

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

**REPORT ON STATE LEGISLATION**

REPORT NO. 2  
November 2010

**COLORADO** SB 28 ENACTED and EFFECTIVE June 9, 2010  
(CH 397)

Extensions and Special Programs

Requires the Director to establish a voluntary work share program allowing the payment of unemployment compensation benefits to employees whose wages and hours have been reduced by at least 10 percent and not more than 40 percent. The maximum number of weeks payable is 18 weeks. A negative excess employer is not eligible to participate in the work share program. Work share benefits paid shall be charged to the account of the participating employer in the same manner as regular benefits. Requires continuation of health insurance, retirement benefits received under a pension plan, paid vacation and holidays, sick leave, or any other similar employee benefits provided immediately prior to submitting the work share plan, if the employer provides benefits to his/her employees. The period of an approved plan is for 12 months. Allows modifications to the work share plan to meet changed conditions, if the modification meets certain requirements. If the Director finds that the work share program causes insolvency of the unemployment insurance cash fund to accelerate, the work share provisions shall be repealed effective July 1, 2013.

**DISTRICT OF COLUMBIA** B 203 ENACTED December 18, 2009  
(Law No. 18-0111) EFFECTIVE March 3, 2010

Financing

Extends the quarterly 0.2 percent administrative funding assessment expiration date from December 31, 2008, to December 31, 2013.

**DISTRICT OF COLUMBIA** B 748 ENACTED May 19, 2010  
(Law No. 18-0199) EFFECTIVE July 23, 2010

Extensions and Special Programs

Requires the Director to establish a voluntary shared work unemployment compensation (short-time compensation) program applicable when the normal weekly hours of work are reduced by not less than 20 percent and not more than 40 percent. The maximum number of weeks payable is 50 calendar weeks during the 12-month period of the shared

work plan, provided that 2 weeks of additional benefits shall be payable when regular, and any other federal or state extended benefits, are exhausted.

Allows approval of a plan if:

- a participating employer has filed all past and present required reports, and has paid all contributions, benefit cost payments, or if a reimbursing employer has made all past and current payments in lieu of contributions;
- the shared work plan applies to and identifies a specific affected unit;
- the employer has at least 2 employees;
- the employees in the affected unit are identified by name and social security number;
- the shared work plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit; and
- the employer certifies that the shared work plan will not be used to reduce the fringe benefits offered to employees.

Provides that a shared work plan shall not be implemented to subsidize seasonal employers during the off-season or to subsidize employers who have traditionally used part-time employees.

Allows modification of a shared work plan to meet changed conditions, if the modification does not substantially modify the basic provisions of the plan.

Defines fringe benefits to mean health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit provided by an employer.

Provides that the voluntary shared work unemployment compensation program expires March 6, 2011.

**FLORIDA** Rule 36569

Adopted September 10, 2010  
Effective September 1, 2010  
Expires November 30, 2010

### Extensions and Special Programs

Provides the following definition and work search requirement for the Federal-State Extended Benefits (EB) program.

Defines “good job prospects”: An individual has good job prospects if he or she has a definite return to work date within 4 weeks the determination notice of eligibility for extended benefits. If after 4 weeks of extended benefits, an individual having good job prospects remains unemployed, the individual is required to fill out and return the Unemployment Compensation Extended Benefits Eligibility Review Questionnaire within 10 days of the mailing date. Failure to comply will result in disqualification from



**KENTUCKY**

HB 450  
(CH 99)

ENACTED and EFFECTIVE April 8, 2010

Extensions and Special Programs

Changes the expiration date of an “on” indicator week based on the seasonally adjusted total unemployment rate (TUR) for the Federal-State Extended Benefits (EB) program to cease to be effective at the end of the week ending 4 weeks (previously 3 weeks) prior to the last week for which the Federal government pays 100 percent of most EB costs (previously to cease to be effective on or before December 12, 2009).

