

Amendments to State Unemployment Insurance Laws

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 3
July 2007

COLORADO	HB 1286 (CH 172)	ENACTED April 26, 2007 EFFECTIVE August 8, 2007
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Administration

Requires an individual applying for unemployment insurance benefits through an interstate agreement who is not a Colorado resident and is unable to produce a Colorado driver's license or identification card (ID) to produce one of the other documents required by law or a valid driver's license or state ID issued in another state, or in the case of individuals residing in Canada, a valid Canadian ID or valid Canadian driver's license, and execute an affidavit stating that he or she is a U.S. citizen, a legal permanent resident, or otherwise lawfully present in the U.S. pursuant to Federal law. (Applicable to claims filed on or after August 8, 2007.)

COLORADO	HB 1312 (CH 144)	ENACTED April 16, 2007 EFFECTIVE August 8, 2007
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Financing

Provides that for purposes of determination of employment-based tax credits, such as economic development, enterprise zone, development zone, and other such economic incentives provided by the state or any other governmental entity, work-site employees will be deemed employees solely of the work-site employer.

KANSAS	HB 2599	ENACTED and EFFECTIVE May 11, 2007
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Coverage

Excludes from the definition of employment service performed by an owner-operator of a motor vehicle that is leased or contracted to a licensed motor carrier with the services of a driver and is not treated under the terms of the lease agreement or contract with the licensed motor carrier as an employee for purposes of certain federal law provisions; provides that employees or agents of the owner-operator must not be considered employees of the licensed motor carrier for purposes of employment security taxation or compensation.

MARYLAND	HB 1180 (CH 298)	ENACTED May 8, 2007 EFFECTIVE October 7, 2007
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Monetary Entitlement

Increases the maximum weekly benefit amount from \$340 to \$380; the minimum

a physician;
a dentist;
an advanced practice registered nurse and recognized as a nurse practitioner or certified nurse specialist by the board of nursing;
a physical therapist;
a chiropractor;
a clinical psychologist; or
a physician assistant; or
with respect to a person seeking unemployment insurance benefits who resides outside of Montana, a health care provider licensed or certified as a member of one of the professions listed above in the jurisdiction where the person seeking the benefit lives.

Provides, effective October 1, 2007, that in the aftermath of a disaster, the department may waive, suspend, or modify its rules concerning the filing of a claim for benefits, filing continued claims, registration for work, or work search if all of the following conditions are met:

the president of the United States declares a disaster pursuant to 42 U.S.C. 5170, et seq.; and
the governor issues an executive order directing the department to waive, suspend, or modify rules relating to claims.

Provides that in a disaster declared as noted above, the department may waive, suspend, or modify its rules relating to claims in portions of the state named by the department as appropriate to address the nature of the disaster and the purposes of unemployment insurance laws, effective October 1, 2007.

Coverage

Modifies, effective January 1, 2008, the definition of "employment" to mean service by an individual, by a manager or member of a limited liability company treated as a corporation pursuant to the unemployment insurance law, or by an officer of a corporation, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

Modifies, effective January 1, 2008, the exclusions from the definition of employment for services performed by sole proprietors, working members of a partnership, members of a limited liability company treated as a partnership or sole proprietorship pursuant to the unemployment insurance law, or partners in a limited liability partnership that has filed with the secretary of state.

Extensions and Special Programs

Amends the extended benefit (EB) provision as follows:

The total EB amount payable to an eligible individual with respect to that individual's applicable benefit year (BY) must be the least of the following three amounts (formerly first two amounts):

50 percent of the total amount of regular benefits that were payable to the individual in the individual's applicable BY;
13 times the individual's weekly benefit amount that was payable to the individual

for a week of total unemployment in the individual's applicable BY; or 39 times the individual's weekly benefit amount, less the amount of regular benefits paid or considered paid during the individual's applicable BY.

Financing

Provides, effective October 1, 2007, that the unemployment insurance administration account will no longer consist of:

all money appropriated by the state from the general fund for the purpose of administering the unemployment insurance law;
all money, trust funds, supplies, facilities, or services furnished, deposited, paid, and received from
the State of Montana or any agency of the State;
any other state or any of its agencies;
political subdivisions of the state; or
any other source for administrative expense and purpose.

Removes the provision for giving a bond in connection with the unemployment insurance administration account and payment for the bond from money in such account, effective October 1, 2007.

Provides, effective July 1, 2007, that an employer's account will not be charged for benefits paid to an employee laid off as a result of the return to work of a permanent employee who: was called to military service; and had completed 4 or more weeks of military service and exercised certain reemployment rights.

