

## Changes in unemployment insurance legislation in 1998

*Minnesota and New York made extensive modifications to their laws; among the States generally, changes required an increase in weekly benefit amounts, and increases in taxable wage bases*

Diana Runner

**D**uring fiscal year 1998, Federal legislation made only a few changes to the unemployment insurance (UI) program. Most notable was the enactment of the Workforce Investment Act (WIA) of 1998 (P.L. 105-220), which provides the framework for a unique national workforce preparation and employment system designed to meet both the needs of the Nation's businesses and the needs of jobseekers and those who want to further their careers. While the Act imposes no conforming requirements upon the UI program, it does affect the program. States wishing to receive funding under the Act must: (1) provide information regarding the filing of claims for benefits as part of the One-Stop delivery system, and (2) use wage record information to measure State and local performance in achieving program goals. In addition, WIA charges the U.S. Secretary of Labor with making arrangements, consistent with State law, to ensure that the wage records of any State are available to any other State to the extent that the wage records are needed for WIA purposes. Performance information at the local level will be available to WIA recipients to use as a decisionmaking tool when determining which training providers to use.

WIA also amended the Wagner-Peyser Act in two areas. First, WIA allows the equity accrued—or funds earned from that equity—by the Federal Government through funds provided under Titles III and IX of the Social Security Act and the Wagner-Peyser Act to be used to acquire further equity, or to pay operating and maintenance expenses to the extent that an equity property is used for WIA pur-

poses. The Wagner-Peyser Act also was amended to establish an Employment Statistics system. The system will be planned, administered, overseen, and evaluated through a cooperative governance structure involving the States and the Federal Government. The amendment that establishes the Employment Statistics system becomes effective July 1, 1999. Other WIA provisions that affect the UI program may take effect July 1, 1999, and become mandatory on July 1, 2000.

The Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998 (P.L. 105-306) permanently extended the Self-Employment Assistance (SEA) program, which had been scheduled to end in December 1998. Under the SEA program, eligible UI claimants are helped to create their own jobs by starting small businesses. Among other conditions, the individuals must participate in self-employment activities, including entrepreneurial training, business counseling, and technical assistance. Individuals enrolled in the program receive periodic payments equivalent to their regular UI benefits. Ten States have established SEA programs.

Programs under the Trade Adjustment Assistance Act and the North American Free Trade Agreement (NAFTA) Transitional Assistance Act were reauthorized through June 30, 1999, by the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (P.L. 105-277). In order to receive allowances under these Acts, individuals must have been entitled to UI benefits in a specified period and have exhausted all rights to such benefits, among other conditions.

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With the exception of Minnesota and New York, the States made few significant changes to their unemployment insurance laws during 1998. New Hampshire amended its unemployment insurance law to provide an alternate “trigger” for the payment of Federal-State Extended Benefits. The alternate trigger will allow a State to “switch on” the payment of such benefits more easily because it is based on the total unemployment rate in the State. States currently trigger benefits based on changes in their insured unemployment rate—a measure of statewide unemployment among those covered by unemployment compensation.

## Alabama

*Coverage.* Employment will not include services performed by an individual committed to a penal institution.

## Arizona

*Financing.* The range of contribution rates for positive-reserve-ratio employers was modified from 0.10 percent through 2.7 percent to 0.05 percent through 2.6 percent. The range of contribution rates for negative-reserve-ratio employers also was changed, from 2.90 percent through 5.35 percent to 2.85 percent through 5.40 percent. If certain criteria are met, certain benefits paid to an individual will not be charged to an employer’s experience rating account.

*Benefits.* On June 30, 1998, the maximum weekly benefit amount increased from \$185 to \$195, and will increase to \$265 on June 30, 1999.

## California

*Financing.* Benefits paid to an individual who has voluntarily left work to protect his or her children, or himself or herself, from domestic violence will not be charged to the experience rating account of the employer. Repealed was the provision that employers would not be charged for benefits paid to a claimant who, during the base period, was a student employed on a temporary basis and whose employment began within the period of his or her leaving to return to school; to a claimant who terminated employment to accompany or join a spouse; or to a claimant who left employment to take a better job.

Four States—Idaho, New York, Oklahoma, and Rhode Island—increased their taxable wage base, which is the amount of wages subject to taxation for unemployment insurance purposes. Maximum weekly benefit amounts were increased in Arizona, Georgia, Kentucky, Minnesota, Mississippi, Nebraska, New Hampshire, New York, and Vermont. Kentucky also increased its minimum weekly benefit amount. Four States amended their wage qualifying requirements for determining benefit eligibility.

Following is a summary of some significant changes in State unemployment insurance laws during 1998.

*Disqualification.* An individual will not be disqualified from receiving benefits for voluntarily leaving employment if he or she left to protect his or her children, or himself or herself, from domestic violence.

