

Changes in unemployment insurance legislation in 2001

At the State level, enactments included increases of maximum weekly benefit amounts, modifications to voluntary quit provisions, and extensions of coverage to Indian tribes; one Federal bill enacted will affect the Federal-State unemployment insurance program

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During 2001, one Federal enactment affected the Federal-State unemployment insurance program. The “Economic Growth and Tax Relief Reconciliation Act of 2001” (P.L. 107–16) will affect the unemployment insurance program in two ways. First, the voluntary withholding rate of Federal income taxes on unemployment insurance benefits has been reduced from 15 percent to 10 percent. The amendment applies to amounts paid after the 60th day after enactment, which pertains to payment made on and after August 7, 2001. Those States that contain generic language in their unemployment insurance State laws, as regards the withholding requirement, can implement the new percentage without a law change. However, the five States that have provisions that include the 15-percent rate language will need to amend their State unemployment insurance laws before the withholding rate can change. Second, the exclusion of employer-provided educational assistance from the Federal Unemployment Tax Act definition of wages has been extended to graduate education and the exclusion is permanent for both undergraduate and graduate education courses. This amendment is effective with respect to courses that students began

after December 31, 2001. The States have the option of amending their unemployment insurance State laws to include this provision.

The “Consolidated Appropriations Act, 2001,” requires those States that have federally recognized Indian tribes within their borders amend their laws to treat Indian tribes similarly to State and local governments. Of the 34 States under mandate to amend their laws, 22 had done so by December 18, 2001. Although not required, Arkansas enacted legislation about Indian tribes. In addition, one State is operating under an Executive Order and another under a savings clause.

As was noted in last year’s article, 15 State legislatures introduced bills generally following the guidelines set forth in the “Birth and Adoption-Unemployment Compensation” final rule, effective August 14, 2000; none of the bills were enacted. Eighteen State Legislatures followed suit in 2001, with the same result of zero enactments.

Enactments of State unemployment insurance laws include the majority of States (approximately 43) increasing their maximum weekly benefit amounts either through legislation or automatic provisions; some other States modifying the voluntary quit provision for circumstances related to domestic violence, and many States expanding coverage to service performed for an Indian tribe.

Following is a summary of some significant changes in State unemployment insurance laws during 2001.

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Arizona

Coverage. An Indian tribe includes a tribal unit, a subdivision or subsidiary of an Indian tribe, and a business wholly owned by an Indian tribe. The definition of “employment” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services and to exclude coverage of certain services. An Indian tribe may either pay contributions or elect to make reimbursements. Under certain circumstances, the reimbursement election will be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected. Extended benefits not reimbursed by the Federal Government must be financed 100 percent by the Indian tribe.

Financing. Reimbursable employers are exempt from the Job Training Tax. The Job Training Tax is imposed under certain conditions.

Arkansas

Administration. The disclosure of wage and unemployment insurance information to the U.S. Department of Housing and Urban Development (HUD) and to representatives of public housing agencies concerning applicants for or participants in housing assistance programs administered by HUD will be allowed. The disclosure of employee unemployment insurance information to the State of Arkansas Disability Determination for Social Security Administration and, pursuant to a subpoena, the Arkansas Insurance Department Workers’ Compensation Fraud Investigation Unit will be allowed. Beginning July 1, 2001, applications for review and redeterminations must be made the first time charges appear on an employer’s account; subsequent charges for the same claimant in the same benefit year may not be challenged. The director will be required to report to the Employment Security Department Advisory Council on a quarterly basis as to any uses of stabilization tax proceeds deposited into the Employment Security Special Fund. Changes reference from appeal referee to appeal hearing officer. The term of office for members of the Board of Review has been changed from 2 to 4 years, and 4-year terms are to run concurrently with

the term of the Office of the Governor. The Chairman of the Board of Review will be required to have a 4-year term beginning with the 2003 appointment.

Benefits. Testing positive for illegal drugs under a Department of Transportation qualified drug screening program, in accordance with the employer’s bona fide written drug policy will be considered misconduct that can lead to a disqualification for benefits. Work offered to an individual by a base-period or last employer at earnings equal to or greater than the individual earned from the base-period or last employer will be deemed suitable work, unless certain factors are applicable (such as, failure to meet prevailing conditions, risk to health, safety, morals, and so forth) and it would be contrary to good conscience to deem such work suitable. A “seasonal industry” is defined as an industry in which, among other things, it is customary to lay off 40 percent or more of the average monthly number of workers for at least 4 consecutive months during a regularly recurring period of each year. Vacation payments received due to a permanent separation from employment may not be disqualifying nor deductible from unemployment insurance. The application period of a disqualification for willful false statement changes from 2 to 5 years. Beginning, July 1, 2001, overpayments can be collected only by deduction from future benefits after 10 years; interest will be imposed on overpayments due to fraud; and a 10-percent penalty will be assessed on fraud overpayments not repaid within 1 year.