Modifies the corporate bankruptcy provisions to provide that the liability imposed upon an individual remains unaffected by the bankruptcy of a business entity to which a discharge cannot be granted under federal law, and the individual is liable for the unpaid amount of taxes, penalties and interest, effective January 1, 2008.

Modifies, effective January 1, 2008, the liability provisions to provide that in the case of a limited liability company:

treated as a partnership pursuant to the unemployment law, the liability for unemployment insurance taxes, penalties, and interest owed extends jointly and severally to each member.
not treated as a partnership pursuant to the unemployment law, liability for unemployment insurance taxes, penalties, and interest owed extends jointly and severally to the managers of the limited liability company.

Amends contribution rate schedule IX to add (.0025) as the minimum ratio of fund to total wages, effective October 1, 2007.

Nonmonetary Eligibility

Modifies the disqualification for failure to apply for or to accept suitable work provision by providing that an individual is disqualified for benefits if the individual fails without good cause to accept an offer from a former employer or a new employer of suitable work that the individual is physically able and mentally qualified to perform, effective October 1, 2007.

Removes from the law that an individual is disqualified for benefits for any week with respect to which the individual receives payment in the form of compensation for disability under the social security disability law, effective October 1, 2007.

MONTANA

HB 790
(CH 362)

ENACTED April 30, 2007
EFFECTIVE October 1, 2007, or as noted

Financing

Revises, effective January 1, 2008, the provisions relating to assessments for administrative expenses by providing that the following assessments must be levied against and paid by the indicated employers:

beginning January 1, 2008:

0.13 percent of all taxable wages paid by employers assigned a Rate Class 1, Schedules I and II, and Rate Class 2, Schedule I, contribution rate;

0.18 percent of all taxable wages paid by employers assigned a contribution rate other than Rate Class 1, Schedules I and II, and Rate class 2, Schedule I;

0.18 percent of all taxable wages paid by employers assigned an industrial rate;

0.08 percent of total wages paid by all employers;

beginning July 1, 2008: 0.09 percent of total wages paid by all employers.

(Formerly, law provided that an assessment equal to 0.13 percent of all taxable wages provided and 0.05 percent of total wages paid by employers not covered by an experience rating must be levied against and paid by all employers.)

Requires, effective January 1, 2008, all assessments and investment income to be deposited in the employment security account.

Provides, effective January 1, 2008, that the following assessments and investment income from those assessments are designated to be used for the administration of the unemployment insurance program:

0.05 percent of all taxable wages paid by all employers;

0.05 percent of all taxable wages paid by employers assigned an industry rate;

0.03 percent of total wages paid by all employers; and

beginning July 1, 2008, 0.04 percent of total wages paid by all employers.

Provides, effective January 1, 2008, that if unemployment insurance funding sources exceed the needs of the unemployment insurance program, all or a portion of the excess may be appropriated and used for other specific expenses.

Permits, effective October 1, 2007, money deposited in the employment security account to be appropriated for payment of expenses incurred in the administration of the unemployment insurance program.

Removes, effective July 1, 2008, the language concerning payments of contributions specific to newly covered governmental entities, and now requires all governmental entities to make payments at the median rate.

Provides, effective July 1, 2008, that the minimum rate for experience rated governmental entities may not be less than 0.06 percent (previously, 0.1 percent).

Revises, effective January 1, 2008, the ratios used to calculate unemployment insurance contribution rates resulting in the following rates:

- Eligible employers --
Most favorable: 0.00 percent to 1.42 percent
Least favorable: 1.62 percent to 3.42 percent
- Deficit employers --
Most favorable: 2.92 percent to 6.12 percent
Least favorable: 4.92 percent to 6.12 percent

Removes, effective January 1, 2008, the provisions providing for determining uncollectible debts, transferring debts to the department of revenue for collection, collection fees and costs, and debtor liability for repayment of debt, costs, and fees.

NEVADA AB 34 ENACTED and EFFECTIVE May 10, 2007
(CH 130)

Appeals

Requires the Administrator (formerly the Board of Review) to (a) appoint one or more impartial Appeal Tribunals consisting in each case of a selected salaried examiner; or (b) enter into an interlocal agreement with another public agency for the appointment of a single hearing officer to hear and decide appealed claims.

Eliminates the option of having an Appeal Tribunal consisting of 3 members.

Deletes the position of the Chairman of the Appeal Tribunal.

Deletes the provision that while engaged in the business of the Tribunal, each Tribunal member is entitled to receive the per diem allowance and travel expenses.

Deletes the provision requiring the Administrator to provide the Board of Review and the Appeal Tribunal with proper facilities and assistants for the execution of their functions.