*Administration.* Information obtained in the administration of the unemployment insurance code will be considered confidential; any individual who knowingly accesses, uses, or discloses the information without authorization will be guilty of a misdemeanor.

## Colorado

*Coverage.* An employer is defined as an entity that has a quarterly payroll of \$1,500 or more during any calendar year or preceding calendar year, or that employed one worker for some portion of the day on each of 20 days during the calendar year or during the preceding calendar year. Excluded from coverage are services: (1) as an election official or election worker, if the amount of remuneration received for such services during the calendar year is less than \$1,000; (2) as a direct seller, which includes individuals engaged in the trade or business of delivery or distribution of newspapers or shopping news; and (3) in the employ of an elementary or secondary school that is operated primarily for religious purposes, regardless of whether the school is operated, supervised, controlled, or principally supported by a church or a convention or association of churches. The definition of employment also was modified to permanently exclude from coverage services performed by an alien (H2-A worker) admitted to the United States to perform agricultural labor pursuant to the Immigration and Naturalization Act.

*Benefits.* Under the additional qualifying requirements for a successive benefit year, wages must be earned instead of received in order to qualify for benefits in the next year.

## Delaware

*Benefits.* The provision for deduction of an individual’s Social Security benefits from his or her weekly unemployment benefits was eliminated.

*Disqualification.* A disqualification will be considered fraud if an individual has made a false statement or representation, knowing it to be false, or knowingly has failed to disclose a material fact to obtain benefits to which he or she is not entitled.

## Florida

*Coverage.* A new enactment excludes from coverage services performed as an election official or election worker in the employ of a governmental entity if the amount of the remuneration received by the individual for such services during the calendar year is less than \$1,000. Also excluded from coverage are services performed by a person who is an inmate of a penal institution.

## Georgia

*Financing.* New and newly covered employers that implement a drug-free workplace program that is certified by the State Board of Workers’ Compensation will pay contributions at a rate 0.2 percent lower than the rate otherwise specified in the unemployment law

(2.64 percent until June 30, 2001). The following becomes effective January 1, 1999: (1) When the statewide reserve ratio is 2.4 percent or more for any calendar year, an employer that does not have a deficit reserve balance will have its contribution rate reduced by 25 percent or 50 percent, depending on the reserve ratio of the State unemployment insurance fund. (2) When the statewide reserve ratio is less than 2 percent, an employer's contribution rate will be increased by 25 percent or 50 percent, depending on the reserve ratio. (3) If the statewide reserve ratio equals or exceeds 2 percent (was 2.1 percent), contribution rates will be further reduced by a percentage based on the fund balance and the prior year's contributions; however, the contribution rate may not be reduced below 5.4 percent for maximum deficit reserve.

For the period January 1, 1999, through December 31, 2002, an additional 0.2-percent rate reduction will be available to any employer that implements a drug-free workplace program that is certified by the State Board of Workers' Compensation. The resulting contribution rate for any employer may not be less than 0.01 percent. The reduction will not be available to an employer that is subject to the maximum rate allowable after application of the rate adjustments made to the statewide reserve ratio.

*Benefits.* The maximum weekly benefit amount increased from \$224 to \$244.

## Hawaii

*Coverage.* Services performed by election officials or election workers as defined under the Federal Unemployment Tax Act (FUTA) are excluded from coverage.

## Idaho

*Coverage.* A definition of government entity was added, to mean a religious, charitable, educational, or other organization as defined under Section 501(c)(3) of the Internal Revenue Code, and which is exempt from tax under section 501(a) of the Code.

*Financing.* Retroactive to January 1, 1998, the taxable wage base will be computed as 100 percent of the State average annual wage rounded to the nearest \$100 (was \$600) or the Federal taxable wage base, whichever is higher.

The minimum contribution tax rate under the least favorable schedule decreased from 2.9 percent to 2.4 percent. Depending on which tax schedule of contribution rates is in effect, the rate for standard-rated employers will range from 1.3 percent to 3.7 percent.

*Benefits.* No individual will be eligible for benefits in 2 successive benefit years unless, after the beginning of the first benefit year during which the individual received benefits, he or she earns at least 6 (was 5-1/2) times the weekly benefit amount established during the first benefit year. The wages needed to qualify for benefits are changed from high-quarter wages of \$1,144.01 and total base-period wages of at least 1-1/4 times the high-quarter wages to the minimum qualifying amount of wages in one quarter of the base period and total base-period wages of at least 1-1/4 times the high-quarter wages. The minimum qualifying amount of wages will be determined each July 1 and must equal 50 percent of the State minimum wage multiplied by 520 hours, rounded to the lowest multiple of 26. The pension offset provision was amended to provide that benefits will be reduced by the amount of pension payments received only if the employment is with the base-period employer and the claimant did not contribute to the pension plan.

*Disqualification.* The special disqualification for individuals who voluntarily leave work due to marital obligations was deleted. The penalty for violating any provision of the Idaho Employment Security Law and for unauthorized disclosure of information was changed from a fine of \$20 to \$200, or imprisonment of up to 90 days, or both, to a misdemeanor.

