

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 485

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE EMPLOYMENT SECURITY ACT; AMENDING SECTION 72-1350, IDAHO
2 CODE, TO REMOVE OBSOLETE LANGUAGE, TO REVISE TERMINOLOGY AND TO REVISE
3 PROVISIONS REGARDING THE BASE TAX RATE; AMENDING SECTION 72-1367, IDAHO
4 CODE, TO REVISE PROVISIONS REGARDING THE BENEFIT FORMULA AND TO REVISE
5 PROVISIONS REGARDING MAXIMUM WEEKS OF BENEFIT ENTITLEMENT; AND AMEND-
6 ING SECTION 72-1372, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY.
7

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

9 SECTION 1. That Section 72-1350, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 72-1350. TAXABLE WAGE BASE AND TAXABLE WAGE RATES. (1) All remunera-
12 tion for personal services as defined in section 72-1328, Idaho Code, equal
13 to the average annual wage in covered employment for the penultimate calen-
14 dar year, rounded to the nearest multiple of one hundred dollars (\$100), or
15 the amount of taxable wage base specified in the federal unemployment tax
16 act, whichever is higher, shall be the taxable wage base for purposes of this
17 chapter.

18 (2) Prior to December 31 of each year, the director shall determine the
19 taxable wage rates for the following calendar year for all covered employ-
20 ers, except cost reimbursement employers, in accordance with this section,
21 ~~provided however, and notwithstanding any other provision of the employment~~
22 ~~security law to the contrary, for calendar years 2005 and 2006, the taxable~~
23 ~~wage rates for all covered employers except cost reimbursement employers~~
24 ~~shall be determined as follows:~~

25 ~~(a) For calendar year 2005, the taxable wage rate shall be determined~~
26 ~~using a base tax rate of one and fifty hundredths percent (1.50%);~~

27 ~~(b) For calendar year 2006, the taxable wage rate shall be determined~~
28 ~~using a base tax rate of one and sixty-seven hundredths percent (1.67%)~~
29 ~~unless, at any time prior to September 30, 2005, the actual balance in~~
30 ~~the employment security fund, section 72-1346, Idaho Code, is fifty~~
31 ~~percent (50%) or less than the actual balance in the reserve fund, sec-~~
32 ~~tion 72-1347A, Idaho Code, in which case the taxable wage rate shall be~~
33 ~~determined using a base tax rate calculated in accordance with subsec-~~
34 ~~tion (5) of this section.~~

35 (3) An average high cost ratio shall be determined by calculating the
36 average of the three (3) highest benefit cost rates in the twenty (20) year
37 period ending with the preceding year. For the purposes of this section, the
38 "benefit cost rate" is the total annual benefits paid, including the state's
39 share of extended benefits but excluding the federal share of extended ben-
40 efits and cost reimbursable benefits, divided by the total annual covered
41 wages excluding cost reimbursable wages. The resulting average high cost
42 ratio is multiplied by the desired fund size multiplier and the result, for

1 the purposes of this section, is referred to as the "average high cost multi-
 2 ple" (AHCM). The desired fund size multiplier shall be eight tenths (0.8) and
 3 shall increase to nine tenths (0.9) on and after January 1, 2012; to one (1)
 4 on and after January 1, 2013; to one and one-tenth (1.1) on and after January
 5 1, 2014; to one and two-tenths (1.2) on and after January 1, 2015; to one and
 6 three-tenths (1.3) on and after January 1, 2016; to one and four-tenths (1.4)
 7 on and after January 1, 2017; and to one and five-tenths (1.5) on and after
 8 January 1, 2018.

9 (4) The fund balance ratio shall be determined by dividing the actual
 10 balance of the employment security fund, section 72-1346, Idaho Code, and
 11 the reserve fund, section 72-1347A, Idaho Code, on September 30 of the cur-
 12 rent calendar year by the wages paid by all covered employers in Idaho, ex-
 13 cept cost reimbursement employers, in the preceding calendar year.