Financing

Provides that if a claimant leaves his last or next to last employer (previously, an employer) to take other employment and leaves or is discharged by the latter employer, benefits paid to him must not be charged against the record for experience rating of the former employer.

NEW MEXICO HB 1280 ENACTED April 2, 2007
(CH 200) EFFECTIVE July 1, 2007

Administration

Creates the New Mexico Workforce Solutions Department in place of the Department of Labor. Changes the title of the Secretary of the Department of Labor to the Secretary of Workforce Solutions. The Employment Security division becomes the Workforce Transition Services division.

Provides that the department shall have access to all records, data and information of other departments, agencies and institutions not specifically held confidential by law.

OKLAHOMA

SB 809
(CH 354)

ENACTED June 4, 2007
EFFECTIVE November 1, 2007

Administration

Provides that the release of information is allowed to any state or federal law enforcement authority when necessary in the investigation of any crime in which the Commission is a victim. Confidential information will be held confidential by the law enforcement authority unless and until it is required for use in court in the prosecution of a defendant in a criminal prosecution.

Adds a representative from the Oklahoma Department of Career and Technology Education to the Worker Safety Policy Council. This representative will be appointed by the Commissioner of Labor and shall serve at the pleasure of the Commissioner.

Appeals

Provides that if an employer fails to file an appeal to the district court within the time allowed, the order will be final and no further appeal will be allowed for determinations on any aspect of an employer's account.

Provides that if a Petition for Review is not filed within the time allowed by law, the administrative order, ruling or finding will become final and the district court will not have jurisdiction to consider the appeal.

Financing

Provides that an employer will not be charged if the Commission receives a notice of amounts paid as benefits by another state under a reciprocal agreement, and the notice is received after 3 years from the effective date of the underlying benefit claim. The employer will be relieved of the charge when the facts are brought before the commission, if a charge is made based on such notice.

Provides that the Commission will make its assessments or amend its assessments for payments of in-lieu contributions within 3 years of the ending date of the calendar quarter to which the assessment or amendment applies.

Nonmonetary Eligibility

Provides that an individual's receipt of payments from a pension, retired or retirement pay, annuity or other similar payment plan that the employee contributed to in any amount will not result in a reduction in their weekly benefit amount.

OKLAHOMA

SB 1028
(CH 78)

ENACTED April 30, 2007
EFFECTIVE November 1, 2007

Nonmonetary Eligibility

Provides that a copy of the drug or alcohol test will be accepted as prima facie evidence of the administration and results of the drug or alcohol test if there is a claim brought by an employee discharged for misconduct due to a positive drug or alcohol test.

Requires that the employer's written drug or alcohol testing policy on the substances which may be tested need only state that the substances tested will be for drugs and alcohol as defined in the Standards for Workplace Drug and Alcohol Testing Act, including controlled substances approved for testing by rule by the State Commissioner of Health.

OREGON HB 2207 ENACTED and EFFECTIVE April 17, 2007
(CH 46)

Coverage

Redefines "employer" to mean any employing unit which employs one or more individuals in employment in each of 18 separate weeks during any calendar year, or in which the employing unit's total payroll during any calendar quarter amounts to \$1,000 (previously \$225) or more.

Redefines the services excluded from employment to exclude service not in the course of the employer's trade or business that does not promote or advance the trade or business of the employer unless the service is performed in each of 18 weeks in a calendar year or total payroll for the service is \$1,000 (previously \$225) or more during any calendar quarter.

OREGON HB 2248 ENACTED and EFFECTIVE April 17, 2007
(CH 48)

Financing

Repeals the provision that provides that a business entity that has a single owner and is disregarded as an entity separate from its owner for federal tax purposes is deemed to be the same employing unit as its owner for unemployment compensation tax purposes.

OREGON SB 194 ENACTED and EFFECTIVE May 7, 2007
(CH 88)

Administration

Expands the circumstances under which the director may reconsider a determination of employer subjectivity, tax rate, or tax assessment to include determinations when there is evidence of:

- Computation errors;
- Clerical errors;
- Misinformation provided to a party by the Employment Department;
- Facts not previously known to the department; or
- Errors caused by misapplication of law by the department.

WASHINGTON SB 5702 ENACTED May 8, 2007
(CH 50) EFFECTIVE July 21, 2007

Administration

Requires churches, church conventions and associations, and organizations operated primarily for religious purposes to provide written notification at the time of hire, to each individual performing services exempt from the definition of "employment" that they may not be eligible to receive unemployment benefits based upon such services. In addition, the employer shall display a poster, as provided by the Employment Security Department, giving notice of the exclusion.