Coverage. The definition of “employer” and “employment” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. Under certain conditions, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected. Extended benefits not reimbursed by the Federal Government must be financed by the Indian tribe.

Financing. An employer doing business out-of-State may elect a 2.9-percent new employer rate or an in-State experience rate

based on its experience in the other State(s), provided the employer: has at least 3 years of experience in the other State(s); provides an authenticated account history from the other State(s); and conducts business in Arkansas of the same nature as in the other State(s), as defined by the North American Industry Classification System. The provision requiring deposit of stabilization tax proceeds equal to 0.05 percent of taxable wages, collected from January 1, 2001 to December 31, 2002, into the Employment Security Special Fund has been renewed.

California

Benefits. The provision regarding eligibility of student with part-time availability has been repealed. An unemployed worker will not be disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is only available for part-time work. Specifies that if an individual restricts his or her availability to part-time work, such individual may be considered able to work and available for work if it is determined that all of the following conditions exist: a) the claim is based on the part-time employment; b) the claimant is actively seeking and is willing to accept work under essentially the same conditions as existed while the wage credits were accrued; and c) the claimant imposes no other restrictions and is in a labor market in which a reasonable demand exists for the part-time services he or she offers. Payments received from an employer who has failed to provide the advance notice of facility closure required by the Federal Worker Adjustment Renotification and Training Act will not be construed to be wages or compensation for personal services for eligibility determination purposes. Benefits payable will not be denied or reduced because of the receipt of payments related in any way to an employer’s violation of the Federal law. The base period determination changes as follows: benefit year beginning: January, February, or March—4 quarters ending the previous September; April, May, or June—4 quarters ending the previous December; July, August, or September—4 quarters ending the previous March; October, November, or December—4 quarters ending the previous June. New maximum benefit

amount (MBA) tables have been established for claims filed with an effective date beginning: on or after January 1, 2002 and prior to January 1, 2003 with a specified MBA of \$330; and on or after January 1, 2003 and before January 1, 2004 with a specified MBA of \$370; on or after January 1, 2004 and before January 1, 2005 with a specified MBA of \$410; on or after January 1, 2005 with a specified MBA of \$450. The Department is required to study the most effective and efficient means of capturing recent employee wages for the purposes of establishing eligibility for unemployment insurance benefits including implementing an alternative base period. Requires the study to also identify Federal and State resources that may be used to administer the unemployment insurance program. The study is required to be completed and submitted to the Legislature by December 31, 2002.

Coverage. An “American employer” includes any Indian tribe. The definition of “employment” and “employing unit” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. An Indian tribe that elects to make reimbursements will be required to file a surety bond. Under certain circumstances, the reimbursement election will be terminated and coverage may be terminated when a tribe fails to make the required payments; provides for reinstatement when failure is corrected. Any Indian tribe may elect unemployment compensation disability coverage for certain employees, provided the election is the result of a negotiated agreement between specific parties. Extended benefits not reimbursed by the Federal Government must be financed by the Indian tribe.

Colorado

Administration. References concerning assignment of tax rates for new employers in the construction industry will be shifted from the Standard Industrial Classification codes to the North American Industry Classification System codes.

Coverage. The definition of “employer”

and “employment” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe may either pay contributions or elect to make reimbursements. An Indian tribe that elects to make reimbursements may be required to execute and file a surety bond or deposit money or securities. Under certain circumstances, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected.

Financing. On and after July 1, 2001, monies from the statewide indirect cost allocation agreement with the Federal Government must be used to supplement monies in the employment support fund. The deduction requirement from an employer’s refund of excess unemployment insurance taxes, an amount equal to the benefits the Division has paid to employees upon whose wages the taxes were based, is eliminated. An employer is relieved of obligation to pay unemployment insurance taxes in a calendar quarter if the amount due is less than \$5.

