

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

REPORT ON STATE LEGISLATION

REPORT NO. 2
November 2012

ARIZONA HB 2519
(CH 162)

ENACTED and EFFECTIVE April 3, 2012

Financing

Provides that a discharged employee shall be paid wages due within 7 (previously 3) working days or the end of the next regular pay period, whichever is sooner.

Provides that until the amount of the annual federal unemployment insurance excise tax is reduced to a percentage less than 6 percent (previously reduced to 6 percent or less), the 0.01 percent job training tax imposed on each contributory employer does not apply to employers:

1. With a positive reserve ratio of at least 13 percent.
2. With a positive reserve ratio of at least 12 percent but less than 13 percent.
3. That are assigned the contribution rate of 2 percent or 2.7 percent.
4. With a negative reserve ratio.

Monetary Entitlement

Changes part of the wage qualification requirement from an individual having been paid wages in insured work in one quarter of the base period equal to at least \$1,500 to an individual having been paid wages in insured work in one quarter of the base period equal to an amount that is equal to at least 390 times the minimum wage that is in effect when the individual files a claim for benefits.

Nonmonetary Eligibility

Adds, among other things, that an unemployed individual shall be eligible to receive benefits only if the Department of Economic Security finds that such individual has both engaged in a systematic and sustained effort to obtain work during at least 4 days of the week and has made at least 3 work search contacts during the week.

Provides, among other things, that an individual shall be disqualified for benefits for failing without cause to actively engage in seeking work.

Provides that an individual is considered to have refused an offer of suitable work if an offer of work is withdrawn by an employer after an individual either:

1. Tests positive for drugs after a drug test given pursuant to state law or on behalf of a prospective employer as a condition of an offer of employment.
2. Refuses, without good cause, to submit to a drug test that is required by a prospective employer as a condition of an offer of employment.

Adds provisions regarding services for a charter school as follows:

- A. Notwithstanding any other law, benefits based on service for a charter school, shall not be paid to an individual for any week of unemployment that begins during a period between two successive academic years or terms if the individual performs these services in the first of the successive academic years or terms and there is a reasonable assurance that the individual will perform the same services in the second of the academic years or terms, except that if benefits are denied to any individual under this subsection and that individual was not offered an opportunity to perform these services for the employer for the second successive academic year or term, the individual is entitled to a retroactive payment of benefits for each week the individual filed a timely claim for benefits and the benefits were denied solely by reason of this subsection.
- B. Benefits based on service for a charter school, as described in section 15-181, shall not be paid to an individual for any week of unemployment that begins during an established and customary vacation period or holiday recess if the individual performs these services in the period immediately before the vacation period or holiday recess and if there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

COLORADO

HB 1272
(CH 265)

ENACTED June 6, 2012
EFFECTIVE July 1, 2012

Extensions and Special Programs

Extends the payment of enhanced unemployment compensation (UC) benefits through June 30, 2014 (was scheduled to expire on June 30, 2012). Expands eligibility to claimants receiving extended benefits, military or Federal UC and deletes the requirement for training in a high demand occupation.

Provides that the Division of Employment Insurance may seek, accept and expend gifts, grants, and donations from private or public sources to pay for administration of the program, subject to annual appropriation by the General Assembly. Requires the Division to notify the Legislative Council when it has received adequate funding from such gifts, grants, and donations (repealed July 1, 2015). Authorizes \$8 million for payment of enhanced benefits for fiscal years 2013 and 2014. Appropriates \$47 thousand for implementation of the program.

Adds to the definition of “approved training program” employer-based, entrepreneurial training, and entrepreneurial training that is part of the Self Employment Assistance program; adds employer or any other entity that provides apprenticeship or entrepreneurial training to the definition of “training program provider”.

MARYLAND

**SB 291
(CH 53)**

**ENACTED April 10, 2012
EFFECTIVE October 1, 2012**

Administration

Changes the domestic violence provisions by replacing “immediate family member” with “spouse, minor child, or parent.”