14 (5) The base tax rate shall be determined as follows:

15 (a) Divide the fund balance ratio by the AHCM;

16 (b) Subtract the quotient obtained from the calculation in paragraph
 17 ~~(5) (a) of this section subsection~~ from the number two (2);

18 (c) Multiply the remainder obtained from the calculation in paragraph
 19 ~~(5) (b) of this section subsection~~ by two and one-tenth percent (2.1%).
 20 The product obtained from this calculation shall equal the base tax
 21 rate, provided however, that the base tax rate shall not be less than
 22 ~~sixty-three hundredths~~ six-tenths percent (0.63%) and shall not exceed
 23 three and ~~thirty-six hundredths~~ four-tenths percent (3.364%).

24 (6) The base tax rate calculated in accordance with subsection (5) of
 25 this section shall be used to determine the taxable wage rate effective the
 26 following calendar year for all covered employers except cost reimbursement
 27 employers as provided in subsections (7) and (8) of this section.

28 (7) Table of Rate Classes, Tax Factors and Minimum and Maximum Taxable
 29 Wage Rates:

30	Cumulative Taxable Payroll Limits			Eligible Employers		
	31	More Than	Equal to	32	Minimum	Maximum
32		(% of	or Less Than	33	Taxable	Taxable
33	Rate	Taxable	(% of Taxable	34	Wage	Wage
34	Class	Payroll)	Payroll)	35	Rate	Rate
35	1	--	12	0.2857	0.180%	0.960%
36	2	12	24	0.4762	0.300%	1.600%
37	3	24	36	0.5714	0.360%	1.920%
38	4	36	48	0.6667	0.420%	2.240%
39	5	48	60	0.7619	0.480%	2.560%
40	6	60	72	0.8571	0.540%	2.880%
41	7	72	--	0.9524	0.600%	3.200%

42

Standard-Rated Employers		
43	Minimum	Maximum
44	Taxable	Taxable

1		Tax	Wage	Wage
2		Factor	Rate	Rate
3		1.000	1.000%	3.3604%

4	Cumulative Taxable Payroll Limits			Deficit Employers		
5	More Than	Equal to		Minimum	Maximum	
6	(% of	or Less Than		Taxable	Taxable	
7	Rate	(% of Taxable	Tax	Wage	Wage	
8	Class	Payroll)	Factor	Rate	Rate	
9	-1	--	30	1.7143	1.080%	4.800%
10	-2	30	50	1.9048	1.200%	5.200%
11	-3	50	65	2.0952	1.320%	5.600%
12	-4	65	80	2.2857	1.440%	6.000%
13	-5	80	95	2.6667	1.680%	6.400%
14	-6	95	--	2.6667	5.400%	6.800%

15 (8) Each covered employer, except cost reimbursement employers, will
 16 be assigned a taxable wage rate and a contribution rate as follows:

17 (a) Each employer, except standard-rated employers, will be assigned
 18 to one (1) of the rate classes for eligible and deficit employers pro-
 19 vided in subsection (7) of this section based upon the employer's
 20 experience as determined under the provisions of sections 72-1319,
 21 72-1319A, 72-1351 and 72-1351A, Idaho Code.

22 (b) For each rate class provided in subsection (7) of this section, the
 23 department will multiply the base tax rate determined in accordance
 24 with subsection (5) of this section by the tax factor listed for that
 25 rate class in the table provided in subsection (7) of this section. The
 26 product obtained from this calculation shall be the taxable wage rate
 27 for employers assigned to that rate class, provided however, that the
 28 taxable wage rate shall not be less than the minimum taxable wage rate
 29 assigned to that rate class and shall not exceed the maximum taxable
 30 wage rate assigned to that rate class in the table provided in subsec-
 31 tion (7) of this section.