## Indiana

*Financing.* A new enactment increased from \$4,000,000 to \$4,500,000 the amount of money in the special employment and training services fund that may be used for (1) training and counseling assistance for individuals who have been unemployed for at least 4 weeks, who are not otherwise eligible for training and counseling assistance, and who are not participating in programs that duplicate those programs; or (2) training provided by State educational institutions to participants in joint labor and management

apprenticeship programs.

*Benefits.* The pension provision was amended to provide that Social Security payments are not considered payments for purposes of determining eligibility for waiting week or benefit rights, or reducing the weekly benefit amount.

## Iowa

*Financing.* The special administrative contribution surcharge of 0.1 percent of Federal taxable wages was extended through 2001. The surcharge had been scheduled to terminate at the end of 1998. The fund established from the surcharge revenues is used only for personnel and nonpersonnel costs of rural and satellite job service offices in population centers of fewer than 20,000 inhabitants or for division-approved training.

*Disqualification.* A claimant must show that a voluntary quit is for good cause that is attributable to the employer.

## Kansas

*Coverage.* A new enactment excludes from coverage services performed by election officials or election workers if the amount of remuneration received for services during the calendar year is less than \$1,000.

*Financing.* The following will be effective for rate year 1999: (1) The contribution rate for new employers will be 1.0 percent; however, for rate year 1999, the 1-percent contribution rate will not be effective if the reserve fund ratio in schedule III is less than 1.75 percent. (2) The contribution rate for negative-balance employers will be within a range from 1.1 percent to 6 percent, rather than a uniform 5.4 percent. (3) Negative-account-balance employers will not be assessed the surcharge that is based on the size of the employer's negative reserve ratio. (4) Positive-balance employers that are current in the filing of all reports and that are paying all contributions when due will be issued a zero contribution rate; however, the zero rate will not be effective for 1999 if the reserve fund ratio in schedule III is less than 1.75 percent.

Also for 1999, the rates in schedule IIA shall apply, unless the reserve fund ratio

in column A of schedule III is less than 1.75 percent.

*Disqualification.* An inmate of a custodial or correctional institution will be unavailable for work and will not be eligible to receive unemployment compensation while incarcerated.

## Kentucky

*Financing.* On January 1, 1999, the new-employer rate decreases from 3 percent to 2.7 percent, and new experience rate schedules are established, based on trust fund adequacy rates. Depending on trust fund balances, the new rate schedules could produce reductions in experience rates. The Service Capacity Upgrade Fund is established, to be used for technology (purchases and upgrades) for programs administered by the department. The Service Capacity Upgrade Fund will be financed through contributions from employers, in amounts equal to tax rate reductions realized from the new rate schedules over the period January 1, 1999, through December 31, 2001. Employer noncharging provisions are expanded to include employers who have continued to provide uninterrupted, part-time employment for claimants.

*Benefits.* On January 1, 1999, the minimum weekly benefit amount increases from \$22 to \$39. The weekly benefit amount computation changes from 1.185 percent to 1.235 percent of base-period wages, and the maximum weekly benefit amount increases to 62 percent of the average weekly wage.

*Disqualification.* Weekly benefit amounts will not be reduced by any part of Social Security pension payments if 50 percent or more of the Social Security contributions were made by the claimant during the base period. Deductions of 100 percent will be taken from future benefits to reimburse the unemployment insurance program for overpayments resulting from backpay awards, or from false statements, misrepresentation, or concealment of material information by a benefit recipient.

## Louisiana

*Disqualification.* The definition of wages was amended to include Worker Adjustment Retraining Notification (WARN) Act payments. Recipients of WARN Act payments

will be disqualified for any week with respect to which WARN Act payments are received. However, a WARN Act recipient shall not be disqualified from benefits on the basis of refusing to leave part-time, interim, or full-time work to return to work for the employer issuing the WARN Act payment.

## Maine

*Financing.* The additional contribution rate of 0.4 percent assessed on experience-rated employers was extended through calendar years 1998 and 1999. For rate year 1999, "schedule P" of the contribution rate schedule will be in effect. Under schedule P, the rates range from 2.4 percent to 7.5 percent.

*Benefits.* The maximum weekly benefit amount through December 31, 1999, will be limited to 94 percent of the amount otherwise calculated. In addition, for claimants filing claims before January 1, 2000, the weekly benefit amount will be reduced by \$3.

*Administration.* Work records and reports must be kept confidential and not be opened for public inspection, other than to public employees in the performance of their public duties, to any agent of an agency that is under contract to a State or local child support agency, or to any agent of an agency that is under contract or subcontract to the State employment and job training agency. If confidential information is disclosed, the offender will be guilty of a Class E crime.

