

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

REPORT ON STATE LEGISLATION

REPORT NO. 2

August 2009

ARKANSAS

SB 429
(Act No. 802)

ENACTED and EFFECTIVE April 3, 2009

Financing

Increases the taxable wage base from \$10,000 to \$12,000 for any calendar year beginning after December 31, 2009.

Monetary Entitlement

Establishes an alternative base period for initial claims filed on and after July 1, 2009, consisting of the last 4 completed calendar quarters immediately preceding the first day of that benefit year for use if an individual lacks sufficient wages in the regular base period.

Nonmonetary Eligibility

Provides that in determining suitable work and for refusing to apply for or accept suitable work, part-time work is suitable work unless the majority of weeks of work in the period used to determine monetary eligibility is from full-time work.

Provides that individuals will not be disqualified from receiving benefits due to separation from employment if that separation is for a compelling family reason. Compelling family reason means:

- domestic violence verified by documentation which causes individuals to reasonably believe continued employment would jeopardize their or any immediate family members' safety;
- the illness or disability of a member of the individuals' immediate family; or
- the need for individuals to accompany their spouse to a place from which it is impractical for them to commute and due to a change in location of the spouse's employment.

Provides that the disqualification for being discharged for misconduct is 8 weeks of unemployment except for a discharge that occurs from July 1, 2009, through June 30, 2011, this disqualification will continue until an individual has worked in covered employment for at least 30 days in Arkansas, another state, or the U.S.

Overpayments

Removes the provision (concerning the recovery of an overpayment resulting from a false statement, misrepresentation or omission that was knowingly made by a claimant) which provided that beginning July 1, 2001, a person will not be liable to repay such amount to the fund, except through the deduction of future benefits after 10 years from the date the determination of the amount of the overpayment becomes final.

Provides that the amount of the final overpayment will accrue interest at the rate of 10 percent per annum (formerly 11/2 percent per month) beginning 30 days after the date of the first billing statement.

Removes the provision which provided that any person held liable to repay an amount to the fund or to have the amount deducted from any future benefits payable will not be liable to repay the amount nor will recovery be made from any future benefits after 4 years from the date the determination of the amount of the overpayment becomes final.

Provides for intercept of Federal income tax refunds for benefits obtained as a result of fraud as provided by Federal law and regulations.

MARYLAND HB 310 SB 270 ENACTED and EFFECTIVE April 14, 2009
 (CH 6) (CH 5)

Nonmonetary Eligibility

Defines “part-time worker” to mean an individual whose availability for work is restricted to part-time work and who works predominantly on a part-time basis throughout the year for at least 20 hours per week.

Provides, notwithstanding the provision concerning when an individual is considered unemployed, that a part-time worker is not considered to be unemployed if working all hours for which the part-time worker is available.

Provides that a part-time worker is able to, available for, and actively seeking work, and is eligible to receive benefits if:

- eligibility is based on wages predominantly earned from part-time work;
- actively seeking part-time work;
- available for part-time work at least the number of hours worked at the previous employment;
- does not impose any other restrictions on the ability to work or availability for work; and
- is in a labor market in which a reasonable demand exists for part-time work.

Provides that the disability of a qualified individual with a disability may not be used as a factor in finding that an individual is not available for work or actively seeking work.

MICHIGAN HB 4239 ENACTED and EFFECTIVE March 11, 2009
 (Public Act No. 1)

Administration

Provides that information obtained from any employing unit or individual and benefit rights determinations are confidential and can only be disclosed to public employees and public officials performing official duties and to agents or contractors of those public officials including a college, university, or agency of Michigan conducting research that assists the public official in carrying out the duties of the office. Provides that the unemployment insurance agency must enter into a written enforceable agreement with the public official that holds the official responsible for ensuring that the agent or contractor maintains the confidentiality of the information; terminates the agreement if violated; and the public officials may be subject to penalties that apply to persons associated with a college university, or public agency who discloses confidential information.