Connecticut

Benefits. “Willful misconduct,” in the case of absence from work, is clarified to mean an employee must be absent without either good cause for the absence or notice to the employer which the employee could reasonably have provided under the circumstances for 3 separate instances within an 18-month period. The definition of “just cause” is eliminated.

Coverage. The definition of “employment” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. An Indian tribe that elects to make reimbursements may be required to execute and file a surety bond or deposit money or securities. Under certain conditions, the reimbursement election will be terminated and coverage may be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected.

Delaware

Benefits. The maximum weekly benefit amount increased from \$315 to \$330 for all new claims effective January 1, 2002, and thereafter, as long as the balance in the unemployment insurance Trust Fund is equal to or greater than \$275 million.

Financing. The supplemental assessment was reduced from 0.3 percent to 0.2 percent effective January 1, 2002, and thereafter, whenever the unemployment insurance Trust Fund balance is equal to or greater than \$300 million.

Hawaii

Administration. The law now makes clear that Reed Act monies may be requisitioned and used for the payment of benefits and for the payment of expenses incurred for the administration of Hawaii’s unemployment compensation law and public employment offices pursuant to a specific appropriation of the legislature. Monies credited to the account in Federal fiscal years ending in 2000, 2001, and 2002 must be used solely for the administration of the unemployment compensation program and the monies are not subject to specific appropriation requirements. (This will be retroactive for fiscal years 2000 and 2001.) The appropriation, obligation, and expenditure or other disposition of Reed Act money must be accounted for in accordance with standards established by the U.S. Secretary of Labor.

Idaho

Administration. The penalty that employers lose their appeal rights if they fail to provide separation information without good cause within 10 days of a request from the Department was repealed.

Financing. The State interest payment provisions on Federal loans were modified to change from a requirement to an option: for the director to pay interest charges due and payable from the Federal advance interest repayment fund; to levy on experience-rated employers a Federal advance interest repayment tax; and at the director’s sole discretion, to assess a Federal advance interest repayment on each covered employer

if the estimated interest payable is more than zero.

Illinois

Administration. Determinations related to back pay awards and wrongfully withheld wages may be reconsidered. The time period for reconsidering determinations has been changed from 2 to 3 years.

Coverage. If certain conditions are met, service performed by a full-time student in the employment of an organized camp will be excluded from employment. Service will be excluded from employment if performed on or after January 1, 2002, in the employ of a governmental entity as an election official or election worker and the amount of remuneration received for such service during the calendar year is less than \$1,000.

Indiana

Benefits. Waiver of liability for repayment of benefits upon the request of the individual will be allowed if the benefits were received without fault of the individual's, the benefits were the result of payment made during the pendency of an appeal under which the individual is determined to be ineligible, and repayment would cause economic hardship. The provisions reducing the maximum benefit amount for a separation under disqualifying conditions and for failure to apply for or accept suitable work are modified by providing that the maximum benefit amount may not be reduced by more than 25 percent during any benefit or extended benefit periods. The pension deduction provisions do not preclude an individual from delaying a claim to pension, retirement, or annuity payments until the individual has received the benefits otherwise eligible. Weekly benefits received before the elected retirement date will not be reduced by any pension, retirement, or annuity payment received on or after the elected retirement date. A 20-day time period has been established for an employing unit, including an employer, to notify the department of any facts which may affect an individual's eligibility or right to waiting period credits or benefits.

Financing. The commissioner of workforce

development may adjust the employer's estimated contribution rate, after the period for the employer to provide a timely payroll report, if the employer or other interested party: shows reasonable cause for failure to file the payroll report on time, and submits accurate and reliable payroll reports. The amount of contributions estimated by the commissioner when an employer fails to file a report or files an incorrect report will be considered prima facie correct. Adjustment of such estimated amount of contribution on the basis of information ascertained after the expiration of the notice period will be allowed if the employer or other interested party shows reasonable cause for untimely failure to file any payroll report and submits accurate and reliable reports. A skills training program from January 1, 2002 to December 31, 2004 has been established. A 0.09 percent skills training assessment upon a contributing employer's previous year's taxable wages was established; the assessment will not be credited to the employer's experience account, and will not affect the contribution rate computation. The skills training assessment will be deposited in the skills training fund that has been established. If the unemployment fund ratio is less than a specified amount, the funds assessed for or deposited in the skills 2016 training fund must be directed or transferred to the unemployment insurance benefit fund. Unemployment benefits will not be charged to the experience account of a base period employer when unemployment is a direct result of the condemnation of property by a municipal corporation, the State, or the Federal Government, a fire, flood, act of nature, when at least 50 percent of employees, including the claimant, became unemployed as a result. This exception will not apply when the unemployment was an intentional result of the employer or a person acting on behalf of the employer. A new tax rate table for 2002 through 2004 with rates ranging from 0.15 percent to 5.4 percent under the most favorable schedule and from 1.1 percent to 5.6 percent under the least favorable schedule was established.

