

Changes in Federal and State unemployment insurance legislation in 2009

Federal enactments extend benefits, providing Federal funds to the States to cover costs; State enactments include provisions regarding base periods, extended benefits, and training programs

Loryn Lancaster

During 2009, there were five Federal legislative enactments that affected the Federal-State unemployment compensation program.

The American Recovery & Reinvestment Act of 2009 (P.L. 111-5)

The Trade Act of 1974 was amended to expand the Trade Adjustment Assistance program to cover adversely affected workers in service sector firms or public (Federal, State, or local government) agencies or subdivisions and for many other purposes.

The amount of \$250 million is appropriated to States for reemployment services for unemployment insurance claimants including information technology required to identify and serve the needs of such claimants.

Federal income taxation is excluded on the first \$2,400 of unemployment compensation received in 2009.

Extension of Emergency Unemployment Compensation, 2008 Program (EUC08). The ending date for the EUC08 program for new entrants is extended to December 31, 2009. The phaseout for current beneficiaries is extended to May 31, 2010.

Increase in Weekly Benefit Amount. A federally funded additional compensation increases the weekly unemployment compensation benefit amount by \$25 ending before January 1, 2010. The phaseout for current beneficiaries ends on June 30, 2010.

Funds (not required to be repaid) are transferred from the general fund of the Treasury

to the extended unemployment compensation account and the employment security administration account for payment of emergency unemployment compensation benefits and administration resulting from the extensions noted above.

States are prohibited from modifying the method of computation of regular compensation if it results in the average weekly benefit amount of regular compensation being lower than it was on December 31, 2008. Funds are appropriated from the general fund of the Treasury for these benefits and related administrative expenses. This provision is effective for weeks of unemployment beginning after the State enters into an agreement to make these payments and ending before January 1, 2010. The phaseout for current beneficiaries ends on June 30, 2010.

Unemployment Compensation Modernization Incentive Payments. Through September 30, 2011, \$7 billion is available for modernization incentive distributions from the Federal unemployment account for States whose unemployment insurance laws include certain provisions. These funds can be used for unemployment compensation benefits or unemployment insurance or employment service administration, if appropriated by State legislature. Eligibility for a State's share is divided into two components:

- One-third of State's share—The State law must provide for either a base period that uses most recent wages or an alternative base period using recent wages.

Loryn Lancaster is an unemployment insurance program specialist in the Division of Legislation, Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor. E-mail: Lancaster.Loryn@dol.gov

- Remaining two-thirds of State's share—The State law must meet the base period requirement above and must contain at least two of the following four provisions:
- Unemployment compensation is payable to certain individuals seeking only part-time work.
- Individuals will not be disqualified from receiving benefits for separations due to certain compelling family reasons.
- An additional 26 weeks of unemployment compensation is paid to individuals who have exhausted benefits and who are enrolled and making satisfactory progress in certain training programs.
- Dependents' allowances of at least \$15 per dependent per week, subject to a minimum aggregation, are paid to eligible beneficiaries.

Special Administrative Distributions. The amount of \$500 million is provided to transfer to States. Use of funds is limited to the administration of the unemployment compensation modernization incentive provisions, outreach to individuals who may now be eligible for unemployment compensation benefits, improvement of unemployment compensation benefit and tax operations, and staff-assisted reemployment services to unemployment compensation claimants.

Interest Due on Title XII Advances. Interest payments due on any advances and accrual of interest on any advances is waived through December 31, 2010.

Extended Benefits Provisions. One-hundred-percent Federal funding of extended benefits is provided for weeks of unemployment beginning before January 1, 2010. The phaseout for current beneficiaries ends June 1, 2010.

The ending date for Federal funding of the first week of extended benefits in States with no waiting week is extended from December 8, 2009, to May 30, 2010.

States are permitted, for purposes of determining eligibility for extended benefits, to expand the definition of an individual's eligibility period to include any week beginning after an individual exhausts emergency unemployment compensation during an extended benefits period in the State. This provision is effective for weeks of unemployment beginning before January 1, 2010, with the phaseout for current beneficiaries ending on June 1, 2010.

The Railroad Unemployment Insurance Program provides a temporary increase in extended unemployment benefits from 65 days to 130 days through December 31,

2009, and makes appropriations to cover the costs.

The Omnibus Appropriations Act, 2009 (P.L. 111-8)

The Omnibus Appropriations Act, 2009 makes \$422 million available through September 30, 2010, for repayable advances to the Unemployment Trust Fund (UTF) for payment of extended compensation under the Federal-State Extended Unemployment Compensation Act of 1970, advances to States for payment of compensation, and nonrepayable advances to the UTF for payments to States for compensation paid to Federal employees.

P.L. 111-46 (no title)

P.L. 111-46 amends the Omnibus Appropriations Act, 2009 to make available, without fiscal year limitation, such sums as may be necessary for advances to the Unemployment Trust Fund.

Worker, Homeownership, and Business Assistance Act of 2009 (P.L. 111-92)

Emergency Unemployment Compensation (EUC08). The second tier EUC08 entitlement is increased by 1 week, for up to a total of 14 weeks of second tier benefits, and makes the second tier available in all States.

A third tier of EUC08 is created in States in an extended benefit period. Up to 13 weeks of third tier benefits are provided. In order to be considered to be in an extended benefit period for third tier benefits, a State must meet one of the following criteria:

- State's insured unemployment rate for a week and the preceding 12 weeks is at least 4.0 percent.
- State's 3-month seasonally adjusted total unemployment rate is at least 6.0 percent.

A fourth tier of EUC08 is created in States in an extended benefit period. Up to 6 weeks of fourth tier benefits are provided. In order to be considered to be in an extended benefit period for fourth tier benefits, a State must meet one of the following criteria:

- State's insured unemployment rate for a week and the preceding 12 weeks is at least 6.0 percent.
- State's 3-month seasonally adjusted total unemployment rate is at least 8.5 percent.

The determination of whether a State is in an extended benefit period will be made as if these provisions were in the initial EUC08 enactment on June 30, 2008.

States are permitted to pay third tier benefits before the increased second tier if the State determines that paying

increased second tier benefits first would unduly delay the prompt payment of EUC08.

States are allowed to pay extended benefits prior to the payment of the 14th week of the second tier and the third and fourth tiers of EUC08 if the individual claimed extended benefits for at least 1 week of unemployment after the exhaustion of first tier EUC08.

Funds (not required to be repaid) are transferred from the general fund of the Treasury to the extended unemployment compensation account and the employment security administration account for payment of emergency unemployment compensation benefits and administration resulting from the extensions noted above.

Unemployment Compensation Modernization Incentive Payments. The compelling family reason criterion is amended to provide that a State qualifies for the remaining two-thirds of its share by allowing either or both of the following provisions as good cause for separating from employment, where previously only the domestic violence provision was allowed:

- Domestic violence, verified by documentation, which causes the individual to reasonably believe continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family
- Sexual assault, verified by reasonable and confidential documentation as the State law may require, which causes the individual to reasonably believe continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family

However, a State cannot qualify for the incentive payment if their law is amended to make access to unemployment benefits less broad in this respect.

Federal Additional Compensation. The monthly equivalent of any Federal additional compensation will be disregarded after November 6, 2009, for the purposes of determining an individual's eligibility for Supplemental Nutrition Assistance Program benefits.

Federal Unemployment Tax Act (FUTA) Surtax. The 0.2-percent FUTA surtax is extended for 1 year and 6 months through June 30, 2011.

Railroad Unemployment Insurance. The Railroad Unemployment Insurance Program provides an extension of extended unemployment benefits through December 31, 2010, and makes appropriations to cover the costs.

Department of Defense Appropriations Act, 2010 (P.L. 111-118)

Emergency Unemployment Compensation. The ending date for the Emergency Unemployment Compensation Program for new entrants is extended from December 31, 2009, to February 28, 2010. The ending date for phaseout for current beneficiaries is extended from May 31, 2010, to July 31, 2010.

Extended Benefits. The ending dates for 100-percent Federal funding of extended benefits and the expanded extended benefits eligibility provision are extended from January 1, 2010, to February 28, 2010. The phaseout for current beneficiaries is extended from June 1, 2010, to July 31, 2010.

The ending date of the provision for Federal funding of the first week of extended benefits in States with no waiting week is extended from May 30, 2010, to July 31, 2010.

Federal Additional Compensation. The ending date for the Federal Additional Compensation Program is extended from January 1, 2010, to February 28, 2010. The ending date for phaseout for current beneficiaries is extended from June 30, 2010, to August 31, 2010.

Following is a summary of some significant changes in State unemployment insurance laws that occurred in 2009:

State laws or regulations were amended in 26 States to provide for the optional extended benefits "on" indicator based on the seasonally adjusted total unemployment rate. Up to 13 weeks of extended benefits are payable if the average total unemployment rate for the most recent 3 months is at least 6.5 percent and is 110 percent of the rate for the corresponding 3-month period in either or both of the 2 previous years. Up to 7 additional weeks of extended benefits are payable if the State is in a high unemployment period, which occurs when the average total unemployment rate for the most recent 3 months is at least 8 percent and is 110 percent of the rate for the corresponding 3-month period in either or both of the 2 previous years. In general, this provision is effective for weeks for which the Federal Government pays 100 percent of most extended benefit costs, although the effective period beginning and ending dates vary among the States. The 26 States that added this provision temporarily are Alabama, Arizona, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, Missouri,

Nevada, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

Base Periods. The following 17 States amended their unemployment compensation laws to provide for the use of the most recently completed calendar quarter under certain circumstances, in either the regular base period or an alternative base period: Alaska, Arkansas, California, Colorado, Delaware, Iowa, Idaho, Kansas, Minnesota, Missouri (provision not effective), Montana, Nevada, Oklahoma, Oregon, South Dakota, Tennessee, and West Virginia. The effective dates vary among the States.

Following are the modified or new provisions in State unemployment compensation laws, along with a list of States that amended or included that particular provision:

- Individuals will not be denied benefits under provisions relating to availability for work, active search for work, or refusal to accept work solely because of seeking only part-time work. (Arkansas, Delaware, Georgia, Hawaii, Idaho, Iowa, Kansas, Maine, Maryland, Minnesota, Montana, New York, North Carolina, Oklahoma, and Tennessee.)
- Individuals will not be disqualified from receiving benefits due to separation from employment if that separation is for (i) a compelling family reason such as domestic violence or illness or disability of the individual's immediate family or (ii) the need for individuals to accompany their spouses to places from which it is impractical for them to commute due to a change in location of the spouses' employment. (Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maine, Minnesota, Mis-

souri (provision not effective), New Hampshire, New York, North Carolina, Oklahoma, Oregon, Washington, and Wisconsin.)

- Individuals who are entitled to receive benefits and who have a dependent will receive an additional \$15 per dependent per week, subject to an aggregate limitation on the total dependent's allowance of at least the lesser of \$50 or 50 percent of the weekly benefit amount. (District of Columbia, Illinois, and Tennessee.)
- Individuals exhausting rights to regular unemployment compensation who are enrolled in an approved training program or in a job training program authorized under the Workforce Investment Act of 1998 will be entitled to an additional amount of benefits equal to 26 times their average weekly benefit amount for the most recent benefit year. Such training programs will prepare individuals who have been separated from a declining occupation or who have been involuntarily separated from employment due to a permanent reduction in operations at their place of employment for entry into a high-demand occupation. (Colorado, District of Columbia, Georgia, Idaho, Iowa, Kansas, Maine, Massachusetts, Missouri (provision not effective), Montana, New Jersey, Oregon, Vermont, and Wisconsin.)