Provides that information in the Commission's possession that may affect a claim or a charge to an employer's experience account must be available to interested parties and their agents, if their agents provide the unemployment insurance agency with a written authorization of representation from the party represented; provides that under certain circumstances such authorization is not required.

Allows, subject to restrictions, information in the Commission's possession to be made available to the Bureau of the Census of the Economics and Statistics Administration of the U.S. Department of Commerce.

Provides that a recipient of confidential information must use the disclosed information only for purposes authorized by law and consistent with the agreement entered into with the unemployment insurance agency and must not redisclose the information to any other individual or entity without the written permission of the unemployment insurance agency.

Financing

Provides that notwithstanding any other provision of the law, if interest due during a calendar year on federal advances is forgiven or postponed under federal law and is no longer due during that calendar year, no solvency tax will be assessed against an employer for that calendar year, and any solvency tax already assessed and collected against an employer before the forgiveness or postponement of the interest for that calendar year will be credited to the employer's experience account.

MICHIGAN SB 399 ENACTED and EFFECTIVE April 13, 2009
(PA No. 19)

Extensions and Special Programs

Adopts the optional trigger based on the seasonally adjusted total unemployment rate (TUR) for the most recent 3-month period equaling or exceeding 6.5 percent and the average TUR equaling or exceeding 110 percent of the TURs for either or both of the corresponding 3-month periods in

the 2 preceding calendar years and provides for a high unemployment period when the TUR reaches or exceeds 8 percent and the 110 percent requirement is met only if EB are funded under Section 2005 of the Recovery Act of 2009. Applicable to claims filed on or after April 19, 2009, and ending when federal funding ceases.

MONTANA SB 150
(CH 88)

ENACTED March 25, 2009
EFFECTIVE March 25, 2009, or as noted

Administration

Requires the department to provide for the disclosure of wage and other required information to authorized recipients and establish safeguards to ensure that any information disclosed is used only for the purposes outlined in federal regulations. Allows fees to be charged for the costs of providing information. Requires depositing of the fees in the state special revenue fund. Requires the department to adopt rules providing for confidentiality and disclosure of unemployment insurance information to appropriate persons and agencies consistent with federal requirements. Establishes penalties for other state or local government employees or any other person for violating the confidentiality and disclosure requirements by imposing a fine of not less than \$20 or more than \$200 or imprisonment for not longer than 90 days or both. (Effective July 1, 2009.)

Appeals

Allows the governor to appoint a substitute board member to the board of labor appeals subject to the same qualifications and confirmation requirements to serve in place of any regular board member who is unable to attend a board meeting and participate in the proceedings and decisions of that board meeting.

Financing

Deletes the language allowing money credited to the state's account in the unemployment trust fund including Reed Act money to be withdrawn for the payment of unemployment insurance administration expenses and public employment offices. (Effective July 1, 2009.)

Provides that money withheld from benefits for repayment of child support obligations must be considered benefits. (Effective July 1, 2009.)

Provides that an employer who has not had covered employment or whose coverage has been terminated because the employer has ceased to do business for 5 consecutive years (previously 3 years) is considered a new employer and may not be credited with the employer's previous experience for the purpose of computing any future experience factor. (Effective July 1, 2009.)

Nonmonetary Eligibility

Provides that an individual is ineligible to receive benefits during an approved leave of absence. Provides that an individual is eligible to receive benefits when the individual returns to and

offers service to his/her employer after returning from an approved leave of absence and the individual's regular or comparable suitable work is not available, as determined by the department, provided the individual is otherwise eligible. (Effective January 1, 2010.)

Provides that an individual who files for benefits during a disciplinary suspension is ineligible to receive benefits for 2 weeks or until the suspension ends, whichever occurs first. Ineligibility based upon a disciplinary suspension may be imposed for any week beginning after the second week of the suspension. If the individual remains suspended, the individual must be considered discharged for purposes of unemployment insurance. The department must determine whether the discharge constitutes misconduct. (Effective January 1, 2010.)