Adds the following confidentiality provisions:

- (A) Except as provided in subsection (B) below or otherwise required by law, information provided to the Secretary, Department of Labor, Licensing and Regulation for purposes of determining whether a claimant left employment as a result of domestic violence shall be confidential and not subject to disclosure to any party.
- (B) (1) The Secretary may notify the employing unit in general terms that a claimant has left employment as a result of domestic violence.
(2) The Secretary may not disclose information provided to the Secretary to the employing unit unless the employing unit can establish that:
 - (I) The employing unit has a legitimate need to question the veracity of the information;
 - (II) The employing unit’s need for the information outweighs the claimant’s personal privacy interest; and
 - (III) The employing unit is unable to obtain the information from any other source.(3) Before disclosing information, the Secretary shall:
 - (I) Notify the claimant; and
 - (II) Redact unnecessary identifying information.(4) An employing unit that receives information may not further disseminate the information.
- (C) Information related to the status of a claimant or claimant’s spouse, minor child, or parent as a victim of domestic violence is not public information subject to disclosure as part of the appeals process.
- (D) The Secretary may adopt regulations to further protect the privacy of the claimant.

Financing

Noncharges benefits paid to a claimant against the earned rating record of an employing unit if the claimant left employment for good cause directly attributable to the claimant or the claimant’s spouse, minor child, or parent being a victim of domestic violence.

The above domestic violence provisions shall apply to individuals who file new benefit claims with an effective date on or after October 1, 2012.

Nonmonetary Eligibility

Provides, among other things, that voluntarily leaving is good cause when the cause is directly attributable to the individual or the individual's spouse, minor child, or parent being a victim of domestic violence and the individual:

- (I) Reasonably believes that the individual's continued employment would jeopardize the individual's safety or the safety of the individual's spouse, minor child, or parent; and
- (II) Provides one of the following types of documentation to the Secretary substantiating domestic violence:
 1. An active or a recently issued temporary protective order, a protective order, or any other court order documenting the domestic violence; or
 2. A police record documenting recent domestic violence.

NEW MEXICO

SB 32
(CH 35)

ENACTED and EFFECTIVE March 5, 2012

Financing

Changes from using Contribution Schedule 3 to using Schedule 1 for assigning each employer's contribution rate from January 1, 2012, through December 31, 2012. Schedule 1 rates range from 0.05 percent to 5.40 percent.

Requires the use of Contribution Schedule 2 for assigning each employer's contribution rate from January 1, 2013, through December 31, 2013. Schedule 2 rates range from 0.1 percent to 5.40 percent.

Requires the use of one of the following Contribution Schedules 0 – 6 for each calendar year after 2013, except as otherwise provided, to assign each employer's rate:

- Contribution Schedule 0 if the fund equals at least 2.3 percent of the total payrolls (most favorable schedule with rates ranging from 0.03 percent to 5.40 percent);
- Contribution Schedule 1 if the fund equals less than 2.3 percent but not less than 1.7 percent of the total payrolls; rates range from 0.05 percent to 5.4 percent;
- Contribution Schedule 2 if the fund equals less than 1.7 percent but not less than 1.3 percent of the total payrolls; rates range from 0.01 percent to 5.4 percent;
- Contribution Schedule 3 if the fund equals less than 1.3 percent but not less than 1.0 percent of the total payrolls; rates range from 0.6 percent to 5.4 percent;
- Contribution Schedule 4 if the fund equals less than 1.0 percent but not less than 0.7 percent of the total payrolls; rates range from 0.9 percent to 5.4 percent;
- Contribution Schedule 5 if the fund equals less than 0.7 percent but not less than 0.3 percent of the total payrolls; rates range from 1.2 percent to 5.4 percent; or
- Contribution Schedule 6 if the fund equals less than 0.3 percent of the total payrolls; (least favorable schedule with rates ranging from 2.7 percent to 5.40 percent).

The above contribution provisions apply to assessments of contributions for the calendar year beginning on January 1, 2012.