The effective dates of the provisions vary among the States.

Following is a summary of some significant changes in unemployment insurance laws in 2009 by State:

Alaska

Coverage. The definition of "employing unit" is amended to include service performed for an Indian tribe resulting in unemployment insurance coverage of such services and to exclude coverage of certain services.

The definition of "employment" is amended to exclude service performed in the employ of a federally recognized tribe in Alaska, if performed in the exercise of duties as an officer of the federally recognized tribe and if the service meets the requirements of Federal law.

An Indian tribe may either pay contributions or elect to make reimbursements. (The election of reimbursement is effective January 1, 2010.)

An Indian tribe that elects reimbursement may be required to execute and file a surety bond or deposit money or securities.

Under certain circumstances, when a tribe fails to make the required payments, the reimbursement election will terminate until a time provided by the Department.

Extended benefits not reimbursed by the Federal Government must be financed in their entirety by the Indian tribe.

Arkansas

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

Nonmonetary Eligibility. In determining what suitable work means and for refusing to apply for or accept suitable work, part-time work is considered suitable work, unless the majority of weeks of work in the period used to determine monetary eligibility are considered full-time work.

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

Overpayments. Regarding the recovery of an overpayment resulting from a false state-

ment, misrepresentation, or omission that was knowingly made by a claimant, the provision is removed that provided that beginning July 1, 2001, a person will not be liable to repay such amount to the fund, except through the deduction of future benefits after 10 years from the date the determination of the amount of the overpayment becomes final.

The amount of the final overpayment will accrue interest at the rate of 10 percent per annum (formerly 1.5 percent per month) beginning 30 days after the date of the first billing statement.

The provision is removed that provided that any person held liable to repay an amount to the fund or to have the amount deducted from any future benefits payable will not be liable to repay the amount and recovery will not be made from any future benefits after 4 years from the date the determination of the amount of the overpayment becomes final.

As provided by Federal law and regulations, Federal income tax refunds will be intercepted for benefits obtained as a result of fraud.

California

Appeals. The appeals board must permit a party or representative showing good cause to participate in a hearing by telephone upon request.

Monetary Entitlement. Requirements have been established for a subsequent new claim to be valid if an alternative base period was used to establish the previous valid claim.

The notice of the computation of the benefits sent to the claimant's base period employers must also contain the duration of benefits, the weekly benefit amount, and the maximum amount of benefits potentially payable.

The computation using the last 4 completed calendar quarters must be based on available wage information processed as of the close of business on the day preceding the date of application. The quarter with the highest wages must be used to determine the individual's weekly benefit amount. Wages used in determining benefits payable may not be used again in any subsequent benefit year.

Procedures have been established for obtaining wage information from the employer and the claimant if it is not already in the Department's system and for adjusting a determination of benefits when the quarterly wage report from the employer is received.

If any information provided by the claimant on an affidavit is erroneous, no penalty or refund of benefits will be imposed for the period prior to the calendar week in which an employer provides subsequent wage information, except in the event of fraud.

Colorado

Administration. Notwithstanding certain other provisions of law, an employee leasing company must be considered an employing unit or the coemployer of a worksite employer's employees if, pursuant to an employee leasing company contract with the worksite employer, an employee leasing company has the following rights and responsibilities:

- Each employee leasing company must pay wages and collect, report, and pay all payroll-related taxes from its own accounts for all covered employees. Each employee leasing company must be responsible for the payment of unemployment compensation insurance taxes and provide, maintain, and secure all records and documents required of worksite employers under the Colorado unemployment insurance laws for covered employees.
- No later than September 30, 2009, each employee leasing company must notify the Division of Unemployment Insurance as to whether the employee leasing company elects to report and pay unemployment insurance taxes as the employing unit under its own unemployment accounts and tax rates, or whether it elects to report unemployment taxes attributable to covered employees under the respective unemployment accounts and tax rates for each worksite employer. Under either election, the employee leasing company will have the responsibility for unemployment compensation insurance as required of an employer pursuant to the Colorado unemployment insurance law. If the employee leasing company fails to make an election, the employee leasing company must report unemployment taxes attributable to covered employees under the respective unemployment accounts and tax rates for each worksite employer.
- The election made will be binding on all employers and the employing unit's related enterprises, subsidiaries, or other entities that share common ownership,

management, or control with the employee leasing company. An employee leasing company electing to report and pay unemployment insurance as the employing unit under its own unemployment accounts and tax rates following the effective date, as amended, is permitted to change the election one time after the initial election to report unemployment taxes attributable to covered employees under the respective unemployment accounts of each worksite employer by notifying the division no later than the end of the current calendar quarter. An employee leasing company's election to pay unemployment taxes under the respective unemployment accounts and tax rates of the worksite employer is final and may not be reversed.

One option for securing unemployment taxes is to have each employee leasing company execute and file a surety bond or deposit money or a letter of credit equal to 50 percent of the average annual amount of unemployment tax assessed for all covered employees regardless of the election made.

The Office of Employee Misclassification is created to investigate the misclassification of employees as independent contractors. This office will be responsible for enforcing the requirements of the law regarding classification of employees and payment of obligated employment taxes for covered employment. Employers found to be engaged in the misclassification of employees will be ordered to pay the owed back taxes and interest. Employers found willfully disregarding the law regarding misclassifying employers may be fined and issued an order prohibiting the employer from contracting with or receiving any funds for the performance of contracts from the State.

Financing. State law is amended to remove the paragraph that annually establishes a surcharge based on benefits paid and not chargeable to any employer's account; calculates the surcharge tax rate by dividing the benefits not changed by the total taxable payroll; allocates 50 percent to the unemployment compensation fund and 50 percent to the employment support fund; and adds the surcharge tax rate to the employer's standard or computed tax rate with 80 percent of the surcharge tax revenues considered as revenues for calculating the tax surcharge. (This calculation will be the employer's tax rate for the ensuing calendar year.)

The surcharge tax established must be segregated and deposited in the Employment

Support Fund. (Formerly, only 50 percent was deposited in such fund.)

The modified provision, effective calendar year 2009, allocates 30 percent (previously 50 percent) of the annual surcharge tax rate to the Unemployment Compensation Fund (previously the general fund), 50 percent to the Employment Support Fund, and 20 percent to the Employment and Training Technology Fund.

The modified provision, effective January 1, 2017, allocates 50 percent of the surcharge tax rate to the Unemployment Compensation Fund and 50 percent to the Employment Support Fund.

Notwithstanding any provision to the contrary, beginning July 1, 2009, through December 31, 2016, 20 percent of the surcharge tax must be credited to the Employment and Training Technology Fund, which is hereby created in the State treasury. Moneys in such fund must be used for employment and training automation initiatives and be subject to annual appropriation; they must not revert to the general fund or any other fund at the end of any fiscal year or be exempt from limitations on uncommitted reserves. If the balance of the Unemployment Compensation Fund falls below \$25 million, the moneys in the Employment and Training Technology Fund must be allocated to the Unemployment Compensation Fund. At any other time, the moneys in the Employment and Training Technology Fund may be allocated to the Unemployment Compensation Fund at the discretion of the Executive Director of the Department of Labor and Employment.

Paid benefits must be charged to the Unemployment Compensation Fund and must not affect an employer's tax rate when an individual quits his or her job to relocate to a new residence from which it is impractical to commute to the place of employment because the individual's spouse, who was stationed in Colorado and an active duty member of the U.S. Armed Forces, was killed in combat.

Employers' accounts are not charged for benefits paid due to compelling family reasons and enhanced unemployment insurance compensation benefits; these are charged to the Unemployment Compensation Fund.

Nonmonetary Eligibility. A modified State law changes the process of remuneration and

calculation of postponement of unemployment benefits when an employee is separated from employment. The provision provides that individuals who, because of being separated, receive additional remuneration, which is not wages and is not otherwise referred to, must have their benefits postponed for a number of calendar weeks after separation that is equal to the total amount of the additional remuneration divided by the individuals' usual weekly wage. The postponement begins with the calendar week in which the payment was received. If the number of weeks does not equal a whole number, disregard the remainder. Except as otherwise provided, any wages earned in a calendar week during postponement will be disregarded. (Previously, the law provided that if an employer identified a payment made at separation as severance pay, claim payments were postponed by the number of weeks of severance pay granted, and benefits were reduced by the same number of weeks. If the employer did not identify a payment as severance pay, the claim payment was postponed only for the week in which the payment was made and benefits were not reduced.)

The pension offset provision was changed to provide that the weekly benefit amount will not be reduced due to receipt of Federal Social Security retirement benefits. (Previously, the reduction was 50 percent.)

An individual who quits his or her job to relocate to a new residence from which it is impractical to commute to the place of employment is eligible for benefits if the relocation is a consequence of his or her spouse, who is stationed in Colorado and who is an active duty member of the U.S. Armed Forces, being killed in combat. The individual must be available for suitable work.

The above provisions relating to quitting to relocate are repealed effective July 1, 2019.

If information regarding weeks and wages for the calendar quarter immediately preceding the first day of the benefit year is unavailable from the regular quarterly reports of wage information, and the division is unable to obtain the information using other means under State or Federal law, the determination of eligibility for unemployment insurance benefits may be based on the affidavit of the unemployed individual with respect to weeks and wages for that calendar quarter. The indi-

vidual will furnish payroll documentation, if available, in support of the affidavit. The Division will verify the employee's wage information. A determination of unemployment insurance benefits based on an alternative base period will be adjusted when the quarterly report of wage information from the employer is received, if that information causes a change in the determination.

Connecticut

Financing. Effective April 15, 2009, employers' accounts will not be charged for benefits paid to an individual whose separation from employment is because the individual quit his or her job to accompany his or her spouse to a place from which it is impractical to commute due to a change in location of the spouse's employment.

Delaware

Financing. Wage credits for an individual who quits to accompany his or her spouse or to care for a family member with an illness or a disability will not constitute benefit wages for an employer. Wage credits related to a discharge for an individual who intends to quit to accompany his or her spouse or care for a family member with an illness or a disability or who is discharged due to circumstances related to verified domestic violence will constitute benefit wages for the employer.

District of Columbia

Financing. The amount of dependents' allowance paid will not be charged to the individual accounts of the employers.

The training extension benefits paid will not be charged to the individual employer accounts.

The additional benefits program will be financed by funds drawn from the District Unemployment Fund or such other funds as may be available to the Director, and additional benefits paid will not be charged to the experience rating accounts of employers. (Previously, the additional benefits program was financed by revenue collected from an additional tax authorized under law.)

Extensions and Special Programs. The State-financed additional benefits program is modified to provide that an additional benefits period begins after August 29, 2009, based on the total unemployment rate meeting or exceeding 6.5 percent, and provided there are no other federally funded or assisted benefit programs in effect providing benefits to exhaustees of regular benefits. This additional benefits program ends after January 16, 2010, or the first day of the week prior to January 16, 2010, in which any new Federal program is in effect that provides benefits to exhaustees of all prior regular, extended, or federally funded benefits. The additional benefits program consists of 10 weeks (previously, it was 5 weeks) of Phase 1 benefits followed by 10 weeks (previously, it was 5 weeks) of Phase 2 benefits. In order to qualify for Phase 2 (the second 10 weeks of additional benefits), claimants must demonstrate they are actively seeking employment during Phase 1 (the first 10 weeks). (Previously, additional benefits were paid beginning with the third week after a week in which the insured unemployment rate was 3.75 percent and ending with either 11 consecutive weeks of such period, or the week immediately preceding the first week in which any Federal program was in effect that provided benefits to exhaustees of regular benefits, whichever occurred first.)

