

Changes in unemployment insurance legislation during 1986

Some States tightened benefit eligibility and disqualification provisions, but few other changes were made; in eight States, statutes were modified to cut extended benefits if triggered by Federal budget-balancing legislation

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No major Federal legislation was enacted in 1986 that would require States to amend their unemployment insurance laws. However, Congress enacted Public Law 99-595 (untitled) which extends to December 31, 1992, the exclusion from coverage of aliens performing agricultural labor. States are not required to amend their laws to apply the alien exclusion.

An immigration reform bill, Public Law 99-603, was also enacted which includes an alien verification system that becomes effective in October 1988 in the States unless the U.S. Secretary of Labor provides a waiver. The system would be used to verify the eligibility for benefits of certain alien workers. The law specifies criteria States must meet to qualify for the waiver.

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The Tax Reform Act, Public Law 99-514, amended the definition of gross income to include all unemployment benefits as taxable income for Federal income tax purposes. The act also made several technical amendments to the Federal Unemployment Tax Act.

In general, State legislatures took very little action in the area of unemployment insurance this year. Eight States amended their laws to cut the extended benefit amount payable to a claimant during a period in which Federal payments to States for extended benefits are reduced pursuant to a sequester order under the Balanced Budget and Emergency Deficit Control Act of 1985 (hereafter termed Gramm-Rudman-Hollings). Nine States amended their laws to include tips in the definition of covered wages for tax purposes.

Following is a summary of significant changes in State unemployment insurance (UI) laws during 1986.

California

Disqualification. An individual who was fired from a job or who voluntarily quit due to alcoholism may reestablish eligibility for extended benefits after he or she has earned remuneration equal to or in excess of five times the weekly benefit amount.

Penalties. The penalty for fraud against the UI system was changed from a misdemeanor conviction to imprisonment for 1 year or a fine of up to \$20,000, or both.

Colorado

Financing. Beginning January 1, 1987, the taxable wage base is increased from \$8,000 to \$9,000 and will rise to \$10,000 on January 1, 1988. However, if the trust fund balance on June 30, 1987, is more than \$350 million, the wage base for calendar year 1988 will be \$9,000. The fund balance level at which the most favorable tax schedule would become effective has been changed from at least \$250 million to \$350 million.

Benefits. The percentage of the State's average weekly wage used to compute the maximum weekly benefit amount was lowered from 60 percent to 55 percent.

Disqualification. An individual's potential weeks of benefits will now be reduced if he or she receives severance allowances. Also, disqualifying income now includes sick pay or other similar periodic cash payments.

Administration. The Colorado Department of Labor and Employment's second-level appeals body was changed from the Unemployment Compensation Commission to the Industrial Claims Appeals Panel.

Connecticut

Disqualification. Conditions for benefit eligibility were added for individuals who leave part-time employment and would otherwise be ineligible for benefits.

Delaware

Financing. The period over which an employer's experience rating account must be chargeable before he or she can qualify for other than the standard rate was reduced from 3 to 2 years. The benefit charging provisions were amended to specify that only contributing employers will be relieved of charges for benefits paid to an individual who voluntarily left work without good cause, was discharged for misconduct, or refused an offer of suitable work.

The rate for new employers, except those in construction, is the average assessment rate for all employers. In construction, the new employer's rate is the higher of the average construction industry assessment rate or the average industry assessment rate in that employer's specific industry classification.

Benefits. The weekly and total benefit amounts for extended benefits will be reduced to reflect any cuts mandated by Gramm-Rudman-Hollings.

Disqualification. The duration disqualification for the three major causes of disqualification (voluntary leaving, discharge for misconduct, and refusal of suitable work) will continue until the worker has been employed for 4 weeks and has earned four times the weekly benefit amount.

Florida

Coverage. The exclusion from coverage of aliens performing agricultural labor was extended to January 1, 1988.

Hawaii

Financing. The definition of wages was amended to include tips received from customers and reported to the employer. The benefit charging provisions were amended to specify that no contributing employer's account will be charged for the State's share of Federal-State Extended Benefits.