Iowa

Benefits. Federal Social Security pensions to which an individual has made contributions will not be deducted from unemploy-

ment benefits.

Coverage. The definition of "employment" includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. Under certain conditions, the reimbursement election will be terminated and coverage may be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected.

Financing. Employers' accounts will not be charged for unemployment benefits directly caused by a major natural disaster declared by the President.

Kansas

Coverage. The definition of "employer" and "employment" includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements for the full amount of regular benefits and extended benefits. Under certain conditions, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments; provides for reinstatement when failure is corrected. An Indian tribe that elects to make reimbursements may be required to file a surety bond or in lieu of a surety bond, to deposit money or securities, or to purchase and deliver a certificate of deposit to guarantee payment.

Louisiana

Administration. The appeal "tribunal" is changed to "referee" and the option that the tribunal consist of a body of three members, is eliminated. The authority to appoint referees and their alternates is changed from the board of review to the Secretary of the State Department of Labor.

Benefits. The amount an individual may elect to deduct and withhold from benefits for Federal income tax is changed from 15 percent to an amount equal to the amount allowable under Federal law.

Coverage. The definition of "employer"

and “employment” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. Under certain conditions, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments.

Financing. Reference from the Standard Industrial Classification system is changed to the North American Industrial Classification System with respect to variation from standard rates.

Maine

Coverage. Services provided by an owner-operator of a truck or truck tractor while leased to a motor carrier, as long as that employment is not subject to Federal unemployment taxes, will be excluded from employment. The definition of “employing unit” and “employment” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. An Indian tribe that elects to make reimbursements may be required to execute and file a surety bond or deposit money or securities. Under certain circumstances, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected.

Maryland

Coverage. A municipal police officer appointed by the Carroll County sheriff as a special deputy sheriff for the county remains an employee of the municipal corporation for unemployment insurance purposes.

Massachusetts

Benefits. The definition of domestic violence and what abuse includes is added to the law. A nondisqualification for discharge is imposed provided the individual establishes that the reason for the discharge was due to circumstances resulting from domestic violence. A nondisqualification for voluntary leaving work is imposed provided

the individual establishes that the voluntary leaving was due to domestic violence.

Financing. Benefits paid to an individual who voluntarily quits due to domestic violence are charged to the solvency account.

Minnesota

Benefits. An individual on a voluntary leave of absence will not be eligible for benefits for the duration of the leave of absence. An individual who quits because of domestic abuse will not be disqualified from benefits under certain conditions. An individual who, without good cause, fails to affirmatively request an additional job assignment after completion of a temporary job assignment from a staffing service employer will be considered to have quit employment under certain conditions.

Coverage. Services performed for an Indian tribe are considered to be in employment, resulting in unemployment insurance coverage of such services—effective retroactive to December 31, 2000. An Indian tribe can either pay contributions or elect to make reimbursements. Under certain circumstances, the reimbursement election will be terminated when the tribe fails to make the required payments. An Indian tribe whose election has been terminated becomes a tax-paying employer and will be assigned the new employer tax rate until qualified for a rate based on experience.

Mississippi

Benefits. Social Security payments to which an employee has made contributions shall not be deducted from unemployment compensation; such payments were previously deductible. Maximum weekly benefit amount increases from \$190 to \$200, effective July 1, 2001, and from \$200 to \$210, effective July 1, 2002.

Financing. Employer contributions are due and payable on a calendar quarterly basis, at the end of the month succeeding each quarter.

Montana

Administration. The Department of Labor and Industry must report to the legislature

on the unemployment benefits applied for and granted under the domestic violence provision. The report must include information on applicant demographics and benefit costs.