## Maryland

*Coverage.* Employment performed for a governmental entity as an election official or election worker is excluded from coverage if the amount of the remuneration received by the individual during the calendar year for such services is less than \$1,000. Employment performed by an inmate of a custodial or penal institution for a private, for-profit employer is excluded from coverage, except when an inmate continues to be employed by the private, for-profit employer after being permanently released from the penal or custodial institution.

*Administration.* Authority has been provided for agents of Child Support Enforcement Units to inspect claims information

for purposes of establishing and collecting child support obligations and for locating individuals who owe child support.

## Massachusetts

*Financing.* Beginning January 1, 1999, experience-rated employers will pay contributions under a revised "schedule B," with rates ranging from 1.325 percent to 7.225 percent. On January 1, 2002, this schedule of rates will revert back to a range of 1.4 percent to 7.3 percent. For the period January 1, 1999, to December 31, 2001, each contributing employer will pay a workforce training contribution of 0.075 percent. The rate of contribution will be adjusted so that the total amount of contributions in a year equals \$18,000,000.

## Minnesota

*Coverage.* A new enactment excludes from coverage services performed by election officials or election workers if the amount of remuneration received for services during the calendar year is less than \$1,000.

*Financing.* The maximum contribution rate was reduced from 9 percent to 8.9 percent. The period needed for a new employer to qualify for experience rating was changed from 15 months to 12 months. The contribution rate for new employers in the construction industry is now the higher of 1 percent or the State's cost rate for construction employers, up to a maximum of 8.9 percent (was 9.0 percent), plus the applicable minimum tax rate. The solvency assessment will now apply if the fund balance is less than \$150 million; the amount of tax will be 10.1 percent of contributions due. Revenues from the solvency assessment will be placed in a special account, from which the commissioner of the agency will pay interest accruing on any advance from the Federal unemployment trust fund. If an educational institution is a reimbursing employer, its account will not be charged for benefits paid because of gross misconduct, or for cases in which the employer provided part-time employment in the base period or continues to provide 90 percent of the employment in the base period.

*Benefits.* The computation of the weekly benefit amount was changed from 1/26 of high-quarter wages during the base period to

the higher of (a) 50 percent of the individual's average weekly wage during the base period, up to a maximum of  $66\frac{2}{3}$  percent of the State average weekly wage, or (b) 50 percent of the individual's average weekly wage during the high quarter, up to a maximum of 50 percent of the State average weekly wage, or \$331, whichever is higher. The weekly benefit amount will now be rounded to the nearest \$1, rather than rounded down. The claimant's average weekly wage will be computed by dividing the claimant's total wage credits by 52 for cases in which the weekly benefit amount is computed as 50 percent of the individual's average weekly wage during the base period. For cases in which the weekly benefit amount is computed as 50 percent of the individual's average weekly wage during the high quarter of the base period, the claimant's average weekly wage will be computed by dividing the claimant's high-quarter wage credits by 13. Deleted was a provision that required that the State average weekly wage used to compute the maximum weekly benefit amount would depend on the balance in the fund. A 1-week waiting period for benefits will not apply if the claimant would have been entitled to Federal disaster unemployment assistance because of a disaster in Minnesota, but for the claimant's establishment of a re-employment insurance account.

*Disqualification.* A claimant unemployed because of a uniform vacation shutdown will not be considered to be on a voluntary leave of absence. The pension provision was amended to apply a reduction in the weekly benefit amount for any week in which the claimant receives, or has received, a pension, retirement, or annuity (was 50 percent of pension) payment from any plan contributed to by a base-period employer. Deleted was the provision that took into account the contributions made by the worker to the plan from which payments are made. The 1- to 52-week disqualification for fraudulent misrepresentation was deleted. A claimant will be assessed a penalty equal to 25 percent of the amount of benefits fraudulently obtained. An individual who obtains, or attempts to obtain, or aids or abets any individual to obtain benefits fraudulently will be assessed a penalty of denial of benefits for 1 to 52 weeks.

### Mississippi

*Financing.* A new employer engaged in an

employee leasing arrangement with an employee leasing firm on June 30, 1998, and which is not eligible for a modified rate, will be assigned a contribution rate of 1.50 percent starting with calendar year 1999, until the employer is eligible for a modified rate based on experience subsequent to December 31, 1998.

*Benefits.* The maximum weekly benefit amount increased from \$180 to \$190.

*Disqualification.* An entity utilizing the services of any employee leasing firm will be considered the employer of the individuals leased from the employee leasing firm for purposes of the unemployment insurance program. Temporary help firms will be considered the employer of the individuals they provide to perform services for other individuals or organizations. A employing leasing firm is any entity that provides ongoing services for a client company, such as payment of wages, reporting of wages for unemployment insurance purposes, payment of unemployment insurance contributions, and other administrative duties in connection with the client's employees, who are directed and controlled by the client. A temporary help firm is an entity that hires its own employees and provides those employees to other individuals or organizations to perform some services and to support or supplement the existing workforce in special situations (such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects), with the expectation that the worker's position will be terminated upon the completion of the task or function. An employee leasing arrangement is any agreement between an employee leasing firm and a client, whereby client responsibilities such as payment of wages, reporting of wages for unemployment insurance purposes, payment of unemployment insurance contributions, and other administrative duties are to be performed by an employee leasing firm, on an ongoing basis.