Benefits. Beginning July 1, 1988, a quarterly wage reporting system will be added, in addition to a wage request system, for purposes of determining benefits. Beginning October 1, 1989, the following changes will be effective: (1) the base period will be the first four of the last five completed calendar quarters; (2) qualifying wages will be 30 times the weekly benefit amount and wages must have been earned in at least two quarters of the base period; and (3) the duration disqualification for the three major causes will not be removed unless or until the individual has earned wages of five times the weekly benefit amount.

Idaho

Financing. The maximum tax rate for the most favorable tax schedule increased from 4.0 percent to 5.4 percent of payrolls. The definition of wages was amended to include tips totaling \$20 or more in a month that have been reported by the claimant in a written statement to the employer. The law was amended to provide that an employer will not be charged for benefits paid to an individual who continues to perform services for that employer without a reduction

in work schedule and who is eligible to receive benefits based on earnings from another employer.

Penalties. The law was amended to add an 8-year statute of limitations on collection by the State of fraudulently received benefits.

Illinois

Coverage. A new enactment excludes from coverage services performed by an individual as a direct seller, if certain conditions are met.

Financing. The taxable wage base of \$8,500 was extended until January 1988. Thereafter, it reverts to \$7,000. The new employer's contribution rate, equal to the greater of 2.7 percent or 2.7 percent times the State experience factor, was extended through calendar year 1987. This effectively postponed until calendar 1988 the charging of a straight 2.7-percent rate for new employers, which was to have become effective January 1987. New legislation also extended through calendar 1987: (1) the minimum and maximum contribution rates of 0.2 percent and 6.7 percent, respectively; and (2) the emergency contribution rate of 0.6 percent for employers whose rates are higher than 0.2 percent, which had been established to ensure adequate fund levels.

Benefits. The requirement that an individual's weekly benefit amount be computed as 48 percent of his or her average weekly wage (up to 48 percent of the State average weekly wage), which was due to expire on January 3, 1987, was extended until January 2, 1988. The formula for computing dependents' allowances was extended for the same period.

Kansas

Financing. The definition of wages was amended to include tips totaling \$20 or more in a calendar month when such tips have been reported in writing to the employer.

Benefits. The amount of earnings disregarded in computing the weekly benefit for partial unemployment was changed from \$8 to one-fourth of the weekly benefit amount or the amount in excess of \$47.

Disqualification. The disqualification for discharge for misconduct and for refusal of suitable work changed from a fixed period of 10 weeks to the duration of the claimant's unemployment and until the individual has earned three times the weekly

benefit amount. Deleted was the requirement that provided for an equal reduction of benefits under both of these disqualifications. Also, Kansas now provides for a cancellation of wage credits earned from the employer involved in a disqualification for gross misconduct.

Kentucky

Coverage. The age 22 limitation for the exclusion from coverage of services performed by students in a work-study program was deleted; therefore such services are excluded, regardless of the individual's age.

Financing. The definition of wages was amended to include tips when they have been reported in writing to the employer. Extended to December 1988 was the provision that a surcharge be imposed on employers if there are insufficient funds in the penalty and interest account for the payment of interest on Federal advances to the State UI program.

Benefits. The maximum weekly benefit amount may not increase if the tax rate schedule in effect is higher than the previous year's schedule. Kentucky also limits the permissible increase in the maximum weekly benefit amount each year depending on the trust fund balance. For example, when the fund balance is less than \$150 million, the maximum benefit cannot increase by more than 6 percent over the previous year's maximum. An individual's extended benefit and total benefit amounts will be cut by the amount of the Gramm-Rudman-Hollings reduction.

Disqualification. An individual will not be disqualified from benefits for leaving work that was 100 miles (one-way) from home to accept work less than 100 miles away.

Louisiana

Benefits. An individual's extended benefit amount and total benefit amount will be reduced by the amount of the Federal share of the Gramm-Rudman-Hollings reduction.