32 (c) For standard-rated employers, the department will multiply the
 33 base tax rate determined in accordance with subsection (5) of this sec-
 34 tion by the tax factor listed for standard-rated employers in the table
 35 provided in subsection (7) of this section. The product obtained from
 36 this calculation shall be the taxable wage rate for standard-rated em-
 37 ployers, provided however, that the taxable wage rate shall not be less
 38 than the minimum taxable wage rate assigned to standard-rated employers
 39 and shall not exceed the maximum taxable wage rate assigned to stan-
 40 dard-rated employers in the table provided in subsection (7) of this
 41 section.

42 (d) Deficit employers who have been assigned a taxable wage rate from
 43 deficit rate class six will be assigned contribution rates equal to
 44 their taxable wage rate.

1 (e) All other eligible, standard-rated and deficit employers will be
 2 assigned contribution rates equal to ninety-seven percent (97%) of
 3 their taxable wage rate. Provided however, that for each calendar year
 4 a reserve tax is imposed pursuant to section 72-1347A, Idaho Code, the
 5 contribution rates for employers assigned contribution rates pursuant
 6 to this paragraph shall be eighty percent (80%) of their taxable wage
 7 rate.

8 (9) Each employer shall be notified of his taxable wage rate as deter-
 9 mined for any calendar year pursuant to this section and section 72-1351,
 10 Idaho Code. Such determination shall become conclusive and binding upon the
 11 employer, unless within fourteen (14) days after delivery or mailing of the
 12 notice thereof to his last known address, the employer files an application
 13 for redetermination, setting forth his reasons therefor. Reconsideration
 14 shall be limited to transactions occurring subsequent to any previous de-
 15 termination which has become final. The employer shall be promptly notified
 16 of the redetermination, which shall become final unless an appeal is filed
 17 within fourteen (14) days after delivery or mailing of notice to his last
 18 known address. Proceedings on the appeal shall be in accordance with the
 19 provisions of section 72-1361, Idaho Code.

20 SECTION 2. That Section 72-1367, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 72-1367. BENEFIT FORMULA. (1) To be eligible an individual shall have
 23 the minimum qualifying amount of wages in covered employment in at least one
 24 (1) calendar quarter of his base period, and shall have total base period
 25 wages of at least one and one-quarter (1 1/4) times his high quarter wages.
 26 The minimum qualifying amount of wages shall be determined each January 1 and
 27 shall equal fifty percent (50%) of the product of the state minimum wage, as
 28 defined by section 44-1502, Idaho Code, multiplied by five hundred twenty
 29 (520) hours, rounded to the lowest multiple of twenty-six (26).

30 (2) The weekly benefit amount shall be one twenty-sixth (1/26) of high-
 31 est quarter wages except that it shall not exceed the applicable maximum
 32 weekly benefit amount. The maximum weekly benefit amount shall be estab-
 33 lished as follows:

34 ~~(a) For calendar year 2006 and the calendar years thereafter, prior to~~
 35 ~~December 31 of each year, by the director, who shall determine the state~~
 36 ~~average weekly wage paid by covered employers for the preceding calen-~~
 37 ~~dar year and the maximum weekly benefit amount to be effective for new~~
 38 ~~claims filed in the first full week of the following January and filed~~
 39 ~~thereafter until a new maximum weekly benefit amount becomes effective~~
 40 ~~under this subsection (2). The maximum weekly benefit amount shall be~~
 41 ~~determined based on the following table, using a percentage fifty-five~~
 42 ~~percent (55%) of the state average weekly wage paid by covered employ-~~
 43 ~~ers for the preceding calendar year and the base tax rate that has been~~
 44 ~~calculated for the following calendar year pursuant to section 72-1350,~~
 45 ~~Idaho Code:~~

46 ~~Maximum WBA Index~~

	Base Tax Rate	Average Weekly Wage
	At Least	Less Than
		Percentage
3	0.630%	60%
4	0.840%	59%
5	1.155%	58%
6	1.470%	57%
7	1.785%	56%
8	2.100%	55%
9	2.415%	54%
10	2.730%	53%
11	3.045%	52%