### Missouri

*Coverage.* A new enactment excludes from coverage services performed by an individual under the age of 18 years in the delivery or distribution of newspapers or shopping news. (Still covered are services that include delivery or distribution of such materials to a point be-

fore actual delivery or distribution to the public.) Also excluded from coverage are services performed by an individual who pays a fixed price for newspapers or magazines and resells them at a higher price for profit.

*Financing.* A provision was deleted under which employers who fail to file required reports are assigned a 5.4-percent tax rate.

### Nebraska

*Benefits.* On January 1, 1999, the minimum weekly benefit amount will increase from \$20 to \$36, and the maximum weekly benefit amount rises from \$184 to \$206. On January 1, 2000, the maximum weekly benefit amount will increase to \$214. On January 1, 2001, an individual's weekly benefit amount will be one-half of his or her average weekly wage, rounded down to the nearest \$1. An individual's average weekly wage will equal the wages in the highest quarter of his or her base period, of which \$800 has to have been paid in each of two quarters.

*Disqualification.* The disqualifying income provision was amended to include all temporary (previously only temporary partial) disability under workers' compensation.

### New Hampshire

*Coverage.* A new enactment excludes from coverage services performed by election officials or election workers if the amount of remuneration received for services during the calendar year is less than \$1,000. Now excluded from coverage are services performed by an individual in an elementary or secondary school operated primarily for religious purposes. In addition, services performed by an individual in the sale of newspapers or magazines are excluded, if certain conditions are met.

*Financing.* The amounts needed in the unemployment fund to trigger a decrease in contribution rates were raised. The contribution rate now decreases by 0.5 percent if the fund equals or exceeds \$225,000,000 (was \$200,000,000); by an additional 0.5 percent if the fund equals or exceeds \$250,000,000 (was \$225,000,000); and by an additional 0.5 percent if the fund equals or exceeds \$275,000,000 (was \$250,000,000) through-

out the preceding calendar quarter. (However, the rate cannot be less than 0.1 percent). Benefits paid to an individual for leaving employment due to domestic abuse will not be charged to the employer's experience rating account if the individual made all reasonable efforts to preserve the employment.

**Benefits.** The maximum weekly benefit amount increased from \$246 to \$275, and will increase to \$301 on March 28, 1999. The minimum earnings requirement for receipt of benefits increased from \$1,200 to \$1,400. The base period was changed from a uniform calendar year to the first 4 of the last 5 completed calendar quarters preceding the individual's benefit year. An alternative base period was established for individuals who have base-period wages that are insufficient to qualify for benefits. The alternative base period consists of the last 4 completed calendar quarters immediately preceding the first day of the individual's benefit year, if wages earned during such a period qualify the individual for benefits. The benefit year was changed from a uniform year beginning April 1 to the year beginning with the week of a valid claim. However, the benefit year will be 53 weeks if the filing of a new claim would result in the use of a quarter of wages in the new base period that had previously been included in a prior base period. The Federal-State Extended Benefit Program was amended to add an alternative trigger based on the State's seasonally adjusted total unemployment rate (TUR), as determined by the U.S. Secretary of Labor. Under the alternative provision, the State may trigger benefits on for a week if (a) the TUR for the most recent 3 months equals or exceeds 6.5 percent, and (b) the average TUR in the State equals or exceeds 110 percent of the TURs for either or both of the corresponding 3-month periods in the 2 preceding calendar years.

**Disqualification.** If an individual is permanently disabled (physically or mentally, or both), full-time work for that individual will be deemed to be the hours and shifts that he or she is physically able to work, provided that there is a market for the services the individual offers during the pertinent hours and shifts. In such cases, the capacity of the disabled person to work must be certified by a licensed physician. An individual will not be disqualified for benefits for leaving employment due to domestic abuse if the he or she

made all reasonable efforts to preserve the employment, or if he or she relocated to escape the abuse.