**MISSISSIPPI**

SB 2027  
(CH 302)

ENACTED January 12, 2010  
EFFECTIVE January 1, 2010

Financing

Provides for the computation of the “cost rate criterion” which shall be adjusted only through annual computations and additions of future economic cycles.

Modifies the definition of “size of fund index” and, beginning January 1, 2010, the target fund size will be fixed at 1.0 percent.

Provides that beginning on and after January 1, 2010, no employer’s unemployment contribution rate shall be less than 0.4 percent (previously 0.1 percent).

Provides that during years that the Workforce Enhancement Training contribution is in effect, instead of paying a 2.7 percent tax rate, each newly subject employer shall be assigned a tax rate of 2.4 percent to which will be added the 0.3 percent Workforce Enhancement Training contribution.

Requires the deposit of Workforce Enhancement Training contributions into the Mississippi Department of Employment Security clearing account, and requires the transfer of such contributions within 2 business days to the Workforce Enhancement Training Fund holding account. Any Workforce Enhancement Training contribution transactions not honored by a financial institution will be transferred back to the clearing account out of funds in the Workforce Enhancement Training contribution holding account.

Suspends, beginning on and after January 1, 2010, the required Workforce Enhancement Training contribution if the insured unemployment rate (IUR) exceeds an average of 5.5 percent for 3 consecutive months immediately preceding the effective date of the new rate year and shall remain suspended throughout the duration of that rate year. Such suspension shall continue until such time as the 3 consecutive months immediately preceding the effective date of any subsequent rate year has in IUR of less than an average of 4.5 percent. All collections due or accrued prior to any suspension of the

Workforce Enhancement Training Fund will be collected based upon the law at the time the contributions accrued, regardless of when they are actually due or collected.

**MISSOURI** HB 1544

ENACTED and EFFECTIVE March 4, 2010

Extensions and Special Programs

Changes the expiration date of an “on” indicator week based on the seasonally adjusted total unemployment rate (TUR) for the Federal-State Extended Benefits (EB) program from December 5, 2009, to the week ending 4 weeks prior to the last week of unemployment for which 100 percent Federal sharing is available under the Recovery Act or March 3, 2011, whichever should occur first.

Changes the expiration date of a “high unemployment period” based on the seasonally adjusted TUR for the federal-state EB program from December 5, 2009, to the week ending 4 weeks prior to the last week of unemployment for which 100 percent Federal sharing is available under the Recovery Act or March 3, 2011, whichever should occur first.

Increases the maximum number of calendar weeks payable under the worksharing program from 26 to 52.

**NORTH CAROLINA**

HB 1676  
(CH 71)

ENACTED and EFFECTIVE July 8, 2010

Nonmonetary Eligibility

Amends the law to provide that no substitute teacher or other substitute school personnel shall be considered unemployed for days or weeks when not called to work unless the individual is or was employed as a full-time substitute during the period of time for which the individual is requesting benefits. For the purposes of this provision, full-time substitute is defined as a substitute employee who works more than 30 hours a week on a continual basis for a period of 6 months or more. (Previously, the law excluded from the definition of “employment” service performed by a substitute teacher or other substitute employee for a public, charter or private school unless the individual was employed as a full-time substitute. An individual was employed as a full-time substitute when employed to work at least 30 hours per week over at least 6 consecutive months of a school year.)

Repeals the provision excluding from the definition of “employment” performance of extra duties for a public, charter or private school, such as coaching athletics, acting as a choral director, or other extra duties.

**PENNSYLVANIA** HB 400  
(Act No. 72)

ENACTED October 13, 2010  
EFFECTIVE February 10, 2011

### Coverage

Changes the name of the Construction Workplace Fraud Act to the Construction Workplace Misclassification Act and specifies criteria for the determination of independent contractors in the construction industry for unemployment compensation and workers' compensation purposes. Provides that an individual performing services in the construction industry for remuneration is an independent contractor only if:

- The individual has a written contract to perform such services;
- The individual is free from control or direction over performance or such services both under the contract of service and in fact; and
- As to such services, the individual is customarily engaged in an independently established trade, occupation, profession or business.