Florida

Financing. The taxable wage base increases from \$7,000 to \$8,500 effective January 1, 2010. The taxable wage base decreases from \$8,500 to \$7,000 effective January 1, 2015.

Modified financing provisions require advances or loans requested by the Governor from the Federal Unemployment Trust Fund to be credited to the State's Unemployment Trust Fund.

Effective January 1, 2010, if the balance of the Unemployment Compensation Trust Fund on June 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 4 (previously 3.7) percent of the taxable payrolls for the year ending June 30, a positive adjustment factor must be computed. The positive adjustment factor is computed by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year into a sum equal to one-third (previously one-fourth) of the difference between the balance of the fund as of June 30 of that calendar

year and the sum of 5 (previously 4.7) percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 5 (previously 3.7) percent of the taxable payrolls for the year ending June 30. Beginning January 1, 2015, and for each year thereafter, the positive adjustment authorized must be computed by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30 of that calendar year and the sum of 5 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year.

Beginning January 1, 2015, and each year thereafter, if the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 5 (previously 4.7) percent of the taxable payrolls for the year ending June 30 of the current calendar year, a negative adjustment factor must be computed. The negative adjustment factor must be computed annually beginning on January 1, 2015, and each year thereafter, by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30 of the current calendar year and 5 (previously 4.7) percent of the total taxable payrolls of that year. The negative adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate is less than 5 (previously 4.7) percent, but more than 4 (previously 3.7) percent of the taxable payrolls for the year ending June 30 of the current calendar year. This authorized negative adjustment is suspended in any calendar year in which repayment of the principal amount of an advance received from the Federal Unemployment Compensation Trust Fund is due to the Federal Government.

As used in calculating adjustment factors, the definition of "taxable payroll" is amended to exclude any part of remuneration paid to an individual by an employer for employment during a calendar year in excess of the first \$7,000.

Nonmonetary Eligibility. When individuals provide notification to the employing unit of intent to voluntarily leave work and the employing unit discharges individuals for reasons other than misconduct prior to the effective date of the voluntary quit, the individuals, if otherwise entitled, will receive benefits from the date of the employer's discharge until the effective date of the voluntary quit.

When individuals are notified by the employing unit of the employer's intent to discharge individuals for reasons other than misconduct and the individuals quit without good cause prior to the date the discharge was to take effect, the claimants are ineligible for benefits for failing to be available for work for the week or weeks of unemployment occurring prior to the effective date of the discharge.

Georgia

Administration. Notwithstanding certain provisions of law, State laws were amended to allow private and confidential information or records to be disclosed by the State auditor only in accordance with the law and Federal regulations after notice and review, upon the written direction of the Commissioner issued in advance of such disclosure.

The Georgia State Financing and Investment Commissioner is given additional powers regarding the use of Federal funds for authorization or payment of public debt.

Financing. The requirement is deleted that provided for the use of Reed Act moneys for unemployment benefit payments made to individuals who qualify because of use of the alternative base period.

For calendar quarters beginning on or after July 1, 2009, when an employer's combined amount of quarterly contributions and assessments due does not exceed \$5, such amount may be a de minimis amount with respect to that calendar quarter, and that quarterly payment of such de minimis amount, otherwise due before the last day of the next month following the end of the calendar quarter, may be deferred, at the employer's option until the next following January 31 reporting date. To

do so, the employer must complete the following steps:

- File all quarterly wage and tax reports, including a report of such de minimis amount due.
- Pay all other amounts due in a timely fashion.
- Make full payment of any deferred de minimis amount by the next following January 31 report date.

In the event that an employer fails to make such de minimis payments, any such deferred de minimis amount will become delinquent as of the date originally due, and the employer will be subject to all the provisions of law.

For calendar years 2010 and 2011, the provision suspends the rate increase required occurring when the calculated State-wide reserve ratio is less than 1.7 percent and at least 1.25 percent.

The State's share of the distribution for unemployment compensation administration under the Recovery Act of 2009 must be credited to the State's account in the Unemployment Trust Fund and be used solely for unemployment insurance program administration.

Hawaii

Financing. The effective date for the experience record calculation when an employing unit transfers its organization, trade, or business to another employing unit changed to the calendar year immediately following the date of the transfer of the organization, trade, or business (effective the calendar quarter immediately following the transfer).

Nonmonetary Eligibility. State laws were established to clarify and temporarily codify in statute (through June 30, 2012) the existing partial unemployment provisions. Effective July 1, 2012, the Act will be repealed, and the statutory provisions will be reenacted as they existed on June 30, 2009.

Idaho

Coverage. The definition of "employment" is amended to exclude service performed by an individual engaged in the trade or business of selling consumer products in a private home or a location other than in a permanent retail establishment, provided certain criteria are met.

Effective on and after January 1, 2010, the time period in which job training can be

completed is extended from 1 year to 2 years, except that this requirement may be waived pursuant to rules the Director may prescribe.

Illinois

Administration. The Department of Employment Security's authority to issue revenue bonds is extended through December 31, 2012. (Previously, this authority was set to expire December 31, 2009.)

Monetary Entitlement. The existing dependents' allowance statutes are amended to provide that beginning in 2010 the allowance for a nonworking spouse shall be calculated as the greater of either 9 percent of his or her prior average weekly wage rounded to the next higher dollar, or \$15, provided that the total amount payable shall not exceed 56 percent of the statewide average weekly wage.

Indiana

Administration. An Unemployment Insurance Oversight Committee is established to oversee implementation of legislation and administration of the Unemployment Insurance Program and to make recommendations for improvement. The new provision defines membership of the committee and appropriates general fund money for operation of the committee. This provision will expire on July 1, 2011.

By September 30, 2009, the Commissioner must meet the following criteria:

- Examine the costs of implementing changes to eligibility and other requirements in order for the State to qualify for the maximum amount available under the American Recovery and Reinvestment Act of 2009.
- Compare the cost determined above to the maximum amount available to the State as a result of making the changes.
- Initiate the changes above unless it is determined that a negative fiscal impact outweighs the benefits of the amount available and the expansion and other eligibility requirements of the State's system.
- Submit an electronic report to the legislative council, the committee, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

The report must include the following information:

- Details of the Commissioner's actions or decision not to initiate changes
- Recommendations for any legislation necessary to modify the State's system in order to qualify for the amount available under the Recovery Act
- An analysis of the fiscal impact to the fund of the Commissioner's actions or decision not to initiate change and any legislation recommended

The Department may charge a fee of up to \$2 for each record that provides information about an individual's last known employer released in compliance with a court order.

Effective July 1, 2009, State law requires written notice to the employer after a determination of eligibility. The written notice must include time by which the employer must respond, complete information on the rules of evidence, and standards of proof that the Department will apply to determine the validity of the claim if the employer disputes the claim.

An Unemployment Claims Compliance Center was established no later than January 1, 2010. Claims must be referred to the compliance center for investigation when information provided by the individual does not match information from the separating employer.

The Hoosier Workers First Training Program is established to improve manufacturing productivity levels, enable firms to become competitive, create and retain jobs, encourage training, and avoid payment of unemployment compensation by providing enhanced job skills. The Department shall administer the program and report on the fund annually.

Appeals. Effective July 1, 2009, State law provides for annual training of all administrative law judges, review board members, and other individuals who adjudicate claims concerning unemployment compensation law, rules for the conduct of hearings and appeals, and rules of conduct during a hearing and other adjudicative process.

The Department must monitor hearings and decisions to ensure that the hearings and decisions strictly comply with the law and the rules of conduct. An individual who does not strictly comply with the law and the rules, including rules of conduct, is subject to disciplinary action up to and including suspension or termination.

An employer must be notified of transfer of hearing to the review board prior to de-

termination or action concerning a claim. Notice of hearing must include complete information about the rules of evidence and standards of proof that will be used to determine the validity of a claim. An employer must be supplied with information necessary to the proper presentation of a matter before the hearing. (Previously, the law required it for claimant only.)

Coverage. Effective July 1, 2009, the definition of “employing unit” is expanded to include limited liability partnerships. Two or more entities who concurrently employ the same individual and utilize a common paymaster are an employing unit. The definition of “employment” is expanded to include service performed for certain entities including limited liability partnerships.

Financing. Effective July 1, 2009, State law provides for a transfer to the Unemployment Insurance Benefit Fund of the amount by which the balance in the Special Employment and Training Services Fund exceeds \$8,500,000.

The Hoosier Workers First Training Fund will be established to administer the costs of the Hoosier Workers First Training Program, undertake any program activity that furthers the purpose of the program, and obtain all information necessary to determine qualifications for a grant and allocate money in the fund.

The employer’s experience account must be charged 50 percent of the benefits paid if the employer did not provide information and the individual was later determined to be ineligible. If the employee repays all or part of the benefits on which determination is based, the employer must receive a credit equal to the amount of the repayment. If the employee repays benefits, the employer must receive a credit equal to the amount repaid by the employee up to the amount charged to the employer’s experience account.

The taxable wage base increased to \$9,500 during a calendar year beginning after December 31, 2009. (Previously, the taxable wage base was \$7,000.)

Effective July 1, 2009, the definition of “payment in lieu of contributions” is amended to include extended benefits not reimbursed by the Federal Government. (Previously, it was half of extended benefit costs.)

Effective after December 31, 2009, employers must pay contributions equal to 12 percent of wages after December 31, 2009, except as otherwise provided.

Employers making payments in lieu of contributions will be charged for benefits not reimbursed by the Federal Government under extended benefits.

The new employer rate is 2.5 percent for each calendar year after December 31, 2009. For State or political subdivisions of the State, employer contribution rate is raised to 1.6 percent (from 1 percent) after December 31, 2009.

After December 31, 2009, in addition to other conditions and requirements, the employer rate raises to 12 percent (previously 5.6 percent) for employers who fail to file required contribution and wage reports within 31 days following the computation date, and who fail to pay all contributions, penalties, and interest due and owing by the employer or predecessor before and including the computation date within 31 days following the computation date, or within 10 days after written notice of delinquency or failure to file, whichever is the later date. Rate may be waived if the employer’s failure to meet deadlines was for excusable cause. Written notice to the employer is required before the additional condition or requirement will apply.

There is a new fund ratio schedule, and there are new rate schedules, which include additional schedules and different ranges of rates for accounts with credit or debit balances for calendar years after December 31, 2009. Rates range from 0.75 percent to 10.2 percent for Schedule A (previously 1.2 to 5.7 percent) and 0 percent to 5.4 percent for Schedule I (new). For calendar year 2010, Schedule B will be used to assign each employer’s contribution rate.

Additional factors are added related to limited liability partnerships, including a change in the percentage used to determine ownership (from at least 80 percent to more than 50 percent) for the Department to consider when determining whether an employing unit or other person acquired a business solely for the purpose of obtaining a lower contribution rate.

Monetary Entitlement. Effective January 1, 2010, State law increases the wage credits required for an individual to qualify for benefits to 1.5 (previously 1.25) times the wages in the highest quarter, wage credits of \$2,500 in the last 2 quarters (previously \$1,650), and total base period wages of \$4,200 (previously \$2,750).

