable payroll rounded to the next lower dol-
29 lar amount for one (1) or more fiscal years, but not to exceed four
30 (4) fiscal years, for which he had covered employment ending on the
31 computation date; provided, however, that any employer who on any
32 computation date has a "deficit experience factor" for the period
33 immediately preceding such computation date but who has filed all
34 reports, paid all contributions and penalties due on or before the
35 cut-off date, and has during the last four (4) fiscal years paid
36 contributions at a rate of not less than the standard rate applica-
37 ble for each such year and in excess of benefits charged to his ex-
38 perience rating account during such years, shall have any balance
39 of benefits charged to his account which on the computation date
40 immediately preceding such four (4) fiscal years was in excess of
41 contributions paid, deleted from his account, and the excess ben-
42 efits so deleted shall not be considered in the computation of his

1 taxable wage rate for the rate years following such four (4) fiscal
2 years. For the rate year following such computation date, he shall
3 be given the standard rate for that year.

4 (iii) In the event an employer's coverage has been terminated be-
5 cause he has ceased to do business or because he has not had covered
6 employment for a period of four (4) years, and if said employer
7 thereafter becomes a covered employer, he will be considered as
8 though he were a new employer, and he shall not be credited with his
9 previous experience under this chapter for the purpose of comput-
10 ing any future "experience factor."

11 (iv) Benefits paid to a claimant whose employment terminated be-
12 cause the claimant's employer was called to active military duty
13 shall not be used as a factor in determining the taxable wage rate
14 of that employer.

15 (b) Schedules shall be prepared listing all eligible employers in in-
16 verse numerical order of their experience factors, and all deficit em-
17 ployers in numerical order of their deficit experience factors. There
18 shall be listed on such schedules for each such employer in addition to
19 the experience factor: (i) the amount of his taxable payroll for the
20 fiscal year ending on the computation date, and (ii) a cumulative total
21 consisting of the sum of such employer's taxable payroll for the fiscal
22 year ending on the computation date and the corresponding taxable pay-
23 rolls for all other employers preceding him on such schedules.

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

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

37 (ii) If the group of rate classes requires the inclusion of a por-
38 tion other than exactly one-half (1/2) of an employer's taxable
39 payroll, the employer shall be assigned the rate designated for
40 the class in which the greater part of his taxable payroll is so re-
41 quired.

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

47 (e) If the taxable payroll amount or the experience factor or both
48 such taxable payroll amount and experience factor of any eligible or
49 deficit employer listed on the schedules is changed, the employer shall
50 be placed in that position on the schedules which he would have occu-

1 pied had his taxable payroll amount and/or experience factor as changed
2 been used in determining his position in the first instance, but such
3 change shall not affect the position or rate classification of any other
4 employer listed on the schedules and shall not affect the rate determi-
5 nation for previous years.

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

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

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

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

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

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

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

34 (3) A covered employer whose experience rating account is chargeable,
35 as prescribed by this section, is an interested party as defined in sec-
36 tion 72-1323, Idaho Code. A determination of chargeability shall become
37 final unless, within fourteen (14) days after notice as provided in section
38 72-1368(5), Idaho Code, an appeal is filed by an interested party with the
39 department in accordance with the department's rules.

40 (4) An experience rating record shall be maintained for each covered
41 employer. The record shall be credited with all contributions which the cov-
42 ered employer has paid for covered employment prior to the cut-off date, pur-
43 suant to the provisions of this and preceding acts, and which covered em-
44 ployment occurred prior to the computation date. The record shall also be
45 charged with the amount of benefits paid which are chargeable to the cov-
46 ered employer's account as provided by the appropriate provisions of the em-
47 ployment security law and regulations thereunder in effect at the time such
48 benefits were paid. Nothing in this section shall be construed to grant any
49 covered employer or individual in his service a priority with respect to any

1 claim or right because of amounts paid by such covered employer into the em-
2 ployment security fund.

3 (5) (a) Whenever any individual or type of organization, whether or not
4 a covered employer within the meaning of section 72-1315, Idaho Code,
5 in any manner succeeds to, or acquires all or substantially all, of the
6 business of an employer who at the time of acquisition was a covered
7 employer, and in respect to whom the director finds that the business
8 of the predecessor is continued solely by the successor, the separate
9 experience rating account of the predecessor shall, upon the joint ap-
10 plication of the predecessor and the successor within the one hundred
11 eighty (180) days after such acquisition and approval by the director,
12 be transferred to the successor employer for the purpose of determin-
13 ing such successor's liability and taxable wage rate and any successor
14 who was not an employer on the date of acquisition shall as of such date
15 become a covered employer as defined in this chapter. Such one hundred
16 eighty (180) day period may be extended at the discretion of the direc-
17 tor.

18 (b) Whenever any individual or type of organization, whether or not a
19 covered employer within the meaning of section 72-1315, Idaho Code, in
20 any manner succeeds to, or acquires, part of the business of an employer
21 who at the time of acquisition was a covered employer, and such portion
22 of the business is continued by the successor, so much of the separate
23 experience rating account of the predecessor as is attributable to the
24 portion of the business transferred, as determined on a pro rata basis
25 in the same ratio that the wages of covered employees properly allocable
26 to the transferred portion of the business bears to the payroll of the
27 predecessor in the last four (4) completed calendar quarters immedi-
28 ately preceding the date of transfer, shall, upon the joint application
29 of the predecessor and the successor within one hundred eighty (180)
30 days after such acquisition and approval by the director, be trans-
31 ferred to the successor employer for the purpose of determining such
32 successor's liability and taxable wage rate and any successor who was
33 not an employer on the date of acquisition shall as of such date become
34 a covered employer as defined in this chapter. Such one hundred eighty
35 (180) day period may be extended at the discretion of the director.

36 (c) (i) If the successor was a covered employer prior to the date of the
37 acquisition of all or a part of the predecessor's business his tax-
38 able wage rate, effective the first day of the calendar quarter im-
39 mediately following the date of acquisition, shall be a newly com-
40 puted rate based on the combined experience of the predecessor and
41 successor, the resulting rate remaining in effect the balance of
42 the rate year.

43 (ii) If the successor was not a covered employer prior to the date
44 of the acquisition of all or a part of the predecessor's business,
45 his rate shall be the rate applicable to the predecessor with re-
46 spect to the period immediately preceding the date of acquisition,
47 but if there were more than one (1) predecessor the successor's
48 rate shall be a newly computed rate based on the combined expe-
49 rience of the predecessors, becoming effective immediately after

1 the date of acquisition, and shall remain in effect the balance of
2 the rate year.

3 (d) For purposes of this section, an employer's experience rating ac-
4 count shall consist of the actual contribution, benefit and taxable
5 payroll experience of the employer and any amounts due from the employer
6 under this chapter. When a transferred experience rating account
7 includes amounts due from the employer under this chapter, both the
8 predecessor employer and the successor employer shall be jointly and
9 severally liable for those amounts.