

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.