Nonmonetary Eligibility. Effective July 1, 2009, the Department may waive certain re-

quirements concerning registering for work and reporting for a week when an individual meets one of the following criteria:

- The individual is attending approved training.
- The individual is a job-attached worker with a recall date not more than 60 days after the separation date.
- The individual is using a hiring service, referral service, or job placement service determined by the Department.
- The individual is a party to any other situation the Department considers inconsistent with the purpose of the article.

Effective July 1, 2009, at least one application for work must be submitted for each week that an individual claims benefits; an online application complies with this requirement.

The maximum benefit amount will be reduced for individuals separated from employment under disqualifying conditions or who fail to apply for suitable work (amounts rounded to the next higher dollar):

- For the first separation or failure to apply, the maximum benefit amount is reduced by 75 percent.
- For the second separation or failure to apply, the maximum benefit amount is reduced by 85 percent of the reduced maximum benefit amount for the first separation or failure to apply.
- For the third and subsequent separation or failure to apply, the maximum benefit amount is reduced by 90 percent of the reduced maximum benefit amount for the second separation or failure to apply.

The definition of “discharge for just cause” is modified to include violation of an employer rule regarding attendance or unsatisfactory attendance if the employer does not have an attendance rule and the individual cannot show good cause for absences or tardiness.

The definition of “suitable employment” is changed to include the following requirements:

- Work is considered suitable if the earnings are not less than 90 percent of the individual’s prior weekly wage during the fifth through eighth week of unemployment.
- Work is considered suitable if the earnings are not less than 80 percent of the

prior weekly wage after 8 consecutive weeks of unemployment.

- Work is not considered suitable if it pays less than Indiana's minimum wage.

Effective July 1, 2009, the definition of "gross misconduct" was expanded to include any of the following committed in connection with work, as determined by the Department by a preponderance of the evidence:

- Working, or reporting for work, in a state of intoxication caused by individual's use of alcohol or a controlled substance
- Battery on another individual while on the employer's property or during work hours
- Theft or embezzlement
- Fraud

An employer has the burden of proving by a preponderance of the evidence that a discharged employee's conduct was gross misconduct. The employer may present evidence that the employer filled or maintained the position or job held by the discharged employee after the employee's discharge.

Evidence may be presented that a discharged employee's conduct did not result in prosecution or conviction for an offense. If evidence is presented that an action or requirement of the employer may have caused the conduct that is the basis for the discharge, conduct is not gross misconduct. Lawful conduct not otherwise prohibited by an employer is not gross misconduct.

Iowa

Extensions and Special Programs. Employing units must provide that the duration of the shared work plan will not exceed 52 weeks (previously 26 weeks) as a condition of approval. Other language is removed that limited short-time compensation to 26 weeks during the individual's benefit year.

Financing. Future Federal funds received by the State pursuant to Section 903 of the Social Security Act (SSA) due to this enactment are appropriated to be placed in the Unemployment Compensation Trust Fund; the July 1, 2009, computation date is delayed until such funds are received, but no later than September 5, 2009, if the funds are not received on or before that date. The contribution rate table must use data as of July 1, 2009, except for inclusion on the Unemployment Compensation

Trust Fund balance of funds received pursuant to Section 903 of the SSA.

Contributing employers' and reimbursable employers' accounts are not charged for training extended benefits paid to an individual while attending training with the approval of the Director or in a job training program pursuant to the Workforce Investment Act of 1998.

Kansas

Extensions and Special Programs. State law is modified to prohibit shared work claimants from qualifying for the additional benefit for 2 consecutive years after the training benefits expire.

Louisiana

Administration. If an employer fails to file any payroll report in the manner prescribed or approved by the Administrator for more than 20 days after the due date, the employer may be assessed a penalty. The penalty will be equal to 5 percent of the total amount due for the quarter or \$25, whichever is greater. If the failure to file any payroll report continues for more than 30 days, an additional penalty of 5 percent of the total amount due for that quarter or \$25, whichever is greater, will be assessed for each 30-day period or fraction thereof. The total penalty will not exceed 25 percent of the total amount due for the quarter or \$125, whichever is greater.

For prompt determination of claims, employers must provide wage, employment, and separation information, and they must complete all forms and reports within 10 days from the date of mailing a request in order to be timely. Failure to provide this information in a timely manner without good cause is deemed abandonment of appeal rights, but with good cause is not. Any appeal filed must be dismissed, except at the discretion of the referee, and the employers will be liable for any benefits paid.

Maine

Financing. The Emergency Unemployment Benefit Reimbursement Fund is established to reimburse eligible reimbursing employers for the cost of extended benefits paid as a result of the trigger of the total unemployment rate "on" indicator. The amount of \$600,000 is appropriated and allocated to this fund from the general fund from 2009 to 2010.

Maryland

Monetary Entitlement. Effective October 1, 2009, the maximum weekly benefit amount increased from \$380 to \$410; the minimum qualifying wages needed in the base period to qualify for the maximum weekly benefit amount increased from \$13,680 to \$14,760; and the high quarter wages needed in the base period to qualify for the maximum weekly benefit amount increased from \$9,096.01 to \$9,816.01. These revised weekly benefit amounts are applicable to claims filed establishing a new benefit year on or after October 4, 2009.

Effective October 1, 2010, the maximum weekly benefit amount increases from \$410 to \$430; the minimum qualifying wages needed in the base period to qualify for the maximum weekly benefit amount increases from \$14,760 to \$15,480; and the high quarter wages needed in the base period to qualify for the maximum weekly benefit amount increases from \$9,816.01 to \$10,296.01. These revised weekly benefit amounts are applicable to claims filed establishing a new benefit year on or after October 3, 2010.

Nonmonetary Eligibility. For those qualified individuals with a disability, their disabilities may not be used as a factor in finding that an individual is not available for work or actively seeking work.

The same eligibility provision concerning severance or dismissal payments applies whether the unemployment resulted or did not result from abolishment of the individual's job. (Previously, separate severance or dismissal payments provisions applied to unemployment resulting from abolishment of jobs and unemployment not resulting from abolishment of jobs.) This provision is applicable to all claims filed establishing a new benefit on or after June 7, 2009.

Massachusetts

Extensions and Special Programs. State laws were amended to provide for the optional "on" indicator based on an insured unemployment rate of 6 percent for the current week and the immediately 12 preceding weeks.

Michigan

Administration. Benefits rights determinations and information obtained from any employing unit or individual are confidential and can only be disclosed to public employees and

public officials performing official duties and to agents or contractors of those public officials including a college, university, or agency of Michigan conducting research that assists the public official in carrying out the duties of the office. The Unemployment Insurance Agency must enter into a written enforceable agreement with the public official that holds the official responsible for ensuring that the agent or contractor maintains the confidentiality of the information or terminates the agreement if violated. The public officials may be subject to penalties that apply to persons associated with a college, university, or a public agency who disclose confidential information.

Information in the Commission's possession that may affect a claim or a charge to an employer's experience account must be available to interested parties and their agents, if their agents provide the Unemployment Insurance Agency with a written authorization of representation from the party represented. Under certain circumstances such authorization is not required.

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

A recipient of confidential information must use the disclosed information only for purposes authorized by law and consistent with the agreement entered into with the Unemployment Insurance Agency. A recipient of confidential information must not redisclose the information to any other individual or entity without the written permission of the Unemployment Insurance Agency.

Financing. For benefit years beginning after March 30, 2009, benefits paid to a person who leaves employment to accompany a spouse who is a full-time member of the U.S. Armed Forces and is reassigned for military service in a different geographic location are not chargeable to the employer, but will be charged to the nonchargeable benefits account.

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

Obsolete provisions were deleted that provided that the nonchargeable benefits account will be charged with the share of extended benefits that are otherwise charged to the account of a contributing employer, during a period when extended benefits are paid based on the average rate of total unemployment with respect to benefit charges for extended benefits paid for weeks of unemployment beginning the week after the week in which benefits become effective and ending the week ending January 17, 2004.

Nonmonetary Eligibility. An individual will not be disqualified for voluntarily leaving work if the individual is the spouse of a full-time member of the U.S. Armed Forces, and the leaving is due to the military duty reassignment of that member of the U.S. Armed Forces to a different geographic location.

Minnesota

Administration. Effective August 2, 2009, the Commissioner may accept an applicant certification based upon applicant records to issue a determination of benefit account when a wage detail is not yet due and the applicant is using an alternate base period.

Effective August 2, 2009, an employer must provide wage detail information on an applicant within 5 calendar days of the request when the applicant is using an alternate base period.

State law is amended to authorize American Recovery and Reinvestment Act 2009 (ARRA) funds for unemployment insurance administration and require interpretation of changes to be consistent with ARRA requirements for incentive payments.

An employer may be assessed a \$100 administrative penalty for failing to provide a weekly breakdown of money earned by an applicant if the information is necessary to detect applicant fraud. The breakdown notice must state that this penalty may be assessed. This \$100 penalty and the existing \$500 penalty for refusing to allow record audits or for failing to make all records available must be credited to the trust fund (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date). (Previously, penalties were credited to the administration account for use to ensure integrity in unemployment insurance program administration.)

The definition of "construction/independent contractor" is expanded, for purposes of Chapter 78, Section 181.723, to determine whether a worker is an independent contrac-

tor or an employee when performing public or private sector commercial or residential building construction or improvement services (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

The term "continued request for unemployment benefits" is defined and procedures for completing this request form are established. Each applicant must file such request either by electronic transmission or by mail by the time period required. If the applicant fails to meet the required time period, the application is not accepted, and the applicant is ineligible, unless good cause is shown for such failure (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

The term "determination" is defined to mean a document sent to an applicant or employer by mail or electronic transmission that is an initial Department ruling on a specific issue. All documents that are determinations use that term in the title of the document and are appealable to an unemployment law judge (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

The requirement is deleted that provided that employers be notified within 10 calendar days of the effect of failing to raise an issue of ineligibility due to a quit or discharge (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

The definition of the term "able to work" is repealed.

The following subdivisions pertaining to the active benefit account are repealed:

- Active benefit account
- Continued biweekly request for unemployment benefits defined
- Methods for filing continued biweekly requests for benefits
- Continued biweekly request for unemployment benefits by electronic transmission
- Continued biweekly request for unemployment benefits by mail
- In-person continued biweekly request for unemployment benefits
- Good cause
- Good cause defined

Appeals. Appeals must be filed online if filed by an agent of the employer. This requirement

is not applicable to an employee filing on behalf of an employer. All information requested must be supplied when the appeal is filed to constitute an appeal (effective April 1, 2010, and applicable to determinations and decisions issued on or after that date).

Procedures are established for conducting evidentiary hearings by unemployment law judges. Procedures are established for considering requests for subpoenas.

Coverage. A personal care assistant has the option of being the employee of a referring agency or the employee of the patient, assuming direction and control exists.

Extensions and Special Programs. The Shared Work Program provisions are modified as follows:

- An employer's plan must include date of hire (must be at least a year before submitting agreement) for participating employees.
- Employees participating in the program must work at least 20 hours per week (previously at least 24 hours per week).
- The duration of the agreement must be at least 2 months.
- Plans may not be approved if the employer has unemployment tax, reimbursement, interest fees, or penalties due but unpaid; has the maximum experience rating; or is in a high-experience rating industry.
- An employer may cancel the agreement upon 7 days notice; they must provide written notice to participating employees and may not enter into a new agreement for at least 60 calendar days.