OREGON SB 1588
(CH 109)

ENACTED and EFFECTIVE April 11, 2012

Coverage

Excludes from the definition of “employment” service performed in the operation of a passenger motor vehicle that is operated as a taxicab or a passenger motor vehicle that is operated for nonemergency medical transportation, by a person who has an ownership or leasehold interest in the passenger motor vehicle, for an entity that is operated by a board of owner-operators elected by the members of the entity.

TENNESSEE HB 3429
(CH 904)

ENACTED and EFFECTIVE May 9, 2012

Administration

By July 1, 2012, requires the Tennessee Department of Labor and Workforce Development to implement an Internet based system that allows employers to receive separation notices from the Department electronically and to submit separation information electronically to the Department. The system shall also have the capability to allow an employer to initiate an appeal electronically.

By January 1, 2013, requires the Department, at the request of the employer to begin including with an employer’s annual premium rate notice the statement of benefits charged to the employer’s experience rating account that affected that annual premium rate. The rate notice shall include how an employer may opt in to having that additional information included with the notice.

Authorizes the Commissioner of the Department to develop a program to check county jails for inmates who may be receiving unemployment benefits in violation of the law. Requires the Commissioner to confer with local sheriffs to determine which system would work best for the Department and the local sheriffs. Requires the Commissioner to report to the Commerce, Labor, and Agriculture Committee of the Senate and the Consumer and Employee Affairs Committee of the House of Representatives by July 1, 2012, regarding the status of such program.

TENNESSEE SB 3241
(CH 940)

ENACTED May 10, 2012
EFFECTIVE July 1, 2012

Nonmonetary Eligibility

Provides that a discharge is deemed to be a discharge for misconduct connected with work when it results after an individual entered into a written agreement with an employer to obtain a license or certification by a specified date as a condition of employment and willfully failed without good cause to obtain such license or certification by the specified date.

Extensions and Special Programs

Establishes the Tennessee Works Pilot program under the Tennessee Works Act of 2012 to provide job training designed to attract new businesses to the state and to assist in the expansion or retention of existing businesses in Tennessee. The purposes of the pilot program are to:

- (1) Enhance the state's economic growth and vitality by offering assistance to privately owned businesses and industries in training a new workforce and by creating new jobs and retaining and upgrading existing jobs;
- (2) Provide technical education and training as a component of the state's economic development efforts;
- (3) Be flexible and responsive to the training needs of business and industry in the state; and
- (4) Offer on-the-job training (OJT) programs to support existing employees and dislocated workers.

Tennessee Works Pilot program training grants will be awarded to eligible businesses seeking to make new hires during or after the screening for potential employment grants. Such grants will be used for the eligible training expenses of a dislocated worker:

- Who is a first time unemployment insurance claimant. The claimant shall continue to receive unemployment insurance benefits during the screening period; or
- Whose job is lost due to workforce off shoring by the worker's former employers and who is currently under a valid trade petition approved by the U.S. Department of Labor.
- Trade adjustment assistance funds shall only be awarded through the Tennessee Works Pilot program and to be used in limited cases as an option to expedite employment where these conditions in the immediate above dot point are met.

A Tennessee Works Pilot program screening period shall last for up to, but no more than, 8 weeks. At any time during the screening period or after the screening period, the employer may elect to employ a dislocated worker on a full-time basis.

If an employer elects to employ the dislocated worker and to provide additional OJT to the dislocated worker, then the employer will be eligible to receive a wage offset in return for providing additional OJT to the dislocated worker. The employment and training of a dislocated worker shall be in accordance with the Tennessee Department of Labor and Workforce Development's existing OJT program and the Department's rules and policies regarding the existing OJT program.

A dislocated worker shall no longer be eligible to receive unemployment benefits or trade adjustment compensation if the dislocated worker is employed and receiving OJT. If the employer does not retain the dislocated worker following the OJT period and the dislocated worker is otherwise eligible to receive unemployment insurance benefits, then the dislocated worker can, upon filing a claim, resume receipt of unemployment insurance benefits.

a retroactive payment of benefits for each week that the seasonal worker previously filed a timely claim for benefits.