Benefits. The maximum weekly benefit amount increases from 60 percent to 63 percent of the State average weekly wage for claims filed on or after July 1, 2001. An individual who is otherwise eligible for benefits may not be denied benefits because the individual left work or was discharged because of circumstances resulting from the individual or a child of the individual being a victim of domestic violence, or due to an individual’s attempt to protect himself or herself or child from domestic abuse. The conditions under which an individual must be treated as a victim of domestic violence have been specified. The duration of these benefits is limited to 10 weeks within a 12-month period. This provision terminates July 1, 2003.

Coverage. Services performed by election judges who receive less than \$1,000 in remuneration in a calendar year are exempt from employment. The definition of “employing unit” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. Under certain conditions, the reimbursement election and coverage are terminated when a tribe fails to make the required payments. The exclusion from employment for real estate agents has been narrowed down to “qualified” agents as defined in 26 U.S.C. 3508, meaning those whose entire remuneration is substantially directly related to sales or other output and who, by written contract, are not employees. The former exclusion applied to all agents licensed under State law. An exclusion from employment has been added for insurance salespeople who are paid solely on a commission basis and who work without a guarantee of minimum earnings.

Financing. Employers will not be charged for the payment of unemployment benefits to an individual who left work due to circumstances stemming from domestic violence.

Nebraska

Administration. Language authorizing the Department of Labor to utilize a three-member tribunal to hear unemployment insurance appeals was eliminated. The unemployment insurance appeal tribunal will in each case consist of an administrative law judge. The law now reflects the independence of appeal tribunals from the State Department of Labor in making decisions about a claimant's eligibility for unemployment insurance. An employer appeal concerning the rate of combined unemployment tax or amount due will be directed to an unemployment insurance appeal tribunal, rather than to the Commissioner of Labor. The Commissioner of Labor will be permitted to appeal the appeal tribunal's decision regarding an employer's rate. Fraud prosecutions involving receipt of unemployment insurance benefits may be brought in any county where any part of the crime was committed, including the county in which the person received the benefits.

Benefits. The law has been clarified to make sure that employer-provided supplemental unemployment insurance benefits are not wages for unemployment benefit or tax purposes and are not deductible from State-provided unemployment insurance. This ensures that employees will not be disqualified from receiving State-provided unemployment insurance and will not have State-provided unemployment insurance reduced while receiving supplemental unemployment insurance.

Coverage. The definition of "employer" and "employment" includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. An Indian tribe that elects to make reimbursements will be required to file a surety bond or deposit money or securities on the same basis as other employers with the same election option. Under certain conditions, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments.

Nevada

Coverage. The definition of "employer"

and "employment" includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements for regular benefits and all of extended benefits. Under certain conditions, the reimbursement election will be suspended when the tribe fails to make the required payments; provides for reinstatement when the failure is corrected.

New Jersey

Administration. An employee leasing firm (or professional employer organization) and a client company are both responsible for meeting the requirements of the State unemployment insurance law.

Benefits. The 12 times statewide average weekly wage option for purposes of determining eligibility for benefits for other than agricultural workers was eliminated. The 1,000 times the minimum wage replaced the 12 times statewide average weekly option for agricultural workers. The 20 percent times statewide average weekly wage option was eliminated from the definition of base week for unemployment benefits. The 20 times the minimum wage replaced the 20 times statewide average weekly wage in the definition of base week for temporary disability benefits. The 1,000 times the minimum wage replaced the 12 times statewide average weekly wage option in determining entitlement to temporary disability benefits.

New Mexico

Coverage. The definition of "employer" and "employment" includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. Under certain conditions, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments and reinstated when the failure is corrected.

North Carolina

Administration. Language that would allow

certain but not all employers of specific domestic service employees to file reports annually was eliminated.

Benefits. Effective September 1, 2001, the age limit for a minor child under the undue family hardship provision is eliminated. Undue family hardship arises when an individual is unable to accept a particular shift because the individual is unable to obtain care for any disabled member of that individual's immediate family. "Immediate family" is defined as an individual's wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, granddaughter, whether the relationship is a biological, step-, half-, or in-law relationship.

Coverage. The definition of "employer" and "employment" includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. Under certain conditions, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments and reinstated when the failure is corrected. Extended benefits not reimbursed by the Federal Government must be financed by the Indian tribe.

Financing. An employer's account will not be charged if the discharge of the claimant was solely for a bona fide inability to do the work for which he was hired but only where the claimant's period of employment was 100 days or less. The noncharging provisions related to hiring pursuant to a job order placed with a local office of the Commission and the Work First Program was eliminated.