A special State Emergency Unemployment Compensation Program is established for exhaustees of regular benefits who meet the following requirements:

- They do not qualify for unemployment benefits under the Federal EUC 2008 Program (EUC08) because they do not meet the 20 weeks of full-time insured employment or the equivalent in insured wages of not less than 40 times the applicant's weekly benefit amount requirement of that program.
- They meet all requirements under the Minnesota unemployment compensation law and under the EUC08 Program except the employment or earnings requirement.

The special State emergency unemployment compensation benefits must be paid in the same amounts, the same duration, and for the same time period as provided for under the EUC08 Program and any later amendments.

Special State emergency unemployment compensation benefits must be paid from the Minnesota Unemployment Insurance Program Trust Fund and must not be used in computing the future unemployment tax rate of a taxpaying employer or charged to the reimbursing account of a Government or non-profit employer.

The above special State Emergency Unemployment Compensation Program is effective on February 1, 2009, applies only to weeks of unemployment after February 1, 2009, and expires on June 30, 2010. No benefits will be paid for a week beginning after that date.

Unemployment benefits are payable to an employee in the Workforce Innovation in Regional Economic Development Program in proportion to the amount of the worker's reduced hours as though the employee were qualified under the Shared Work Program. The training program must be contained in a written plan signed by an officer of the employer and the Commissioner (or designee) of Department of Employment and Economic Development (expires June 30, 2011).

A Self-Employment Assistance (SEA) Program is established effective May 15, 2009, and expiring June 30, 2012. The number of applicants to the SEA program is limited to a maximum of 500.

Financing. The administration account also consists of money received from the Federal Government to administer any Federal unemployment insurance program or assistance provided to any other State to administer that State's Unemployment Insurance Program and any money credited to this account under Chapter 78.

The language is deleted that requires the establishment of a reimbursable account for the State or political subdivision when electing to be a taxpaying employer and for a nonprofit organization electing to make reimbursements. All of the following language regarding termination of the election as a taxpaying employer and regarding the election to make reimbursements is deleted: Termination and election are allowed only if such entities since the beginning of the experience rating period paid taxes equal to or more than 125 percent of the benefits used in computing the experience rating. In addition, any unemployment benefits paid after the experi-

ence rating period are transferred to the new reimbursable account of such entities. If the amount of taxes paid since the beginning of the experience rating period exceeds 125 percent of the amount of unemployment benefits paid during the experience rating period, that amount in excess is applied against any unemployment benefits paid after the experience rating period (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

Any interest, penalties, or fees due from an employer or any portion due may be cancelled at any time. This does not apply to unemployment insurance taxes or reimbursements due (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

The provision is deleted that allowed for the 24-month time period in which the Commissioner may compromise in whole or in part any action, determination, or decision that affects only an employer and not an applicant in regard to the taking of \$500 or more in money or property by an employee from the employer (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

Any compromise involving an amount over \$10,000 (previously \$2,500) must be authorized by an attorney licensed to practice law in Minnesota who is an employee of the Department designated by the Commissioner for that purpose (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

The provision is deleted which would exclude benefits paid from being used in computing the future tax rate of a taxpaying base period employer or charged to the reimbursable account of a base period nonprofit or Government employer electing reimbursements when the employer is in the tourist or recreation industry and is in active operation of business less than 15 calendar weeks each year, and the applicant's wage credits from the employer are less than 600 times the applicable State or Federal minimum wage (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

The provision is deleted that allowed interest on past due taxes to be compromised (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

The provision is deleted that allowed that the replacement of money wrongfully used may come from the contingent account, and

if the money is not replaced from the contingent account, it is the policy of the State that the money be replaced by money appropriated for that purpose from the general funds of the State (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

The provision is deleted that required the costs and fees collected relating to insufficient funds, filing, recording, sheriff, collection agencies, litigation, and an attorney must be used to ensure integrity in the unemployment insurance program administration.

The contingent account will no longer consist of all money appropriated by the legislature. The money in this account will no longer supplement all Federal money available to the Commissioner and will not be appropriated and available to the Commissioner. All money in this account is appropriated and available for administration of the Unemployment Insurance Program of the State unless otherwise appropriated by session law. The provision is deleted that required that on June 30 of each year all amounts in excess of \$300,000 in this account be paid over to the trust fund (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

Computations of money required under Chapter 78 that do not result in a whole dollar are rounded down to the next lower whole dollar, unless specifically provided otherwise by law (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

Benefits paid will not be used in computing the future tax rate of a taxpaying base period employer when benefits were allowed because of a quit or discharge and the decision is later reversed (effective August 2, 2009, and applicable to determinations and unemployment law judge decisions issued on or after that date).

The Commissioner, in consultation with others, is directed to determine and implement the appropriate pay level for unemployment law judges.

Monetary Entitlement. An applicant for benefits must have wage credits in the high quarter of \$1,000 or more to establish a benefit account using the secondary base period, effective for unemployment benefits filed on or after August 2, 2009.

An application for benefits may be backdated if the applicant requests the backdating at the time of filing the application (effective August 2, 2009, and applicable to determi-

nations and decisions issued on or after that date). (Previously, backdating was allowed upon a specific request of an applicant.)

An established benefit account may later be withdrawn only if the applicant has not been paid any unemployment benefits on that account, a new application for unemployment benefits is filed, and a new benefit account is established at the time of the withdrawal. The language is deleted that provided that the benefit account may be withdrawn only if the claimant has not served the nonpayable waiting week (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

Nonmonetary Eligibility. If the pension retirement or annuity payment is paid in a lump sum, the applicant is not considered to have received a payment if that payment is an early distribution for which the applicant paid an early distribution penalty under the Internal Revenue Code (effective May 15, 2009, and retroactive to December 1, 2008).

The definition of “available for suitable employment” is modified to mean an applicant is ready and willing to accept suitable employment (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date). (Previously, “available for suitable employment” meant being ready and willing to accept suitable employment in the labor market area.)

The definition of “available for suitable employment” is modified by removing the requirement that an applicant have transportation throughout the labor market area to be considered available for suitable employment (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date.)

An applicant electing to become temporarily unemployed to avoid the layoff of another employee with the applicant’s employer due to lack of work is not ineligible for benefits under the leave of absence provision, or ineligible under the quit provision if certain requirements are met. Other requirements must be met including being available for suitable employment with a different employer for benefits to be payable (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

An individual who within 5 calendar days after completion of a suitable temporary job assignment from a staffing service employer accepts employment with the client of the staffing service is not ineligible under the voluntary quit provisions (effective August 2,

2009, and applicable to determinations and decisions issued on or after that date).

“Immediate family member” is defined as an applicant’s spouse, parent, stepparent, son, daughter, stepson, stepdaughter, grandson, or granddaughter.

The definition of “reemployment assistance training” is modified, and apprenticeship training is considered “reemployment assistance training.”

Unless an applicant is in reemployment assistance training, a student who has regularly scheduled classes must be willing to discontinue classes to accept suitable employment when class attendance restricts applicant from accepting suitable employment, and the applicant cannot change the scheduled class or make other arrangements.

Effective August 2, 2009, State law is amended to provide that misconduct will not include the following conditions:

- Conduct that is a consequence of applicant’s mental illness or impairment
- Conduct that results in an absence in order to provide necessary care to an immediate family member because of illness, injury, or disability, if proper notice is given to the employer
- Conduct that is a result of domestic violence to the applicant or immediate family

Effective August 2, 2009, conduct involving only a single incident is an important fact that must be considered in deciding whether it rises to the level of misconduct violating the employer’s standards of behavior.

Overpayments. If the Internal Revenue Service assesses a fee for offsetting from a Federal tax refund the amount of any fraud overpayment, including penalties and interest, the amount of the fee may be added to the total amount due. The offset amount must be put in the trust fund and credited to the total amount due from the applicant (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date).

Nonfraud and fraud overpayments, penalties, and interest assessed may also be collected by the methods allowed under State and Federal law (effective August 2, 2009, and applicable to determinations and decisions issued on or after that date). (Previous law allowed collections by the same methods as delinquent payments from an employer.)

The provision is deleted that required that 37.5 percent of the money received in repay-

ment of fraudulently obtained unemployment benefits credited to the administration account must be for deterring, detecting, or collecting overpayments.

Mississippi

Administration. Group claims may be filed for a mass layoff from the same employer for the same period of unemployment. (The provision is deleted that provided for a short-term employment limitation of 4 weeks for at least 25 persons). The effective date of the claims will be determined by the Agency based on the first day of unemployment, provided the person files in the specified manner.

Financing. An employer's account will not be charged when an individual leaves an employer to accompany a spouse who is on active duty and has been reassigned from one military assignment to another.

Nonmonetary Eligibility. "Good cause" is defined as employment conditions or circumstances leading to a voluntary separation from employment that are such that an ordinary, prudent employee would leave. Claimant must explore alternatives to quitting and make reasonable efforts to preserve employment.

An exception to the disqualification for leaving employment for marital, filial, or domestic circumstances may be allowed if sufficient evidence shows that continuing in the employment would be a detriment to the welfare of the claimant or the claimant's underage dependents due to domestic violence. The language is removed that provided that good cause is shown if evidence demonstrates that continuing in the employment would present an identifiable, clear and present risk to the claimant's health, safety, or morals.

The definition of "good cause" is amended to include an individual who leaves an employer to accompany a spouse who is on active duty and has been reassigned from one military assignment to another.

Overpayments. Any person who receives an overpayment, fraud or nonfraud, will be liable for repayment of the benefits.

In determining fraud, the Agency will consider whether a person had willful intent to commit fraud or had knowledge of the omitted or misrepresented fact. Fraud may be implied or presumed. Inference based on circumstances may be overcome by the introduction of contrary evidence.

Penalties are established as follows for a period up to 52 weeks for overpayments received within the past 3-year period as a result of fraud:

- The first overpayment will result in a disqualification of 6 weeks for every week benefits were fraudulently received.
- The second or greater overpayment will result in a disqualification of 12 weeks for every week benefits were fraudulently received.
- The disqualification period will start no later than the week during which the initial determination is made.

Missouri

Administration. The training program and compelling family reason provisions will not take effect and no benefits will be paid unless first certified by the U.S. Department of Labor under Federal law amended by the American Recovery and Reinvestment Act of 2009.

Both the training program and compelling family reason provisions will be subject to renewal in the second regular session and, if not renewed, must expire once the funds provided under the American Recovery and Reinvestment Act of 2009 are expended.

Financing. An updated provision removes the language providing that the unpaid principal amount of any outstanding credit instruments, combined with the unpaid principal amount of any financing agreement entered into, will not exceed \$450 million at any time. The provision removes all other language referring to the \$450 million limit on borrowing from credit instruments including interest.

The Director must separately track payments made under the training program and compelling family reason provisions. When payments exceed the amount of Federal incentive funds available because of the enactment of the training program and the compelling family reason provisions, the Unemployment Compensation Fund must be reimbursed from general revenue for all subsequent payments to the claimants.

An employer's account is not charged for benefits paid under the provisions regarding separation for a compelling family reason.

An employer's account is not charged for benefits paid under the special training program provision.