Provides that employers, or an officer or agent, is in violation of this Act and shall be subject to penalties, remedies, and action for failing to properly classify individuals as employees for the purposes of the unemployment compensation law and failing to pay contributions, reimbursements or other amounts required to be paid under such law. Criminal penalties include a misdemeanor of the third degree for a first offense and a misdemeanor of the second degree for a second or subsequent offense. For negligently failing to properly classify individuals, a summary offense is committed and upon conviction, a fine of not more than \$1,000 must be paid. The Secretary may assess and collect civil penalties of not more than \$1,000 for the first violation and not more than \$2,500 for each subsequent violation for persons violating this Act, which shall be paid into the special administration fund of the unemployment compensation law.

**SOUTH DAKOTA** SB 186 ENACTED and EFFECTIVE March 10, 2010  
(CH 247)

### Financing

Increases the taxable wage base from \$9,500 to \$10,000 for calendar year 2010; \$11,000 for calendar year 2011; \$12,000 for calendar year 2012; \$13,000 for calendar year 2013; \$14,000 for calendar year 2014; and \$15,000 on or after January 1, 2015.

Increases, for calendar year 2010 and thereafter, the maximum contribution rate from 8.50 percent to 9.50 percent. The minimum contribution rate remains at 0.00 percent. The increased contribution rates apply to and are retroactive to taxable wages paid on and after January 1, 2010.

Provides for incremental increases in employer's rates if on the last day of any calendar quarter the amount in the unemployment compensation fund, including amounts receivable as federal reimbursements due the state for shareable benefit payments, is less

than \$11 million. The rate increases range from 0.1 percent when the balance is greater than or equal to \$10.5 million and less than \$11 million to 1.5 percent when the balance is less than \$5.5 million.

Provides that when tax rates increase due to a reduction in the unemployment compensation fund the maximum contribution rate payable by any employer, including the adjustment percentage, is 12 percent (previously, 10.5 percent.) The increased contribution rates shall not exceed 1.0 percent for taxable wages paid for calendar year 2010 and may not exceed 0.75 percent for taxable wages for calendar year 2011. Effective January 1, 2012, any rate increase based on the reduction of the unemployment compensation fund will remain in effect for 4 consecutive calendar quarters. The rate for the second, third and fourth quarters may increase based on the fund balance on the last day of the immediately prior quarter, but may not decrease from the prior quarter during the 4 consecutive quarters. The contribution rates apply to and are retroactive to taxable wages paid on and after January 1, 2010.

**SOUTH DAKOTA** HB 1018  
(CH 248)

ENACTED March 11, 2010  
EFFECTIVE July 1, 2010

#### Extensions and Special Programs

Provides that claimants who have exhausted all rights to regular unemployment benefits, who are unemployed, enrolled in and making satisfactory progress in a state-approved training program or in a job training program approved by the department, or a job training program authorized under the Workforce Investment Act of 1998, will be entitled to an additional amount of benefits equal to 26 times their average weekly benefit amount for the most recent benefit year, less any deductible earnings. Such training program must prepare claimants who have been separated from a declining occupation or have been involuntarily and indefinitely separated from employment due to a permanent reduction of operations at the claimant's place of employment for entry into a high-demand occupation.

#### Financing

Excludes from charging benefits paid under the part-time workers provision and additional benefits for exhaustees provision.

#### Nonmonetary Eligibility

Provides that a claimant will not be denied regular unemployment benefits relating to availability for work, active search for work, or refusal to accept work, solely because of seeking only part-time work, if it is determined that a majority of the weeks of work in his/her base period were for less than full-time work. Defines "seeking only part-time work" to mean seeking work that has comparable hours to the individual's part-time work experience in the base period.