Maine

Financing. Benefits paid to a dislocated worker will not be charged to an employer's experience rating account, but to the general fund.

Benefits. A temporary program which will provide job search assistance and job training was established for dislocated workers.

Maryland

Coverage. A new enactment excludes from coverage services performed by an individual as a direct seller, if certain conditions are met.

Financing. The definition of wages was amended to include tips when they have been reported by the claimant in a written statement furnished to the employer.

Benefits. The maximum weekly benefit amount was increased from \$175 to \$195, and the dependency allowance was raised from \$3 to \$4. Wages earned for a successive benefit year must be in insured work. A temporary worksharing program, established in 1984, was made permanent.

Disqualification. An individual's requalifying earnings after disqualification for voluntary leaving without good cause, discharge for misconduct, or refusal of suitable work must be earned in insured work.

Penalties. The penalty for fraudulent misrepresentation by any individual to obtain or increase benefits was changed from a monetary fine to a misdemeanor. If convicted, the individual will be required to repay the fraudulent benefits plus interest at the rate of 1.5 percent per month from the date on which he or she was notified of the recoverable amount. Also, the individual shall be fined up to \$1,000 or imprisoned for up to 90 days, or both. Any individual who fraudulently prevents or reduces benefits will be guilty of a misdemeanor and fined up to \$1,000 or imprisoned for up to 90 days, or both.

Michigan

Financing. The definition of wages was amended to include tips that are reported by the claimant to the employer in a written statement.

Minnesota

Financing. No employer's account shall be charged for benefits paid to an individual when: (1) the unemployment was caused by a fire, flood, or act of God; (2) 70 percent or more of the employees became unemployed as a result; and (3) the employer reopens its operation within 360 days of the disaster.

Mississippi

Benefits. The maximum weekly benefit amount increased from \$115 to \$130. Professional baseball was included as a seasonal industry for benefit purposes. The total amount of extended benefits payable

is now limited, so that the Federal reimbursement is one-half of the total extended benefits payments pursuant to Gramm-Rudman-Hollings.

Disqualification. The disqualification for discharge for misconduct was changed from 1 to 12 weeks to the duration of the claimant's unemployment and until the individual has earned wages of at least eight times the weekly benefit amount. The disqualification for, and definition of, gross misconduct was deleted from the law. The statute now limits to 10 years the period during which the State may collect overpayments made earlier to a claimant.

Missouri

Financing. The definition of wages for UI purposes was amended to include tips reported by the claimant in a written statement to the employer.

Nebraska

Financing. The definition of wages was amended to include tips reported by the claimant in a written statement to the employer for Federal income tax purposes.

Benefits. Beginning October 1, 1988, employers will be required to report quarterly wages for every employee, which will be used to make individual monetary determinations of benefit eligibility. The commissioner of the Nebraska Department of Labor may, by regulation, designate the base period as the first four of the last five completed calendar quarters instead of the four completed calendar quarters preceding the individual's benefit year, as is currently the case. The law now specifies that the percentage of benefits which are Federally funded may be adjusted in accordance with the provisions of Gramm-Rudman-Hollings.

Disqualification. The statute now limits to 3 years the period during which the State may collect overpayments made earlier to a claimant. However, no individual will be liable for overpayments received without fault on his or her part where the recovery thereof would defeat the purpose of the act or be inequitable and against good conscience.

New York

Coverage. A new enactment excludes from coverage services performed by an individual as a real estate agent, if certain conditions are met. The law now permits voluntary coverage for a person employed at a place of religious worship.

Financing. Employer contribution rates, formerly computed from payrolls for the preceding year, are now based on average payrolls for the last 3 years, or the average for all quarters if the employer has been liable for fewer than 13 quarters.

North Carolina

Benefits. The law was amended to cut the weekly and total extended benefit amounts to reflect any reductions under Gramm-Rudman-Hollings.

Ohio

Financing. The contribution rate for new employers will be the higher of the average contribution rate computed for their industry or 3 percent.