## New York

**Financing.** On January 1, 1999, the taxable wage base will increase from \$7,000 to \$8,500. The special supplemental contribution of 0.07 percent, which applied when the size of fund index was less than 2, was eliminated. The special subsidiary contribution, which ranged from 0.01 percent to 1.0 percent depending on the general account balance, was changed to a range of between 0.525 percent and 0.925 percent, depending on the general account balance and the employer account percentage. The requirement that limited the increase in subsidiary contributions in any year to 0.3 percent over the preceding year was deleted. The determination of the employer to be charged for benefits paid was changed from employers in inverse order of employment to the last employer prior to the filing of a valid original claim in an amount equal to 7 times the claimant's weekly benefit amount. Thereafter, the charges will be made to the account of each employer in the base period in the same proportion that the remuneration paid by each employer to the claimant during that base period bears to the remuneration paid by all employers to the claimant during the base period. If an employer who employed the claimant in the 4 weeks immediately preceding the filing of a valid original claim demonstrates that it has continuously employed the claimant without interruption and substantially to the same extent, it will not be charged for benefits paid. (Benefits will instead be charged to the general account.) On January 1, 1999, a Re-Employment Service Fund will be established in joint custody of the Commissioner of Taxation and Finance and the State Comptroller. Each experience-rated employer must pay an additional contribution of 0.075 percent of its quarterly taxable payroll into the fund. The money in the fund will be used to provide additional automated service and staff to enhance re-employment services and claimant management activities for unemployment compensation claimants, and to pay administrative costs related to unemployment compensation claimants. The money will be paid out in vouchers. The provision that an employer's contribution rate

could not be less than 5.4 percent was deleted. On January 1, 1999, the range of rates under the least favorable schedule changes from 1.1 percent through 5.4 percent to 0.9 percent through 8.5 percent; the maximum contribution rate under the most favorable schedule changes from 5.4 percent to 5.9 percent. Also on January 1, 1999, the contribution rate for any employer who has not been liable for contributions for the five completed calendar quarters ending on the computation date, or who had not paid any remuneration in the payroll year preceding the computation date, may not exceed 3.4 percent (was 2.7 percent). For purposes of determining an employer's account percentage, the number of years of average taxable payrolls is increased from 3 to 5 years preceding the computation date or to the average for all quarters if the employer has been liable for contributions for fewer than 21 (was 13) quarters. A 3-month amnesty program, which began on October 1, 1998, and ends on December 31, 1998, was established for all eligible employers who owe contributions. Under the amnesty program, the commissioner for the agency will waive penalties on outstanding contributions under certain conditions. To participate in the program, an eligible employer must make an application and pay the amount of the contribution liability, plus related interest, under one or more of the designated conditions under which amnesty is sought. The employer may pay the outstanding amount either at the time the application is made or within the time specified on a bill issued by the commissioner. On January 1, 1999, the Department of Taxation and Finance will assume the responsibility for processing unemployment insurance returns and depositing contributions. This change will eliminate the need for the employer to file the unemployment insurance return and contributions with the New York Department of Labor. The responsibilities of the Department of Taxation and Finance in regards to processing unemployment insurance information, contributions, and benefit payments will remain governed by the provisions of the Labor Law (that is, the Unemployment Insurance Law).

**Benefits.** The maximum weekly benefit amount increased from \$300 to \$365. On April 1, 1999, the following changes will become effective: (1) the weekly benefit amount will be computed as 1/25 of remuneration

neration paid during the high quarter of the base period, lowered to the next multiple of \$1; (2) the formula for computing the weekly benefit amount changes from an average weekly wage formula to a high-quarter formula; (3) to qualify for benefits in a successive benefit year, a claimant must have earned 5 times his or her weekly benefit amount; (4) the base period changes from 52 consecutive weeks preceding filing of a valid original claim to either the first 4 of the last 5 completed calendar quarters, or the last 4 quarters ending with the week immediately preceding the filing of a valid original claim; (5) the qualifying wages and employment requirements change from 20 weeks of work with minimum average weekly wages of at least 21 times the minimum wage in each week to 1-1/2 times the high-quarter wages in the base period with at least \$1,600 in the high quarter of the base period and wages in at least two quarters of the base period; (6) the alternative qualifying requirements change from 15 weeks' employment in a 52-week period and a total of 40 weeks of employment preceding the benefit year to employment in at least two quarters of the base period with wages of 1-1/2 times high-quarter wages in the base period, with at least \$1,600 earned during the high quarter of the base period; and (7) the base period may be extended by the number of calendar quarters (was weeks) in which an individual received workers' compensation benefits or any benefits paid under the volunteer firefighters benefit law, up to two calendar quarters (was 6 months). The following will become effective September 1, 2000: (1) The weekly benefit amount will be computed as 1/26 of the remuneration paid in the highest quarter of the base period; however, if the high-quarter wages are \$3,575 or less, the weekly benefit amount will be computed as 1/25 of wages paid in the high quarter of the base period, lowered to the next multiple of \$1; (2) The maximum weekly benefit amount payable will be equal to one-half of the State average weekly wage for covered employment, calculated no sooner than July 1, 2000, or later than August 1, 2000, rounded down to the lower \$1.