~~(b) Effective for new claims filed in the first full week of July 2005, and filed thereafter until the first full week of the following January, the maximum weekly benefit amount shall be fifty-seven percent (57%) of the state average weekly wage paid by covered employers for the preceding calendar year. Prior to December 31, 2005, the director shall determine, by using the table provided in subsection (2) (a) of this section, the maximum weekly benefit amount to be effective for new claims filed in the first full week of the following January and filed thereafter until a new maximum weekly benefit amount becomes effective under subsection (2) (a) of this section.~~

(3) Any eligible individual shall be entitled during any benefit year to a total amount of benefits equal to his weekly benefit amount times the number of full weeks of benefit entitlement appearing in the following table based on his ratio of total base period earnings to highest quarter base period earnings. The maximum weeks of entitlement are based on a sliding scale of the official forecasted, seasonally adjusted unemployment rate for the state for a minimum of ten (10) weeks to a maximum of twenty-six (26) weeks depending on the unemployment rate in effect for the months of February, May, August and November as follows:

(a) For any benefit week commencing in January through March of a calendar year, the maximum allowed number of benefit weeks shall be based on the unemployment rate for the preceding month of November;

(b) For any benefit week commencing in April through June of a calendar year, the maximum allowed number of benefit weeks shall be based on the unemployment rate for the preceding month of February;

(c) For any benefit week commencing in July through September of a calendar year, the maximum allowed number of benefit weeks shall be based on the unemployment rate for the preceding month of May; and

(d) For any benefit week commencing in October through December of a calendar year, the maximum allowed number of benefit weeks shall be based on the unemployment rate for the preceding month of August.

1	Ratio of Total Base Period		Full Weeks of Benefit Entitlement
2	Earnings to Highest Quarter		
3	Earnings		
4	At Least	Up To	
5	1.25	1.60	10
6	1.6001	1.80	11
7	1.8001	1.92	12
8	1.9201	2.01	13
9	2.0101	2.08	14
10	2.0801	2.14	15
11	2.1401	2.21	16
12	2.2101	2.29	17
13	2.2901	2.38	18
14	2.3801	2.49	19
15	2.4901	2.61	20
16	2.6101	2.75	21
17	2.7501	2.91	22
18	2.9101	3.10	23
19	3.1001	3.32	24
20	3.3201	3.56	25
21	3.5601	4.00	26