Montana

Administration. Effective July 1, 2009, the Department must provide for the disclosure

of wage and other required information to authorized recipients and establish safeguards to ensure that any information disclosed is used only for the purposes outlined in Federal regulations. Fees may be charged for the costs of providing information. Fees must be deposited in the State Special Revenue Fund. The Department must adopt rules providing for confidentiality and disclosure of unemployment insurance information to appropriate persons and agencies consistent with Federal requirements. New requirements establish penalties for other State or local government employees or any other person for violating the confidentiality and disclosure requirements by imposing a fine of not less than \$20 or more than \$200 or imprisonment for not longer than 90 days or both.

Appeals. The Governor may appoint a substitute board member to the Board of Labor Appeals subject to the same qualifications and confirmation requirements to serve in place of any regular board member who is unable to attend a board meeting and therefore unable to participate in the proceedings and decisions of that board meeting.

Financing. Employers' accounts are not charged for payment of training benefits.

Effective July 1, 2009, State laws were amended to delete the language allowing money credited to the State's account in the Unemployment Trust Fund, including Reed Act money, to be withdrawn for the payment of unemployment insurance administration expenses and public employment offices.

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

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

Nonmonetary Eligibility. Effective January 1, 2010, an individual is ineligible to receive benefits during an approved leave of absence. An individual is eligible to receive benefits when the individual returns to and offers service to his or her employer after returning from an approved leave of absence, and the individual's regular or comparable suitable work is not available, as determined by the Department, provided the individual is otherwise eligible.

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

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

Effective January 1, 2010, eligible individuals are not allowed to place limitations on their availability for work that would constitute a withdrawal from the labor market.

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

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

Effective July 1, 2009, students attending an established educational institution may qualify for benefits if they satisfactorily demonstrate they meet the general eligibility conditions. Previously, students were disqualified for benefits during the school year (within the autumn, winter, and spring seasons of the year) or the vacation periods within the school year or during any prescribed school term if regularly attending an established educational institution.

Overpayments. Effective January 1, 2010, new requirements establish repayment methods for the Department to collect a benefit

overpayment and any penalty by the following:

- Having the claimant pay the amount owed directly to the Department by check, money order, credit card, debit card, or electronic funds transfer
- Offsetting the amount of the overpaid benefits owed against future unemployment benefits to be received by the claimant

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

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

The Department is allowed to collect any benefit overpayment and penalty by directing the offset of any funds due the claimant from the State, except future unemployment benefits and retirement benefits. Through the Department of Revenue, the Department must provide the claimant with notice of the right to request a hearing on the offset action which must be made within 30 days of the date of the notice (effective January 1, 2010).

The debt can be transferred for offset prior to being determined uncollectible (effective January 1, 2010).

The Department is permitted to direct the offset of funds owed a person under 26 U.S.C. 6402, if the person owes a covered unemployment compensation debt (effective January 1, 2010).

State laws were amended to define the term "covered unemployment compensation debt" (effective January 1, 2010).

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

The Department is allowed to waive the benefit overpayment if it is found that the overpayment was the result of departmental error (effective January 1, 2010).

Nebraska

Administration. State laws were amended to clarify provisions governing the release of confidential unemployment insurance information.

State laws were amended to remove the provision requiring the State Advisory Council to be consulted, prior to transferring money in the State Unemployment Insurance Trust Fund to the State's account in the Unemployment Trust Fund, if and when the State unemployment insurance tax ceases to exist.

State law now provides for three additional allowable uses for funds in the Nebraska Training and Support Trust Fund:

- Recruitment of workers to Nebraska
- Training new employees of expanding Nebraska businesses
- Costs of creating a common Web portal to attract businesses and workers to Nebraska

State law is amended to modify the composition of the Nebraska Worker Training Board to no longer require the representative of employers to be a member of the State Advisory Council.

Financing. All employers with a payroll of \$100,000 (previously \$500,000) are required to file their tax returns and wage reports and pay their taxes or reimbursements owed using an electronic method approved by the Commissioner, beginning with calendar year 2010.

The provision is removed that allows the State Advisory Council to determine that a zero-percent tax rate is in the best interests of preserving the State's account in the Unemployment Trust Fund.

Employers with a positive experience account balance are prohibited from being assigned to Category 20.

Benefits attributable to a part-time base period employer are required to be non-charged when the part-time contributory employer continues to employ the individual to the same extent as during his or her base period, provided the employer files a timely notice of the exemption from charges.

Benefits in a combined wage claim are prohibited from being charged to an employer's experience rating account, unless the benefits would be chargeable under Nebraska law.

State laws were amended to shift the period of time when an acquisition will result in a new rate of contributions by one calendar quarter, from the 3-month period ending with the third quarter of the calendar year to the 3-month period ending with the second quarter of the calendar year.

Overpayments. A modified provision allows the agency to intercept Federal income tax refunds to repay fraudulent overpayments and

contribution delinquencies consistent with the requirements of Federal law and regulation.

Nevada

Coverage. The definition of “agricultural employment” is amended to include services performed by an alien.

Financing. Money in the Employment Security Fund, in addition to existing required uses, must be used for the costs of any program or the implementation of procedures deemed necessary by the Administrator to ensure the proper payment of benefits and collection of contributions and reimbursements pursuant to law.

In addition to being used for training and job creation, the additional contribution of 0.05 percent assessed each year on employers is required to be used to provide grants of money to a nonprofit private entity to make loans of money to veterans and senior citizens to start small businesses.

Overpayments. Any administrative fee may be assessed as prescribed by any applicable agency of the United States regarding the recovery of benefit overpayments, to the extent allowed under Federal law.

A false statement or representation also includes, without limitation, failing to properly report earnings or filing a claim for benefits using the Social Security number, name, or other personal identifying information of another person. Any person violating any of these provisions commits unemployment insurance fraud.

When persons are found to have committed unemployment insurance fraud, they must repay, for deposit in the Unemployment Insurance Fund, a sum equal to all of the benefits received or paid for each week in which the false statement or representation was made or in which there was a failure to disclose a material fact. Any interest, penalties, and costs related to that sum will also have to be repaid.

Except as otherwise provided, persons are disqualified from receiving unemployment compensation benefits beginning with the first week claimed in violation and not more than 52 consecutive weeks after the week in which it is determined a claim was filed in violation *or* until the sum, in addition to any interest, penalties, or costs related to that sum is repaid, whichever is longer.

It is a violation for a person to file a claim or to cause or allow a claim to be filed on his or her behalf if the person is incarcerated in

the State prison or any county or city jail or detention facility or other correctional facility in Nevada, and the claim does not expressly disclose his incarceration.

A person obtaining benefits of \$250 or more as a result of committing unemployment insurance fraud will be punished in the same manner as theft under certain other provisions.

In addition to the repayment of benefits as required above, if the amount of benefits which must be repaid is greater than \$1,000, a penalty may be imposed equal to not more than the following:

- Twenty-five percent if the amount of such benefits is greater than \$1,000 but not greater than \$2,500
- Fifty percent of the total amount of benefits received by the person in violation of this provision or any other provision of the law if the amount of such benefits is greater than \$2,500

Except as otherwise waived as provided below, a person may not repay benefits as required above by using benefits which would otherwise be due and payable to the person if he or she was not disqualified.

The period of disqualification mentioned above may be waived for good cause shown or if the person adheres to an authorized repayment schedule that is designed to fully repay benefits received from an improper claim, in addition to any related interest, penalties, and costs, within 18 months. If the period of disqualification is waived under this paragraph, the individual may repay benefits as required above by using any benefits which are due and payable to the person. Benefits which are due and payable to the individual may not be used to repay any related interest, penalties, and costs.

The Administrator may recover any money required to be paid under the above provisions in accordance with certain other provisions and may collect interest on any such money in accordance with certain other provisions.

Except as otherwise provided in certain other provisions, an individual who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact to obtain or increase any benefit or other payment under the law, either for their own benefit or for the benefit of any other person, is guilty of a misdemeanor.

Except as otherwise provided in certain other provisions, when two or more individuals conspire to obtain or increase any benefit or other payment under the law by a false state-

ment or representation knowing it to be false, or by knowingly failing to disclose a material fact, or whenever any person makes a series of false statements or representations knowing them to be false, to obtain or increase benefit payments under the law over a period of more than 1 week, every such person is guilty of a gross misdemeanor.

Except as otherwise provided in certain other provisions, any person residing in Nevada who claims benefits under any agreement existing between the Division and some other State or the Federal Government, who willfully makes a false statement or representation or knowingly fails to disclose a material fact to obtain or increase benefits under the provisions of the unemployment law of any other State or the Federal Government is guilty of a misdemeanor.

New Hampshire

Extensions and Special Programs. Individuals must have insured wages exceeding 40 times their most recent weekly benefit amount in their base period to qualify for extended benefits.

The extended benefits provisions are modified to add the optional extended benefits “off” indicator based on the seasonally adjusted total unemployment rate which requires extended benefits to trigger off when the average total unemployment rate for the most recent 3 months is less than 6.5 percent or 110 percent of the rate for the corresponding 3-month period in either or both of the 2 previous years.

Financing. State laws were amended to provide for the noncharging of benefits paid to individuals whose separation from employment is because they are unable to perform some or all of their job duties due to pregnancy or illness or injury that is not related to work, provided that a physician has attested to the individuals’ inability to perform their work duties.

It is unnecessary to appropriate the State’s share of the \$500 million of the 2009 special administrative distribution made under the American Recovery and Reinvestment Act.

An employer’s account is not charged for benefits paid to an individual whose separation from employment is because the individual is unable to perform some or all of his or her job duties due to pregnancy, or illness or injury that is not work-related, provided that a physician has attested to the individual’s in-

ability to perform his or her work duties, effective January 1, 2010.

The taxable wage base increases are as follows:

- \$10,000 (previously \$8,000), effective January 1, 2010
- \$12,000, effective January 1, 2011
- \$14,000, effective January 1, 2012

A 0.5 percent emergency surcharge is assessed when the trust fund fails to equal or exceed \$150 million.

A deduction will occur in any calendar quarter from every employer's contribution rate, based on the trust fund balance, throughout the next preceding calendar quarter:

- When the fund equals or exceeds \$250 million, the deduction will be 0.5 percent.
- When the fund equals or exceeds \$275 million, the deduction will be 1.0 percent.
- When the fund equals or exceeds \$300 million, the deduction will be 1.5 percent.

The minimum contribution rate will not be less than 0.10 percent.

An inverse minimum rate is established to adjust certain employer's contribution rates when the preceding calendar quarter trust fund balance falls below certain levels:

- When the fund fails to equal or exceed \$250 million, the rate will be 1.5 percent.
- When the fund fails to equal or exceed \$275 million, the rate will be 1.0 percent.
- When the fund fails to equal or exceed \$300 million, the rate will be 0.5 percent.

A new rate schedule is added to determine employer contributions and increases the contribution rate for employers in Schedule I.

Monetary Entitlement. A waiting week is added, with no reduction in the individual's maximum benefit amount, for benefit years commencing on or after January 3, 2010.

Nonmonetary Eligibility. The part-time and shift availability rules are amended to do the following:

- Define that "based on wages earned in part-time work" means some portion of the individual's annual earnings was for employment of less than 37.5 hours a week

- Provide that individuals wishing to be exempt from applying for or accepting full-time or part-time work during the hours of a particular shift must provide certain information about their reasons, including information about any children for which the individuals are the only adult available to provide care
- Require individuals not available for full-time work to inform the Department whether during the base period some portion of the annual earnings was for employment of less than 37.5 hours a week; previously, individuals had to inform the Department of their usual work schedule for the weeks they performed services during the 26-week period
- Provide that an adult other than the individual claiming benefits must be considered "available" if it is determined that the adult is a suitable person to provide care for any dependents
- Provide the criteria for considering if the other adult is a suitable person to care for dependents

The language is deleted that defined the meaning of "the individual's last 6 months in employment" and "throughout such 6-month period."