North Dakota

Benefits. An individual is not considered to have left employment voluntarily without good cause if the individual leaves his/her most recent employment to accept a bona fide job offer with a base period employer who laid off the individual and with whom the individual has a demonstrated job attachment.

Coverage. The definition of "employer" and

“employment” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe will be allowed either to pay contributions or elect to make reimbursements. An Indian tribe that elects to make reimbursements will be required to file a surety bond. An Indian tribe that fails to make required payments within 90 days will result in loss of option to make reimbursements and that further failure of the tribe to make payments will cause loss of coverage of services performed for the Indian tribe. A manager of a limited liability company is included within the definition of “employee” only if the company is treated as a corporation for purposes of Federal income taxation. Service performed by an owner of a general partnership, limited partnership, limited liability partnership, limited liability limited partnership, or a limited liability company, is included within the definition of “employment” only if the organization will be treated as a corporation for purposes of Federal income taxation. The optional exclusion from “employment” for managers with one-fourth or greater ownership interest in a limited liability company will not apply to limited liability companies wholly owned by or operating as an Indian tribe, State or local government, or nonprofit organization for which services performed are required by Federal law to be covered by the State’s unemployment insurance law.

Financing. During the building of the trust fund reserve for calendar years 2000, 2001, and 2002, a negative employer that was a negative employer the previous year may not make excess contributions to become a positive employer. Limitations imposed during the building of the trust fund reserve for calendar years 2000, 2001, and 2002 that the rate assigned to an employer may not exceed 130 percent of the previous year’s rate for that employer and that an employer may not receive more than a 10-percent decrease in rate from the previous year’s rate, on the following employers were removed: an experience-rated employer that was a new employer the previous year; a negative employer that was a positive employer the previous year; a positive employer that was a negative employer the previous year; an employer that has failed to file a report; a new employer; and an employer that chose

to make payments in lieu of contributions. The requirement for a hearing when a predecessor files a timely written protest of a transfer of experience was eliminated and no such transfer will occur if the predecessor files a timely written protest. An employing unit’s experience record is prohibited from being transferred in an amount that results in the successor and predecessor portions totaling more than 100 percent of the predecessor’s history. The prohibiting of a negative employer, who was a negative employer the previous year, from making excess contributions to the State’s unemployment fund to become a positive employer was eliminated. The procedures for posting a bond or irrevocable letter of credit on construction projects were changed to ensure the payment of all benefits claimed by employees working on the project. The threshold for estimated cost of a construction project that requires posting a bond or letter of credit was raised from \$25 million to \$50 million. In determining new employer rates, employer industrial classification codes were changed from the 2-digit major group in the Standard Industrial Classification (SIC) system to the 3-digit major group code in the North American Industrial Classification System (NAICS). Employers who are liable for coverage before August 1, 2002, however, will remain under the SIC unless they are classified (according to the SIC) within the construction industry.

Oregon

Benefits. An individual may not be disqualified from unemployment benefits if the individual is a victim of domestic violence and certain conditions are met. The Employment Department will be required to provide unemployment insurance applicants with a JOBS PLUS Program brochure at the time of application. The Employment Department will be required to refer unemployment insurance recipients: to available unsubsidized and subsidized jobs within a certain time period if certain conditions are met; and to the JOBS PLUS Program if appropriate and reassess the recipient’s reemployability under certain conditions. The time period limitations for a recipient’s participation in the JOBS PLUS Program has been established. As reimbursement to employers participating in the JOBS PLUS Program, subsidized employ-

ment will be provided. The director may refer claimants to JOBS PLUS Program jobs for which the claimant does not have adequate skills or experience when such job is likely to result in an upgrade in the claimant’s skills and experience. The Employment Department is assigned, as appropriate, certain responsibilities in connection with the JOBS PLUS Program. The Adult and Family Services Division was removed from being connected with the JOBS PLUS Program.

Coverage. The definition of “employer,” “employment,” and “employing unit” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements for regular benefits and all extended benefits. Under certain conditions, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected.

Financing. A business entity that has a single owner and is disregarded as an entity separate from its owner for Federal tax purposes will be deemed to be the same employing unit as its owner for unemployment compensation tax purposes. Applies to tax years beginning on or after January 1, 2002.

Rhode Island

Coverage. The definition of “employer” and “employment” includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. Under certain conditions, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected. An Indian tribe that elects to make reimbursements may be required to execute and file a surety bond or deposit money or securities. Extended benefits not reimbursed by the Federal Government will be financed in their entirety by the Indian tribe.