<u>Ratio of Total Base</u>		<u>Full Weeks of Benefit Entitlement Adjusted By the Unemployment Rate</u>							
<u>Period</u>									
<u>Earnings to Highest</u>									
<u>Quarter</u>									
<u>Earnings</u>									
<u>At Least</u>	<u>Up To</u>	<u>8% or</u>	<u>7% to</u>	<u>6% to</u>	<u>5% to</u>	<u>4% to</u>	<u>3% to</u>	<u>2.9% or</u>	
		<u>Higher</u>	<u>7.9%</u>	<u>6.9%</u>	<u>5.9%</u>	<u>4.9%</u>	<u>3.9%</u>	<u>Lower</u>	
8	<u>1.25</u>	<u>1.60</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>
9	<u>1.6001</u>	<u>1.80</u>	<u>11</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>
10	<u>1.8001</u>	<u>1.92</u>	<u>12</u>	<u>11</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>
11	<u>1.9201</u>	<u>2.01</u>	<u>13</u>	<u>12</u>	<u>11</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>
12	<u>2.0101</u>	<u>2.08</u>	<u>14</u>	<u>13</u>	<u>12</u>	<u>11</u>	<u>10</u>	<u>10</u>	<u>10</u>
13	<u>2.0801</u>	<u>2.14</u>	<u>15</u>	<u>14</u>	<u>13</u>	<u>12</u>	<u>11</u>	<u>10</u>	<u>10</u>
14	<u>2.1401</u>	<u>2.21</u>	<u>16</u>	<u>15</u>	<u>14</u>	<u>13</u>	<u>12</u>	<u>11</u>	<u>10</u>
15	<u>2.2101</u>	<u>2.29</u>	<u>17</u>	<u>16</u>	<u>15</u>	<u>14</u>	<u>13</u>	<u>12</u>	<u>11</u>
16	<u>2.2901</u>	<u>2.38</u>	<u>18</u>	<u>17</u>	<u>16</u>	<u>15</u>	<u>14</u>	<u>13</u>	<u>12</u>
17	<u>2.3801</u>	<u>2.49</u>	<u>19</u>	<u>18</u>	<u>17</u>	<u>16</u>	<u>15</u>	<u>14</u>	<u>13</u>
18	<u>2.4901</u>	<u>2.61</u>	<u>20</u>	<u>19</u>	<u>18</u>	<u>17</u>	<u>16</u>	<u>15</u>	<u>14</u>
19	<u>2.6101</u>	<u>2.75</u>	<u>21</u>	<u>20</u>	<u>19</u>	<u>18</u>	<u>17</u>	<u>16</u>	<u>15</u>
20	<u>2.7501</u>	<u>2.91</u>	<u>22</u>	<u>21</u>	<u>20</u>	<u>19</u>	<u>18</u>	<u>17</u>	<u>16</u>
21	<u>2.9101</u>	<u>3.10</u>	<u>23</u>	<u>22</u>	<u>21</u>	<u>20</u>	<u>19</u>	<u>18</u>	<u>17</u>
22	<u>3.1001</u>	<u>3.32</u>	<u>24</u>	<u>23</u>	<u>22</u>	<u>21</u>	<u>20</u>	<u>19</u>	<u>18</u>
23	<u>3.3201</u>	<u>3.56</u>	<u>25</u>	<u>24</u>	<u>23</u>	<u>22</u>	<u>21</u>	<u>20</u>	<u>19</u>
24	<u>3.5601</u>	<u>4.00</u>	<u>26</u>	<u>25</u>	<u>24</u>	<u>23</u>	<u>22</u>	<u>21</u>	<u>20</u>

1 (4) If the total wages payable to an individual for less than full-time
2 work performed in a week claimed exceed one-half (1/2) of his weekly benefit
3 amount, the amount of wages that exceed one-half (1/2) of the weekly benefit
4 amount shall be deducted from the benefits payable to the claimant. For pur-
5 poses of this subsection, severance pay shall be deemed wages, even if the
6 claimant was required to sign a release of claims as a condition of receiving
7 the pay from the employer. "Severance pay" means a payment or payments made
8 to a claimant by an employer as a result of the severance of the employment
9 relationship.

10 (5) Benefits payable to an individual shall be rounded to the next lower
11 full dollar amount.

12 SECTION 3. That Section 72-1372, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 72-1372. CIVIL PENALTIES. (1) The following civil penalties shall be
15 assessed by the director:

16 (a) If a determination is made finding that an employer willfully filed
17 a false report, a monetary penalty equal to one hundred percent (100%)
18 of the amount that would be due if the employer had filed a correct re-
19 port or two hundred fifty dollars (\$250), whichever is greater, shall
20 be added to the liability of the employer for each quarter for which the
21 employer willfully filed a false report. For the purposes of this sec-
22 tion, a false report includes, but is not limited to, a report for a pe-
23 riod wherein an employer pays remuneration for personal services which
24 meets the definition of "wages" under section 72-1328, Idaho Code, and
25 the payment is concealed, hidden, or otherwise not reported to the de-
26 partment.