The benefits payable to any otherwise eligible seasonal worker shall be calculated in accordance with the seasonality provisions for any benefit year which is established on or after the beginning date of a determination that an employer is a seasonal employer if such seasonal worker was employed by the seasonal employer during the base period applicable to such benefit year, as if such determination had been effective in such base period.

UTAH HB 23 ENACTED and EFFECTIVE MARCH 19, 2012
 (CH 146)

Financing

Provides that if money in the restricted account (Special Administrative Expense Account) is used for a purpose unrelated to the administration of the unemployment compensation program as described in federal law, as amended, the Unemployment Insurance Division shall develop and follow a cost allocation plan in compliance with U.S. Department of Labor regulations including the cost principles described in the relevant parts of the Code of Federal Regulations.

WASHINGTON SB 6289 ENACTED and EFFECTIVE March 15, 2012
 (CH 40)

Extensions and Special Programs

Amends the State's special self-employment assistance program. Requires the Washington Employment Security Department to inform all individuals meeting the benefit eligibility conditions of the availability of self-employment assistance and entrepreneurial training programs and of the training provisions which would allow them to pursue commissioner-approved training. In addition, when individuals are identified as likely to exhaust benefits and are otherwise eligible for commissioner-approved training, the department must inform such individuals of the opportunity to enroll in commissioner-approved self-employment assistance programs.

Provides that among other requirements, an unemployed individual is eligible to participate in a self-employment assistance program if it has been determined that he or she is otherwise eligible for commissioner-approved training.

Removes the following language from the self-employment assistance program provisions. An individual completing the program may not directly compete with his or her separating employer for a specific time period and in a specific geographic area. The time period may not, in any case, exceed 1 year. Both the time period and the geographic area must be reasonable, considering the following factor: (a) whether restraining the individual from performing services is necessary for the protection of the employer or the employer's goodwill; (b) whether the agreement harms the individual more than is reasonably necessary to secure the employer's

business or goodwill; and (c) whether the loss of the employee's services and skills injures the public to a degree warranting nonenforcement of the agreement.

Extends the date for the Department to report on the performance of the self-employment assistance program from December 1, 2011, to December 1, 2015.

Provides that individuals who are eligible for services under the federal Workforce Investment Act, Pub. L. 105-220 or its successor must be provided the opportunity to enroll in self-employment assistance or entrepreneurial training programs to prepare them for self employment on the same basis as they are provided the opportunity to enroll in other training programs under such act. The department must work with local workforce development councils to ensure that the contracting process with training providers is efficient and that the number of entrepreneurial training providers on the State's eligible training provider list is sufficient to meet demand. Each local workforce development council must: (a) notify all individuals eligible for services under the Workforce Investment Act of the availability of self-employment assistance and entrepreneurial training; and (b) establish and implement a plan for expending Workforce Investment Act funds on self-employment assistance and entrepreneurial training at a rate that is commensurate with either the demand for such services or the rate of self-employment within the council's workforce development area.

WEST VIRGINIA

HB 4007
(CH 195)

ENACTED April 2, 2012
EFFECTIVE June 7, 2012

Nonmonetary Eligibility

Allows unemployment benefits for individuals who voluntarily quit employment to accompany a spouse serving in active military service who has been reassigned from one military assignment to another.

Financing

Provides that benefits paid under this provision may not be charged to the employer's experience-rating account.

WEST VIRGINIA

HB 4542
(CH 194)

ENACTED and EFFECTIVE April 2, 2012

Financing

Provides that effective July 1, 2012, contributory employer's account shall not be relieved of charges related to a payment from the state's unemployment trust fund if it is determined that:

- an erroneous payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the agency for information relating to the claim for compensation; and

- the employer or agent has established a pattern of failing to respond timely or adequately to such requests.

Defines “erroneous payment” to mean a payment that but for the failure by the employer or the employer’s agent with respect to the claim for unemployment compensation would not have been made.

Defines “pattern of failing” to mean repeated documented failure on the part of the employer or the agent of the employer to respond as requested, taking into consideration the number of instances of failure in relation to the total volume of requests by the agency to the employer or the employer’s agent.