South Dakota

Administration. The employer rate assign-

ment provision is changed to reflect the shift from the Standard Industrial Classification system to the North American Industry Classification System.

Tennessee

Benefits. The maximum weekly benefit amount increased from \$255 to \$275 on or after August 5, 2001. The provision concerning the treatment of back pay awards was amended to provide that for unemployment insurance benefit purposes, the amount of back pay constitutes wages paid in the period for which it was awarded. Employers who are a party to a back pay award settlement must report whether such settlement was arrived at by subtracting the amount of unemployment benefits received. The requirements have been established for payments to the unemployment fund by such employers in the event the settlement was or was not reduced by the amount of unemployment benefits received.

Financing. The total number of premium rate tables decreased from 10 to 6. Variations from the standard rate of premiums for certain employers must be determined, beginning July 1, 2001 by the reserve ratio of each employer in accordance with the premium rate tables 1–6, depending on the balance in the unemployment compensation trust fund. Under the most favorable table, rates range from 0 percent to 10 percent. Under the least favorable table, rates range from 0.5 percent to 10 percent.

Texas

Administration. Garnishment for the purposes of spousal maintenance will not apply to unemployment insurance benefit payments. The Government Code Chapter will be applicable unless and to the extent: another State law specifically states that this chapter does not apply; or a Federal law or regulation imposes an unconditional requirement that irreconcilably conflicts with the code; or imposes a condition on the State's eligibility to receive money from the Federal Government that irreconcilably conflicts with the code.

Benefits. The computation of the maximum weekly benefit amount changed from a com-

putation based on the change in the 1976 average weekly wage to 47.6 percent of the preceding year's annual average weekly wage. The computation of the minimum weekly benefit amount changed from a computation based on the change in the 1976 average weekly wage to 7.6 percent of the preceding year's annual average weekly wage. A benefit amount that is not a multiple of \$1 must be increased to the next multiple of \$1.

Coverage. Services will be excluded from employment if performed by an individual who is blind while the individual is in training at a sheltered workshop operated by a charitable organization under a rehabilitation program that includes: an individual plan for employment; a timeline for completion of the training; and a planned employment outcome. Service will be included as employment if performed by an individual who is blind and who, after training, is working for a sheltered workshop operated by a charitable organization: temporarily while awaiting placement in a position of employment in the competitive labor market; or permanently because the individual is unable to compete in the competitive labor market. An Indian tribe includes a tribal unit, a subdivision or subsidiary of an Indian tribe, and a business wholly owned by an Indian tribe. The definition of employment includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services and to exclude coverage of certain services. An Indian tribe may either pay contributions or elect to make reimbursements. Under certain circumstances, the reimbursement election will be terminated and coverage may be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected. Extended benefits not reimbursed by the Federal Government must be financed 100 percent by the Indian tribe.

Financing. Certain employers of domestic workers will be permitted to annually report quarterly wages and pay contributions. Such employers must make the reporting and paying election not later than December 31 of the year before the first calendar year reported; an election by such employer is not revocable by the employer before the second anniversary of the date of the elec-

tion. Contributions must be reported and paid by January 31 with respect to wages for employment paid in the preceding calendar year. Requires the commission to estimate the rate taking effect during the preceding calendar year subject to correction when a final computation is made. On the request of the commission, those electing employers must file reports at other times as necessary to adjudicate a claim or to establish wage credits. Any penalty or interest imposed on the elected employer must be computed in the same manner as for other types of employment. In computing the benefit ratio for employers of domestic workers only and who have elected to file reports annually, only taxable wages for which contributions have been paid to the commission on or before January 31 may be used. An employer who reports annually has the same computation date as other employers, but the final computation of a rate for the employer may not occur before February 1 of the year following the computation date. A special unemployment compensation tax rate for employers engaged in agriculture classified as crop preparation services for market was provided. Such employers must pay a contribution at the lowest of the following rates: 5.4 percent; the general tax rate applicable to that employer, with the deficit tax rate and replenishment tax rate; or any other tax rate applicable to that employer. The requirement to notify the Commission of an election will be required. The definition of manual changes from the Standard Industrial Classification Manual to the North American Industrial Classification System Manual.