*Disqualification.* A number of changes will become effective April 1, 1999. First, the requalifying requirement needed to purge a duration disqualification for misconduct or refusal of suitable work changes from 3 days' work in each of 5 weeks and 5 times the

weekly benefit amount to 5 times the weekly benefit amount. Second, good cause for refusal of suitable work now will include a refusal to accept employment that would interfere with a claimant's right to join or to retain membership in any labor organization, or that otherwise interferes with or violates the terms of a collective bargaining agreement. Finally, whenever a new determination by a referee, the appeals board, or a court results in a denial of benefits previously allowed, the new determination shall not affect the rights to any benefits already paid under the authority of the prior determination or decision, provided they were accepted by the claimant in good faith, and the claimant did not make any false statement or representation and did not willfully conceal any pertinent fact in connection with his or her claim for benefits.

*Administration.* Wage information received or obtained by the New York Department of Labor as a result of conversion from a wage request system to a wage reporting system will not be disclosed by the Department unless the disclosure of the information is required by law. In no circumstance will information other than aggregate information be used or disseminated.

## Oklahoma

*Coverage.* A new enactment excludes from coverage services performed by election officials or election workers if the amount of remuneration received for services during the calendar year is less than \$1,000.

*Financing.* On January 1, 2000, the taxable wage base changes from 50 percent of the State average annual wage to a percentage of the State average annual wage that will be determined by the conditional factor in place during the calendar year for which the taxable wage base is being calculated. The percentage will be (1) 40 percent for calendar years in which the balance in the Unemployment Compensation Fund exceeds the amount required to initiate conditional contribution rates; (2) 42.5 percent during calendar years in which condition "a" exists; (3) 45 percent during calendar years in which condition "b" exists; (4) 47.5 percent during calendar years in which condition "c" exists; and (5) 50 percent during calendar years

in which condition "d" exists. For the period July 1, 1998, through June 30, 1999, an employer's contribution rate will be reduced by 50 percent, provided that the assigned rate does not fall below 1.0 percent. An employer's experience rating account will not be charged for benefits paid to an individual who was (1) discharged for unsatisfactory performance during an initial employment probationary period; or (2) separated from employment because his or her spouse was transferred or obtained employment in another city or State, requiring the family to move, and the employee quit to move with the spouse.

*Benefits.* The weekly benefit amount will be computed as 1/23 (was 1/25) of the taxable wages paid to an individual in the high quarter of his or her base period. For purposes of determining partial benefits, each claimant will report all wages that he or she has been or will be paid for work performed during any week in which he or she claims unemployment benefits, regardless of the source or amount. The duration computation was changed from the lesser of 26 times the individual's weekly benefit amount or 40 percent of taxable wages to the lesser of 26 times the weekly benefit amount or a percentage (based on the unemployment compensation fund balance and ranging from 20 to 25 percent) of the State's average annual wage, or a percentage (based on the unemployment compensation fund balance and ranging from 40 to 50 percent) of the individual's insured wages during his or her base period.

*Disqualification.* The definition of good cause for voluntary leaving was amended to include situations in which (1) the claimant was separated from employment because a physician diagnosed or treated a medically verifiable illness or medical condition of the claimant or a minor child of the claimant, and the physician found that it was medically necessary for the claimant to stop working or change occupations; or (2) the spouse of the claimant was transferred or obtained employment in another city or State at a job outside the commuting distance (a radius of 50 miles) from the prior employment of the claimant, and the claimant left employment to move to the location of the spouse's new employment.

## Rhode Island

*Coverage.* The definition of “independent contractor” for purposes of the Employment Security Act was modified to conform with the Internal Revenue Code definition.

*Financing.* On January 1, 1999, the flexible taxable wage base that is computed as 70 percent of the State average annual wage was repealed. The taxable wage base now will range from \$12,000 to \$29,000, depending on the amount of the employment security fund on September 30 of each calendar year. The fund level mandating the most favorable schedule of employer contribution rates was changed from at least 11.5 percent of taxable payrolls to 6.4 percent of total payrolls. The level mandating the least favorable schedule was changed from 5.0 percent of taxable payrolls to 2.75 percent of total payrolls. The special job development tax assessed on employers was changed from 0.15 percent to 0.19 percent of total payrolls. As a consequence, the regular tax rate for all employers was reduced by 0.19 percent. Deleted was a provision that benefits paid following disqualifications for voluntary leaving, discharge for misconduct, and refusal of suitable work would be charged to the last employer’s account.

*Benefits.* The 7-day waiting period for unemployment compensation was eliminated for cases in which the unemployment is due to a natural disaster or a state of emergency.

*Disqualification.* Voluntarily leaving work without good cause will include leaving work to accompany, join, or follow a spouse to a new locality in connection with the retirement of the spouse. Misconduct is defined as deliberate conduct in willful disregard of the employer’s interest, or a knowing violation of a reasonable and uniformly enforced rule or policy of the employer, provided that such violation is not shown to be a result of the employee’s incompetence. Also, the rule that has been violated must be fair and reasonable to both the employer and the employed worker. The provision that disqualifies employees who have a reasonable assurance of returning to work after vacations or holidays from receiving benefits for the time off was extended to professional employees of educational institutions. The between-terms and holiday/vacation disqualifications were extended to professional employees of educa-

tional service agencies. “Reasonable assurance” is defined as a written agreement by the employer that the employee will perform services in the same or similar capacity during the ensuing academic year, term, or remainder of a term.