Oklahoma

Benefits. An individual's duration of benefits will now be determined as the lesser of 26 weeks or 40 percent of the taxable wage, or 40 percent of the total wages in the base period. Oklahoma also will cut the extended benefit amount by one-half if the amount of extended benefits reimbursed by the Federal Government is reduced.

Disqualification. The disqualification period for refusal of suitable work or failure to actively seek work was changed from the week of failure and until the individual earns at least 10 times the weekly benefit amount to the week in which the failure occurred.

Penalties. An individual will be assessed interest at the rate of 1 percent per month on fraudulently received benefits until such benefits are repaid.

Rhode Island

Benefits. Beginning January 1, 1988, all employers will be required to submit a quarterly wage report on all employees. On claims filed on or after October 1, 1989, the report will be used to establish an individual's eligibility for benefits and to determine the amount and duration of benefits.

South Carolina

Financing. The standard rate of employer contributions increased from 2.7

percent to 5.4 percent of payrolls. The rate of contributions for new employers was reduced from 2.7 percent to 2.64 percent.

South Dakota

Disqualification. The labor dispute disqualification now applies to any individual for any week in which the unemployment is caused by a labor dispute. Holiday pay will be considered disqualifying income and an individual's weekly benefit amount will be reduced by the amount of the holiday pay prorated over weeks of UI benefits paid.

Tennessee

Financing. The tax rate for employers who are not experience rated increased from 5.4 percent to 5.5 percent.

Benefits. The maximum weekly benefit amount increased from \$120 to \$125, and will increase to \$130 on January 5, 1987.

Disqualification. A labor dispute disqualification will not apply if the claimant subsequently obtains covered employment and earns 10 times the weekly benefit amount. Also, a disqualification will not apply if the claimant was indefinitely separated prior to the dispute and is otherwise eligible for benefits.

Utah

Coverage. The test for determining whether an employer-employee relationship exists is modified to delete consideration of services performed for the employer outside the usual course or place of the employer's business. Thus, services for remuneration will constitute employment unless two tests are met: (1) the individual is free from direction and control, and (2) he or she is customarily engaged in an independent trade or business.

Vermont

Financing. Beginning January 3, 1988, benefits will be charged to all base period employers in proportion to the wages earned by the individual with each employer. However, if one or more base period employers are not charged for benefits paid for reasons described in the law, all benefits paid shall be charged proportionately to the remaining base period employ-

ers. Currently, benefits are charged to the most recent employer who paid the individual \$695 or more in covered employment.

Benefits. Beginning January 3, 1988, to qualify for benefits an individual must earn: (1) at least \$1,000 in one quarter of the base period; (2) base period wages of at least 40 percent of the total high-quarter wages; and, (3) at least four times the weekly benefit amount after the beginning of the individual's most recent benefit year. Currently, the qualifying requirements are 20 weeks of work at \$35 per week. Also, an individual's weekly benefit amount will be determined by dividing the wages in the two high quarters by 45. However, the amount determined may not exceed the maximum weekly benefit amount. Beginning with the first calendar week of July 1990, the quarterly wage requirement of \$1,000 (as mentioned above) will be adjusted by a percentage increase equal to the percentage increase, if any, in the State minimum wage effective during the preceding calendar year. Beginning January 3, 1988, an individual must earn $1\frac{1}{2}$ times high-quarter wages in the base period to qualify for extended benefits. A temporary compensation program for employees on shortened work schedules was established, to last until June 30, 1988.

Virginia

Benefits. The maximum weekly benefit amount increased from \$159 to \$167.

Penalties. The penalty for fraudulent misrepresentation by individuals to obtain or increase benefits or by employers to prevent or reduce benefit payments has been changed from a misdemeanor to a Class I misdemeanor.

Washington

Financing. The definition of wages was amended to include tips which are reported by the employee to the employer for Federal income tax purposes.

Wyoming

Benefits. If the amount of extended benefits reimbursed by the Federal Government is reduced or increased, then the State's share of the weekly extended benefit amount will be reduced or increased on an equal basis. □