Utah

Administration. The Division of Workforce Information and Payment Services prescribes rules providing standards for determining which contribution reports must be filed on magnetic media or in other machine-readable form. The rules may not require any employer to file contribution reports on magnetic media unless the employer is required to file wage data on at least 250 employees during any calendar year. Developing the rules requires the Division to take into account the ability of the employer to comply at reasonable cost. The Division may require employers to post a bond for failure

to comply with the rules. For the purpose of accessing records, disclosure of personally-identifiable information about an individual can be or may be granted to: an employee of the Department of Workforce Services (Department) administering programs other than the unemployment insurance program; a government employee or workers' compensation insurer to the extent the information will aid in the detection or avoidance of duplicate, inconsistent, or fraudulent claims against a workers' compensation program or the recovery of overpayments of workers' compensation funds; an employee or contractor of the Department or an educational institution or other governmental entity engaged in workforce investment and development activities pursuant to the Workforce Investment Act of 1998 for the purpose of coordinating services with the Department, evaluating the effectiveness of those activities, and measuring performance; the public for any purpose following a written waiver by all interested parties of their rights to non-disclosure; and an individual whose wage data has been submitted to the Department by an employer, so long as no information other than the individual's wage data and the identity of the party who submitted the information is provided to the individual.

Coverage. Unemployment insurance coverage extends to services performed in the employ of an Indian tribe or tribal unit. Indian tribes and tribal units may either pay contributions or make reimbursements. Failure of any Indian tribe or tribal unit to make required payments within 90 days of receipt of a billing will cause the Indian tribe to lose the reimbursement option. Reimbursing Indian tribes or tribal units may establish group accounts.

Vermont

Administration. Effective with the calendar quarter ending March 31, 2001, the requirement for employers to report worker's average weekly hours worked during the quarter was eliminated. An individual is not deemed to be "partially unemployed" if the individual performed less than full-time work only because there was a holiday in that week for which the individual was entitled to holiday pay.

Virginia

Administration. A fee may not be deducted from unemployment insurance that is subject to child support withholding.

Financing. Employers are not charged benefits paid to an inmate participating in a work-release program when the inmate's separation from work arose from conditions of release or parole from such program.

Washington

Benefits. Individuals who serve in a principal administrative, research, or instructional capacity in a community or technical college, but who are between terms, do not have "reasonable assurance" of continued employment when an offer is conditioned upon enrollment, funding, or program changes. Benefits based on any and all service in an instructional, research, or principal administrative capacity for any and all educational institutions will not be paid to an individual for any week of unemployment which commences during the period between two successive academic years or terms if the individual has reasonable assurance of continued employment.

Coverage. The definition of "employment" and "employing unit" includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. Under certain conditions, the reimbursement election and coverage will be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected. May require an Indian tribe that elects to make reimbursement to execute and file a surety bond or deposit money or securities. Extended benefits not reimbursed by the Federal Government will be financed in their entirety by the Indian tribe.

Wisconsin

Coverage. The definition of "employer" and "employment" includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursement financing.

An Indian tribe that elects to make reimbursement financing must file assurance of reimbursement for the election to be valid; failure to file such assurance terminates pending election. An Indian tribe may terminate the election and pay a contribution rate of 2.7 percent for 3 years; under certain conditions, may reelect reimbursement financing. Under certain conditions, the reimbursement financing and the assurance will be terminated when the tribe fails to make the required payments and any pending election that fails to meet the requirements to file an assurance of reimbursement will be terminated; under certain conditions, reimbursement financing may be reelected. The Department may consider the Indian tribe not to be an employer and may consider services performed for the tribe not to be employment for failure to make required payments.

Wyoming

Administration. A Department of Workforce Services was created and the new director of that Department has been instructed to prepare a plan for reorganizing various agencies and functions, including the possible transfer of unemployment insurance and other functions to the Department of Workforce Services. The plan was to have been submitted to and approved by the Governor and submitted to the joint labor, health and social services interim committee of the legislature no later than October 15, 2001.

Coverage. The definition of "employer" and "employment" includes service performed for an Indian tribe, resulting in unemployment insurance coverage of such services. An Indian tribe can either pay contributions or elect to make reimbursements. An Indian tribe that elects to make reimbursements may be required to file a surety bond. Under certain circumstances, the reimbursement election will be terminated and coverage may be terminated when a tribe fails to make the required payments; provides for reinstatement when the failure is corrected.

Financing. For calendar year 2002, contribution rates were lowered by 30 percent for experience-rated employers and employers at the base rate of 8.5 percent. □