Provides that an individual is considered totally unemployed in any week during which the individual worked less than the customary hours that are normal for the individual's particular occupation due to a lack of work and provided that the wages payable are less than 2 times the individual's weekly benefit amount. (Formally an individual was considered totally unemployed in any week during which the individual performed less than full-time work in employment with wages for employment of less than 2 times the individual's weekly benefit amount.) (Effective January 1, 2010.)

Disallows eligible individuals to place limitations on their availability for work that would constitute a withdrawal from the labor market. (Effective January 1, 2010.)

Provides that except as provided in the next paragraph, if an individual is unavailable for work for less than 3 days within a week for which work is available, the individual must be paid the weekly benefit amount reduced by 1/5 of that amount for each day or part of a day unavailable for work. (Effective January 1, 2010.)

Provides that if an individual is unavailable for work for 3 days or more, or part of each 3 days or more, within a week for which work is available, the individual must be considered unavailable for work for the entire week and is not eligible to receive benefits for the week. (Effective January 1, 2010.)

Provides that a student attending an established educational institution may qualify for benefits if he/she can satisfactorily demonstrate he/she meets the general eligibility conditions. (Formally, students were disqualified for benefits during the school year (within the autumn, winter, and spring seasons of the year) or the vacation periods within the school year or during any prescribed school term if regularly attending an established educational institution.) (Effective July 1, 2009.)

Overpayments

Establishes repayment methods for the department to collect a benefit overpayment and any penalty by:

- having the claimant pay the amount owed directly to the department by check, money order, credit card, debit card, or electronic funds transfer; or

- offsetting the amount of the overpaid benefits owed against future unemployment benefits to be received by the claimant.

(Effective January 1, 2010.)

Provides that the claimant is responsible for any penalty established and costs or processing fees associated with using the repayment methods. (Effective January 1, 2010.)

Allows the department to enter into an agreement with a claimant for the repayment of any benefit overpayment and penalty provided the repayment in full is made within 5 years of the date establishing that an overpayment occurred. (Effective January 1, 2010.)

Allows the department to collect any benefit overpayment and penalty by directing the offset of any funds due the claimant from the state, except future unemployment benefits and retirement benefits. The department through the department of revenue must provide the claimant with notice of the right to request a hearing on the offset action which must be made within 30 days of the date of the notice. (Effective January 1, 2010.)

Establishes that the debt can be transferred for offset prior to being determined uncollectible. (Effective January 1, 2010.)

Allows the department to direct the offset of funds owed a person under 26 U.S.C. 6402 if the person owes a covered unemployment compensation debt. (Effective January 1, 2010.)

Defines the term “covered unemployment compensation debt.” (Effective January 1, 2010.)

Allows the department to have a lien against all real property established if claimant fails to make payments. The Department may enforce within 10 years of creation of the lien. (Effective January 1, 2010.)

Allows the department to waive the benefit overpayment if found the overpayment was the result of department error. (Effective January 1, 2010.)

NEVADA

AB 469
(CH 8)

ENACTED and EFFECTIVE April 16, 2009

Extensions and Special Programs

Adds the optional extended benefits (EB) provisions based on the total unemployment rate (TUR) for weeks of unemployment beginning on or after February 1, 2009, and ending on or before December 12, 2009, or the week ending 3 weeks before the last week for which federal sharing is authorized under Federal law, whichever is later. Provides for up to 13 weeks of EB if the average TUR seasonally adjusted, for the most recent 3 months is at least 6.5 percent and is 110 percent of the rate for the corresponding 3-month period in either or both of the 2 previous years. Provides for up to 7 additional weeks of EB if the state is in a high unemployment period (the average TUR is at least 8 percent and is 110 percent of the rate for the corresponding 3-

Allows the governor to make an interfund transfer from the temporary disability insurance fund to the employment security fund for the payment of unemployment compensation benefits under specified circumstances.