Overpayments. A person who received an overpayment in benefits without fault in causing the benefit overpayment is not liable to repay the benefits. (Previously, the law provided that a person was not liable to repay benefit overpayments if it was received solely through error or inadvertence.)

New Jersey

Extensions and Special Programs. State law was amended to repeal the 2-percent "off-trigger" provision for the program, providing up to 26 weeks of additional unemployment insurance benefits during training for laid-off displaced workers. (Previously, the additional unemployment insurance benefits during training provision provided an "off trigger" to reject any new applications for additional unemployment insurance during training whenever the total amount of such payments exceeded 2 percent of the cumulative annual balance of the Unemployment Insurance Fund.)

Financing. State law has eliminated the noncharging provision that provided that if the total amount of benefits paid to a claimant

and charged to the account of the appropriate employer exceeds 50 percent of the total base year-base week wages paid to the claimant by that employer, then such employer will have such excess benefit charges canceled from his or her account.

New Mexico

Administration. The Workforce Solutions Department is requested to collaborate with the Human Services Department to leverage State assets and negotiate the best terms possible for electronic debit and benefit card contracts so that recipients of unemployment compensation pay reduced fees or no fees for using electronic benefit transfer or prepaid debit cards.

Monetary Entitlement. The calculation of the weekly benefit amount is temporarily changed from 53.5 percent to 60 percent of the average weekly wage in the base period quarter in which total wages were highest, applicable from July 1, 2009, through June 30, 2011. The weekly benefit amount may not be less than 10 percent or more than 60 percent of the State's average weekly wage for all insured work.

New York

Extensions and Special Programs. The expiration date of the Self-Employment Assistance Program is extended from December 7, 2009, to December 7, 2011, at which time it is repealed.

State laws were amended to change the extended benefits earnings and employment requirements in the base period to monetarily qualify from 20 weeks of full-time employment or remuneration which equals or exceeds 40 times the most recent benefit rate to remuneration of 1.5 times the high calendar quarter earnings.

An individual's eligibility period will include any alternative eligibility period provided for in Federal law.

Extended benefits not reimbursed by the Federal Government must be fully financed (100 percent) by the Indian tribe.

Nonmonetary Eligibility. Except as otherwise provided, claimants will not be disqualified for a failure to accept an offer of suitable work or to apply for suitable work if they are in an approved training program, applicable to regular and extended benefits provisions.

The language is deleted that disqualified a claimant for 12 months for committing a felony until subsequently employed on not less than 3 days in each of 4 weeks or earned

remuneration of at least \$200 whether during or subsequent to the 12-month period. State law replaces the deleted language with the disqualification provision regarding criminal acts in which a claimant is disqualified for 12 months provided he or she is convicted or signed a statement admitting to the criminal act.

North Carolina

Financing. Benefits paid to a claimant who leaves work to accompany their spouse shall not be charged to the employer.

Nonmonetary Eligibility. The definition of “discharge for misconduct with the work” excludes a discharge or employer-initiated separation of a severely disabled veteran for acts or omissions of the veteran that are determined attributable to a disability incurred or aggravated in the line of duty during active military service or attributable to the veteran’s absence from work to obtain care and treatment of a disability incurred or aggravated in the line of duty during active military service. Such discharge or separation will not disqualify the veteran from receiving benefits under the substantial fault provisions for any period of time. The term “severely disabled veteran” is defined.

North Dakota

Administration. The Agency must respond to a written request by a staffing service to allow the staffing service to use its own unemployment insurance tax rate instead of the unemployment insurance tax rate of the client company, if the difference in the tax rate between the staffing service and client company reduces the taxes, and the reduction exceeds \$500 within 15 days of receiving all required information. The Agency must send notices of tax rate determinations annually to the staffing service.

Any report relating to the Federal Unemployment Tax Act that is required to be submitted to the Federal Internal Revenue Service regarding a staffing service must be submitted with the employer identification number of the staffing service.

Financing. The following employers’ calculations of unemployment compensation contribution rates must be rounded to the nearest one-hundredth of 1 percent:

- New employers assigned a rate that is 90 percent of the positive employer maximum rate or a rate of 1 percent, whichever is greater, unless classified in construction services

- Employers assigned rates according to the positive employer rate group schedule or the negative employer rate group schedule

Nonmonetary Eligibility. Individuals receiving unemployment benefits are required to continue to complete all assigned services and report to a local office as required to be eligible for benefits.

Oregon

Appeals. Among other things, the administrative law judge at a hearing may address issues raised by evidence in the record including continued claims filed subsequent to issuance of a decision.

Any party may file a request to reopen the hearing following the issuance of a written decision by an administrative law judge whose decision whether or not to grant the request to reopen the hearing must be in writing and mailed to the parties. This judge may reopen the hearing for any of the following reasons:

- The party requesting the reopening failed to appear at the hearing.
- The party files the request within 20 days of issuance of the written decision.
- The cause of the failure to appear was beyond the control of the requesting party.

Coverage. The provision is eliminated that required an organization or person engaging a musician to be considered an employer except when services are performed pursuant to a written contract.

The effective date of the election to exclude corporate officers and directors who are family members from coverage is changed *from* the first day of the calendar quarter in which the request was submitted *to* the first day of the current calendar quarter or the first day of the calendar quarter preceding the calendar quarter in which the request was submitted (applicable to elections of coverage by corporations occurring on or after January 1, 2010).

Extensions and Special Programs. State law increases shared work benefits to a maximum of 52 weeks. (Previously, it was a maximum of 26 weeks.)

For the period February 22, 2009, through December 26, 2009, “eligibility period” is defined as the weeks in the benefit year that begin in an extended benefit period and any subsequent weeks that begin in the extended benefit period or any week that begins after an individual exhausts all rights to Emergency

Unemployment Compensation during an extended benefit period.

Effective December 27, 2009, through May 29, 2010, “eligibility period” is defined as the weeks in the benefit year that begin in an extended benefit period and any subsequent weeks that begin in the extended benefit period. If the individual received extended benefits during the period from February 22, 2009, through December 26, 2009, “eligibility period” is defined as any week that begins after the individual exhausts Emergency Unemployment Compensation in the extended benefit period.

Effective May 30, 2010, “eligibility period” is defined as the weeks in an individual’s benefit year that begin in an extended benefit period, and if the benefit year ends within the extended benefit period, it is defined as any subsequent weeks that begin in the extended benefit period. (This provision removes the amendments above made to the eligibility period.)

The definition of “eligible dislocated workers” has been amended to include workers who have separated from a declining industry or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at their place of employment.

Financing. If an employer defaults on any required payment due to the Unemployment Compensation Trust Fund, a person who is an officer or employee of a corporation, a member or employee of a limited liability company, or a partner in or employee of a limited liability partnership is personally liable for such amounts due. A notice of assessment must be issued to the liable person, and if that liable person is insolvent, a jeopardy assessment may be issued. Amounts assessed may be reviewed in the manner provided in the unemployment compensation law.

Nonmonetary Eligibility. An individual will not be disqualified from receiving benefits due to separation from employment and will not be considered unavailable for failure to apply for or accept suitable work if the individual or a member of the individual’s immediate family is a victim of stalking or sexual assault, or if the individual believes they or a member of their immediate family could become a victim of stalking or sexual assault as a result of continued employment or acceptance of work. The provision has been removed that requires the individual to pursue reasonable available

alternatives to leaving work, or failure to apply for or accept suitable work when offered.

Rhode Island

Financing. The appropriated \$1.5 million Reed Act funds may be used for the administration of the Unemployment Insurance Program and public employment services offices.

The Governor may make an interfund transfer from the Temporary Disability Insurance Fund to the Employment Security Fund for the payment of unemployment compensation benefits under specified circumstances.

Tennessee

Administration. The Commission of Labor and Workforce Development is required to submit a report to the General Assembly concerning the condition of the Unemployment Trust Fund during the first week of January and the first week of July of each year.

Appeals. Nonresident parties to an appeal may petition to obtain judicial review of decisions by filing in the chancery court of the county where the employer is located, except that any petition for judicial review of tax liabilities must be filed in Davidson County.

Financing. A flexible taxable wage base is established based on the balance in the State's Unemployment Trust Fund on June 30 and December 31 of each year as follows:

- When the balance is greater than \$1,000,000,000, the wage base will be \$7,000.
- When the balance is greater than \$900,000,000, but less than or equal to \$1,000,000,000, the wage base will be \$8,000.
- When the balance is less than or equal to \$900,000,000, the wage base will be \$9,000.

The Premium Rate Chart is revised by removing table 6b; table 6a of the previously enacted chart then becomes table 6. However, under the new table 6, if the reserve ratio percent is 20 and over, then the premium amount is 0.01 instead of 0.00.

- Most favorable table—trust fund balance of \$850,000,000 or more with minimum rate of 0.01 percent and a maximum rate of 10.0 percent.
- Least favorable table—trust fund balance of less than \$450,000,000 with a

minimum rate of 0.50 percent and a maximum rate of 10.0 percent.

An additional premium of 0.6 percent on all rates is imposed in tables 1, 2, and 3, until the Unemployment Trust Fund balance equals or exceeds \$650,000,000.

The provisions regarding the Tennessee job skills fee is removed.

Texas

Extensions and Special Programs. The definition of "normal weekly hours of work" under the Shared Work Unemployment Compensation Program is amended to mean the number of hours in a week that an employee ordinarily works for a participating employer or an average of 40 hours per week over a 2-week pay period, whichever is less. (Previously, "normal weekly hours of work" meant the number of hours in a week ordinarily worked for a participating employer or 40 hours.)

The Governor, by executive order, is permitted to suspend the waiting period requirement if an individual is unemployed as a direct result of a natural disaster, is otherwise eligible for unemployment compensation benefits, and is not receiving disaster unemployment assistance for the period included in that waiting period.

Utah

Nonmonetary Eligibility. If a claimant is disqualified from receiving unemployment benefits because he or she was discharged for a crime in connection with work, the claim will be established for 52 weeks and cannot be canceled.

Vermont

Administration. New requirements establish an Unemployment Trust Fund reform study committee to study reform of the Unemployment Trust Fund.

Coverage. Administration and transportation agencies are required to establish procedures to minimize misclassification of workers as independent contractors and to require specific information from State contractors on all projects costing more than \$250,000,000. Information will be shared with the Department of Labor.

Financing. The taxable wage base increases from \$8,000 to \$10,000 from January 1, 2010, through December 31, 2010.

Monetary Entitlement. The maximum weekly benefit amount is \$425 from July 1, 2009, through June 30, 2010.

Virginia

Financing. The State noncharges employers' accounts for benefits paid to an individual who leaves employment to accompany his or her spouse to the location of the spouse's new duty assignment under the following criteria:

- The spouse is on active duty in the military or naval services of the United States.
- The spouse's relocation to a new military-related assignment is pursuant to a permanent change of station order.
- The location of the spouse's new duty assignment is not readily accessible from the individual's place of employment.
- The spouse's new duty assignment is located in a State that, pursuant to statute, does not deem a person accompanying a military spouse as a person leaving work voluntarily without good cause.