27 (b) If a determination is made finding that an employer willfully
28 failed to file the employer's quarterly unemployment insurance tax re-
29 port when due, the director shall assess a monetary penalty equal to:

30 (i) Seventy-five dollars (\$75.00) or twenty-five percent (25%)
31 of the amount that would be due if the employer had filed a timely
32 quarterly report, whichever is greater, if the employer had not
33 been found in any previous determination to have willfully failed
34 to file a timely quarterly report for any of the sixteen (16) pre-
35 ceding consecutive calendar quarters; or

36 (ii) One hundred fifty dollars (\$150) or fifty percent (50%) of
37 the amount that would be due if the employer had filed a timely
38 quarterly report, whichever is greater, if the employer had been
39 found in any previous determination to have willfully failed to
40 file a timely quarterly report for no more than one (1) of the six-
41 teen (16) preceding consecutive calendar quarters; or

42 (iii) Two hundred fifty dollars (\$250) or one hundred percent
43 (100%) of the amount that would be due if the employer had filed a
44 timely quarterly report, whichever is greater, if the employer had
45 been found in any previous determination or determinations to have
46 willfully failed to file a timely quarterly report for two (2) or
47 more of the sixteen (16) preceding consecutive calendar quarters.

48 (c) If a determination is made finding that an employer, or any offi-
49 cer or agent or employee of the employer with the employer's knowledge,

1 willfully made a false statement or representation or willfully failed
2 to report a material fact when submitting facts to the department
3 concerning a claimant's separation from the employer, a penalty in
4 an amount equal to ten (10) times the weekly benefit amount of such
5 claimant shall be added to the liability of the employer.

6 (d) If a determination is made finding that an employer has induced, so-
7 licited, coerced or colluded with an employee or former employee to file
8 a false or fraudulent claim for benefits under this chapter, a penalty
9 in an amount equal to ten (10) times the weekly benefit amount of such
10 employee or former employee shall be added to the liability of the em-
11 ployer.

12 (e) If a determination is made finding that an employer failed to com-
13 plete and submit an Idaho business registration form when due, as re-
14 quired by section 72-1337(1), Idaho Code, a penalty of five hundred dol-
15 lars (\$500) shall be assessed against the employer.

16 (f) For purposes of paragraphs (c) and (d) of this subsection ~~(1)~~, the
17 term "weekly benefit amount" means the amount ~~calculated~~ determined by
18 the director pursuant to section 72-1367(2), Idaho Code.

19 (g) If a determination is made finding that a person has made any unau-
20 thorized disclosure of employment security information in violation of
21 the provisions of chapter 1, title 74, Idaho Code, or section 72-1342,
22 Idaho Code, or rules promulgated thereunder, a penalty of five hundred
23 dollars (\$500) for each act of unauthorized disclosure shall be as-
24 sessed against the person.

25 (h) If a determination is made finding that a professional employer
26 failed to submit a separate quarterly wage report for each client as
27 required in section 72-1349B(4), Idaho Code, the director shall assess
28 a monetary penalty equal to one hundred dollars (\$100) for each client
29 not separately reported by the professional employer; provided that the
30 maximum penalty for any quarter shall not exceed five thousand dollars
31 (\$5,000).

32 (2) At the discretion of the director, the department may waive all or
33 any part of the penalties imposed pursuant to subsection (1) of this section
34 if the employer shows to the satisfaction of the director that it had good
35 cause for failing to comply with the requirements of this chapter and rules
36 promulgated thereunder.

37 (3) Determinations imposing civil penalties pursuant to this section
38 shall be served in accordance with section 72-1368(5), Idaho Code. Penal-
39 ties imposed pursuant to this section shall be due and payable twenty (20)
40 days after the date the determination was served unless an appeal is filed
41 in accordance with section 72-1368, Idaho Code, and rules promulgated there-
42 under. Such appeals shall be conducted in accordance with section 72-1368,
43 Idaho Code, and rules promulgated thereunder.

44 (4) Civil penalties imposed by this section shall be in addition to any
45 other penalties authorized by this chapter. The provisions of this chap-
46 ter that apply to the collection of contributions, and the rules promulgated
47 thereunder, shall also apply to the collection of penalties imposed pursuant
48 to this section. Amounts collected pursuant to this section shall be paid
49 into the state employment security administrative and reimbursement fund as
50 established by section 72-1348, Idaho Code.