*Administration.* The period during which a claimant or any other interested party may request a hearing on a regular claim determination was lengthened from 10 to 15 days. The number of members on the State Advisory Council was increased from seven to eight.

## Tennessee

*Disqualification.* The pension offset provision was amended to provide that no reduction will be made to the weekly benefit amount if 100 percent of pension benefits received is rolled into an individual retirement account. If a claimant has been discharged because his or her actions, not previously known or permitted by the employer, placed the employer in violation of the Fair Labor Standards Act, the claimant’s disqualification shall be (1) for the duration of the ensuing period of unemployment, and (2) until the claimant has secured employment covered by an unemployment compensation law of any State, and has been paid wages equal to 10 times his or her weekly benefit amount.

## Utah

*Disqualification.* The penalty for fraudulent misrepresentation to obtain or increase benefits and to prevent the payment of or reduce benefits was changed from a Class A misdemeanor with a fine of \$50 and a penalty of imprisonment of up to 60 days to: (1) a Class B misdemeanor if the amount of money obtained or sought is less than \$300; (2) a Class A misdemeanor if the amount sought or obtained exceeds \$300 but is less than \$1,000; (3) a third-degree felony if the amount exceeds \$1,000 but is less than \$5,000; or (4) a second-degree felony if the amount exceeds \$5,000. The degree of any offense will be determined according to the total of all money obtained or sought through the unlawful conduct. An individual filing a new claim for unemployment compensation must disclose whether he or she owes an uncollected overissuance of food stamp coupons. If so, repayment will be made through

deductions from the individual’s unemployment insurance benefits, in an amount specified by the individual, determined through agreement with the food stamp agency, or as otherwise required under law.

*Administration.* The advisory council was renamed the Employment Advisory Council.

## Vermont

*Benefits.* For the period July 1, 1998, through June 30, 1999, the maximum weekly benefit amount increased from \$146 to \$265, reflecting adjustment by a percentage equal to the percentage change during the preceding calendar year in the State average weekly wage.

*Disqualification.* An individual will be eligible for benefits if he or she is not self-employed or engaged in self-employment to the extent that it makes him or her unavailable for work. An individual filing a new claim for unemployment compensation must disclose whether he or she owes an uncollected overissuance of food stamp coupons. If so, repayment will be made through deductions from the individual’s unemployment insurance benefits in an amount specified by the individual, determined through agreement with the food stamp agency, or as otherwise required under law. An individual who received an overpayment of benefits because he or she has received cash severance payment must repay the amount of the benefits or an amount that may, at the discretion of the commissioner, be reduced to cover attorney’s fees.

## Virginia

*Disqualification.* The definition of misconduct was amended to include an employee’s confirmed positive test for a nonprescribed controlled substance when the test was conducted at the direction of the employer, in conjunction with the employer’s administration and enforcement of a known workplace drug policy.

*Administration.* Employers must report new hires to the Virginia New Hire Reporting Center, instead of the Virginia Employment Commission as previously required. The New Hire Reporting Center is operated by the Division of Child Support Enforcement.



## Washington

*Disqualification.* The Washington Employment Security Department must ensure that, within a reasonably short time after initiation of benefits, all claimants register for job search in an electronic labor exchange system that supports direct employer access for the purpose of selecting job applicants. This requirement does not apply to claimants with employer attachment or union referral, or to those who are in approved training or the subject of antiharassment orders. On July 1, 1999, the department must implement a job-search monitoring program to ensure that, following the initial application for benefits, an individual is actively engaged in searching for work. A claimant must provide evidence of seeking work for each week beyond 5 in which a claim is filed. Excluded from this requirement are in-

dividuals with employer attachment or union referral, and persons taking training that has been approved by the State Commissioner for Employment Security.

*Administration.* If the procedure for applying for benefits is changed from an in-person, written initial application process to a call-center approach, the State employment security department must ensure that (1) unemployment insurance claimants remain actively involved in re-employment activities, and (2) an independent evaluation is conducted of the call-center approach to unemployment insurance administration.

## Wisconsin

*Financing.* Under certain conditions, em-

ployer solvency rates applicable for calendar year 1998 are reduced.

## Wyoming

*Coverage.* A new enactment excludes from coverage services performed as an election official or election worker if the amount of remuneration received by the individual for such services during the calendar year is less than \$1,000.

*Administration.* The Wyoming Department of Employment will operate and maintain the State Directory of New Hires. Any State information provided to the U.S. Secretary of Health and Human Services for the National Directory of New Hires may not be disclosed for any purpose, except as authorized by law. □