Nonmonetary Eligibility. If an individual leaves employment to accompany his or her spouse to the location of the spouse's new duty assignment, State law provides that the following reasons are good cause for voluntarily leaving:

- The spouse is on active duty in the military or naval services of the United States.
- The spouse's relocation to a new military-related assignment is pursuant to a permanent change of station order.
- The location of the spouse's new duty assignment is not readily accessible from the individual's place of employment.
- Except for members of the Virginia National Guard relocating to a new assignment within the Commonwealth, the spouse's new duty assignment is located in a State that, pursuant to statute, does not deem a person accompanying a military spouse as a person leaving work voluntarily without good cause.

Washington

Extensions and Special Programs. Subject to the availability of funds through March 1, 2011, appropriated State funds will be distributed to match Federal funds that provide specifically for the education and training of eligible individuals in high demand occupations. The education and training of eligible individuals in occupations in the aerospace, energy efficiency, forest product, and health

care industries will be given priority if consistent with Federal law. This provision expires July 1, 2011.

For an individual who is eligible for emergency unemployment compensation during the extended benefit period beginning February 15, 2009, the term “eligibility period” means the period consisting of the week ending February 28, 2009, through the week ending May 29, 2010.

The requirement is deleted that provided that the Shared Work Program plan apply to at least 10 percent of the employees in the affected unit and that an individual may not be paid shared work benefits for more than 26 weeks in any 12-month period.

The Training Benefits Program, applicable to claims effective on or after September 7, 2009, is expanded to the following individuals:

- Those whose average hourly wage in the base year is less than 130 percent of the State minimum wage and meets other criteria
- Those who served in the U.S. Military or the Washington National Guard during the 12-month period prior to the application and meet other criteria
- Those who are currently serving in the Washington National Guard and meet other criteria
- Those who are disabled due to an injury or illness and meet other criteria

The total training benefit amount is 52 times the individual’s weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid or deemed paid.

The weekly benefit amount is the same as the regular weekly amount payable.

Training benefits are not payable for weeks more than 2 years beyond the end of the benefit year of the regular claim.

Financing. An account is created in the Administrative Contingency Fund for financing the administrative costs associated with funds provided specifically for the education and training of eligible individuals in high demand occupations.

The following benefits paid will not be charged to the experience rating account of any contribution paying employer:

- The \$45 increase paid as part of the individual’s weekly benefit amount

- The training benefits paid under the new training benefits program
- The increased difference between the minimum weekly benefit amount of \$155 and the weekly benefit amount of \$129

To calculate the flat social cost factor for rate years 2010 and 2011, the \$45 increase paid as part of the individual’s weekly benefit amount will not be considered for purposes of calculating the total unemployment benefits paid to claimants in the 4 consecutive calendar quarters immediately preceding the computation date.

Relief of charges is permitted if they result from payment to an individual who was hired to replace an employee who is a member of the military reserves or National Guard when called to active duty and was subsequently laid off when that employee is reemployed upon release from active duty.

Unemployment insurance benefit payments are charged to the experience rating accounts of employers in the same amount that benefits are paid out.

The Standard Industrial Classification Manual is no longer used for assigning employers to industrial classifications.

For contributions assessed in rate year 2010 and thereafter, the minimum flat social cost factor must be 0.6 percent, except when the balance in the unemployment compensation fund is at least one of the following:

- Ten months of benefits but less than 11 months, the minimum will be 0.5 percent
- Eleven months of benefits but less than 12 months, the minimum will be 0.45 percent
- Twelve months of benefits but less than 13 months, the minimum will be 0.4 percent
- Thirteen months of benefits but less than 15 months, the minimum will be 0.35 percent
- Fifteen months of benefits but less than 17 months, the minimum will be 0.25 percent
- Seventeen months of benefits but less than 18 months, the minimum will be 0.15 percent
- Eighteen months of benefits, the minimum must be 0.15 percent through rate year 2011, and the minimum will be 0.0 percent in rate years 2012 and beyond

Previously, the exceptions included at least the following:

- Twelve months but less than 14 months, the minimum will be 0.5 percent
- Fourteen months of unemployment benefits, the minimum will be 0.5 percent (except that, for employers in rate class 1, the minimum will be 0.45 percent)

For contributions assessed in rate year 2010 and thereafter, the sum of an employer’s array calculation factor rate and the graduated social cost factor rate may not exceed 6 percent (was 6.5) for employers whose NAICS (North American Industry Classification System) code is within 111, 112, 1141, 115, 3114, 3117, 42448, or 49312 may not exceed 5.4 percent (was 5.7) for the graduated social cost factor rate for each employer in the array.

Monetary Entitlement. There is a State temporary benefit increase of \$45 from May 3, 2009, to January 2, 2010.

Temporarily, from May 3, 2009, to January 2, 2010, the minimum weekly benefit amount is increased from \$129 to \$155, and the maximum weekly benefit amount is increased from \$541 to \$586.

Obsolete provisions are removed regarding the calculation of the weekly benefit amount, the duration of benefits, and the maximum amount payable weekly, as well as provisions concerning the State unemployment rate when it is 6.8 percent or less.

The Training Benefits Program is expanded to include dislocated workers, applicable to claims effective on or after April 5, 2009. These training benefits are available subject to availability of funds.

Nonmonetary Eligibility. With respect to separations that occur on or after September 6, 2009, an individual has good cause and is not disqualified from benefits for the following reasons:

- The individual leaves work to accept a bona fide offer of bona fide work.
- The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant’s immediate family if the claimant meets the following criteria:
 - The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the rea-

son for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system.

- The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position.
- The claimant left work to relocate for the employment of a spouse or domestic partner that is outside the existing labor market area and the claimant remained employed as long as was reasonable prior to the move. (Previously, the law provided for the claimant to leave work to relocate for the spouse's employment that, due to a mandatory military transfer, is outside the existing labor market area.)
- The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence or stalking.
- The individual's usual compensation was reduced by 25 percent or more.
- The individual's usual hours were reduced by 25 percent or more.
- The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market.
- The individual's worksite safety deteriorated, and the individual reported such safety deterioration to the employer, but the employer failed to correct the hazards within a reasonable period of time.
- The individual left work because of illegal activities at the individual's worksite, and the individual reported such activities to the employer, but the employer failed to end such activities within a reasonable period of time.
- The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs.

- The individual left work to enter an apprenticeship program approved by the Washington State apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program.

West Virginia

Administration. The Executive Director must establish an employer violator system to identify individuals and employers who are in default to the fund.

Financing. "Average annual wage" is defined as the State's average annual wage, which is computed on or before September 30 of the year immediately preceding the rate year, and is the total remuneration paid by employers as reported on contribution reports on or before that date with respect to all employment during the 4 consecutive calendar quarters ending on June 30 of that year divided by the average monthly number of individuals performing services in employment during the same 4 calendar quarters as reported on the contribution reports.

"Threshold wage" (also referred to as the "taxable wage base") is defined as the wage amount the employer pays unemployment taxes on for each person in his or her employ during a calendar year. Effective May 11, 2009, State law increases the threshold wage from \$8,000 to \$12,000, provided that when the moneys in the unemployment fund reach \$220 million on February 15 of any year, the taxable wage base thereafter will be reduced to \$9,000, provided, however, that each year thereafter the taxable wage base will increase or decrease by the same percentage that the State's average wage increases or decreases.

Monetary Entitlement. Individuals may elect to voluntarily have State income taxes withheld and deducted from their payment of unemployment compensation at the appropriate State withholding rate, effective for payments made on and after January 1, 2010.

The Commissioner must not increase or decrease the maximum weekly benefit rate for the period beginning on May 11, 2009, until the taxable wage base is reduced to \$9,000, as required in unemployment insurance law.

Nonmonetary Eligibility. Individuals will not be deemed to have left recent work voluntarily without good cause involving fault on the part of the employer if compelled to leave for health-related reasons and if that individual

notifies the employer prior to leaving the job or within 2 business days after leaving the job or as soon as practicable and presents written certification from a licensed physician within 30 days of leaving the job that their work aggravated, worsened, or will worsen the individual's health problem. (Previously, this provision did not require notifying the employer prior to leaving the job or within 2 business days after leaving the job or as soon as practicable, and it did not require that the certification be in writing and submitted within 30 days of leaving the job.)

An individual disqualified for misconduct will now be disqualified for gross misconduct. The disqualification provision for being discharged for gross misconduct now includes reporting to work under the influence of any controlled substance without a valid prescription, as defined in the unemployment insurance law, or being under the influence of any controlled substance as defined in the unemployment law without a valid prescription, while at work; adulterating or otherwise manipulating a sample or specimen in order to thwart a drug or alcohol test lawfully required of an employee; and refusal to submit to random testing for alcohol or illegal controlled substances for employees in safety sensitive positions as defined in the unemployment insurance law.

An individual will be disqualified for benefits for accepting an early retirement incentive package, unless he or she establishes a well-grounded fear of imminent layoff supported by definitive objective facts involving fault on the part of the employer and establishes that he or she would suffer a substantial loss by not accepting the early retirement incentive package.

Wisconsin

Financing. The following cost of benefits paid that are otherwise chargeable to the account of a contributing employer will be charged to the fund's balancing account:

- Approved training, effective August 19, 2009
- Voluntary quit to accompany spouse, effective May 18, 2009
- Voluntary quit due to illness or disability, effective May 18, 2009
- Separating for domestic abuse, effective May 18, 2009

Nonmonetary Eligibility. The voluntary termination of work provision is modified to in-

clude that employees will not be disqualified from receiving benefits due to voluntary separation if the employees terminated their work because of the verified illness or disability of a member of his or her immediate family, and the verified illness or disability reasonably necessitates the care of the family member for a period of time that is longer than the employer is willing to grant leave (effective and applicable with respect to terminations of unemployment beginning May 18, 2009).

Exceptions to the 2,080 hours per year requirement to be a full-time employee may be granted, but requiring work less than 37.5 hours per week does not meet the definition of a full-time employee.

The definition of “domestic abuse” is modified to include physical abuse or a threat of physical abuse by an adult person against an unrelated adult person with whom the person has had a personal relationship.

To be eligible for terminating employment due to domestic abuse or concerns about personal safety or harassment, individuals must provide a protective order relating to the domestic abuse or concerns about personal safety or harassment issued by a court of competent jurisdiction, a report by a law enforcement agency documenting the domestic abuse or concerns, or evidence of the domestic abuse or concerns provided by a healthcare professional or an employee of a domestic violence shelter. (Previously, individuals prior to termination had to obtain a temporary restraining order or an injunction or had a foreign protection order.) Also, the provision providing that the individual demonstrate that the order has been or is reasonably likely to be violated is repealed (effective and applicable with respect to terminations of unemployment beginning May 18, 2009).

Wyoming

Financing. Employers’ accounts are not charged for benefits paid to military spouses who relocate due to the transfer of a member of the U.S. Armed Forces whose relocation is the result of certain assignments; State law also ensures that the benefits will not affect employers’ experience rating account.

Nonmonetary Eligibility. Military spouses are not disqualified from benefits as a result of a relocation due to the transfer of a member of the U.S. Armed Forces whose relocation is the result of certain assignments, and it is impractical to commute to the place of employment, and upon arrival at the new residence, the military spouse is able and available for suitable work, and registers for work with the appropriate agency where residing.

The above provisions regarding military spouses are repealed effective July 1, 2018. □