

## Changes in State unemployment insurance legislation in 2005

*State enactments include State Unemployment Tax Act (SUTA) dumping provisions, modified voluntary quit and noncharging provisions for situations involving service members, and modified pension offset provisions for treating social security retirement benefits*

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One Federal enactment affected the Federal-State unemployment insurance program during 2005. The QI, TMA, and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005 (P.L. 109-91) included two provisions impacting the unemployment compensation program. Under the Act, \$500 million was transferred from the Federal Unemployment Account in the Unemployment Trust Fund to the accounts of Alabama (\$15 million), Louisiana (\$400 million), and Mississippi (\$85 mil-

lion) to assist the States in meeting benefit payment obligations following Hurricane Katrina. The Act also permits any State, on or after August 28, 2005, to use unemployment insurance administrative funds on behalf of any other State to assist workers seeking unemployment insurance if a major disaster was declared as a result of Hurricane Katrina in such other State or any area in such other State.

The following is a summary of some State unemployment insurance legislation enacted in 2005.

### Arizona

**Coverage.** Provisions have been established relating to professional employer organizations (PEOs), which, among other things, require that beginning March 1, 2006, every PEO in Arizona must file an initial registration with the Secretary of State, pay a registration fee, and either maintain a net worth of \$100,000 or obtain a bond or securities worth \$100,000.

The term "professional employer services" is defined to mean the service of entering into a coemployment relationship in

which all or a majority of the employees who provide services to a client or to a division or work unit of the client are covered employees.

A client must be solely responsible for directing, supervising, training, and controlling the work of covered employees with respect to the business activities of the client.

Unless otherwise expressly agreed to by a client in a professional employment agreement, a client shall maintain the right to direct and control the professional or licensed activities of the covered employees and the client's business.

A covered employee who is required to be licensed, registered, or certified under the laws of Arizona will be deemed an employee of the client for purposes of the license, registration, or certification requirement.

**Financing.** The PEO must pay the wages

of covered employees, to withhold, collect, report, and remit payroll-related and unemployment taxes and to make payment for employee benefits for covered employees.

A PEO must report and pay all required contributions to the unemployment compensation fund using the State employer account number and the contribution rate of the PEO.

For the purposes of tax credits and any other economic incentives provided by Arizona that are based on employment, covered employees will be deemed employees of either the client or the PEO; either the client or the PEO, but not both, will be entitled to the benefit of any tax credit, economic incentive or any other benefit resulting from the employment of covered employees of the client; if the amount of any credit or incentive is based on the number of employees, only the covered employees who actually work for the client will be considered

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employed, and the covered employees who work for other clients of the PEO will not be considered.

Civil penalties will be imposed when a person knowingly provides false or fraudulent information, collects certain payments and fails to remit the funds, fraudulently or falsely procures or attempts to procure services or benefits from a registered PEO without having adequate monies to compensate the PEO, willfully fails to comply with any requirement, and knowingly makes a material misrepresentation.

On termination of a contract between a PEO and a client or the failure by a PEO to submit reports or make tax payments as required, the client will be treated as a new employer without a previous experience record if the client has been subject to a professional employer agreement for at least 2 years or if the client is not otherwise eligible for an experience rating.

## Arkansas

*Appeals.* The number of days an employing unit has to appeal the director's administrative determination of coverage increased from 20 to 30 days after mailing or delivery of the notice.

*Financing.* The provision concerning experience rates has been modified by providing that any employer having no covered employment for any calendar year will have a rate equal to his or her most recently determined contribution rate until, immediately preceding the computation date, the employer has 1 full year of benefit risk experience.

The provision concerning the computation of experience rates has been modified by prohibiting employers from making a voluntary payment to the Unemployment Compensation Fund if their contribution rate increases because of knowingly violating or attempting to violate State law regarding transfers of experience and assignment rates.

With respect to the transfer of experience, the three-digit North American Industry Classification System (NAICS) code is used instead of the two-digit Standard Industrial Classification (SIC) code.

The interest and penalty payments with respect to transfers of experience and assignment rates must be credited to the Employment Security Special Fund.

Civil actions brought with respect to transfers of experience and assignment rates to collect contributions or interest will be heard by the court at the earliest pos-

sible date and will be entitled to preference on the court calendar over all civil actions except petitions for judicial review and cases arising under the Workers' Compensation Law.

Through June 30, 2005, a bonded-lessor employing unit must report all clients' wages on the lessor employing unit's quarterly contribution and wage report using its contribution rate, account number, and Federal identification number; quarterly contribution and wage reports for all clients obtained by bonded-lessor employing units on or after July 1, 2005, must be reported separately for each of its clients using the clients' account number and unemployment contribution rate for 3 consecutive years; after reporting client's wages for 3 consecutive years, a bonded-lessor employing unit must report client wages on the lessor employing unit's quarterly contribution and wage report using the lessor employing unit's contribution rate, account number, and Federal identification number.

State law was amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for State law purposes;
- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

*Nonmonetary eligibility.* An individual is disqualified for benefits for voluntarily leaving work without good cause connected with the work, in this case for leaving last work to comply with the order of a correctional institution or to satisfy the

terms of parole or probation.

The provision concerning disqualification for refusal to report after a layoff by providing that the time frame of a layoff is 10 weeks or less has been modified.

*Overpayments.* The provision concerning recovery of overpayment has been amended to provide that when an overpayment becomes final, the director must present a certificate of overpayment describing the amount owed by the claimant to the circuit clerk of the county where the claimant is domiciled; requires the circuit clerk to enter the certificate of overpayment in the docket of the circuit court for judgments and decrees and note the time of the filing of the certificate; provides that after the entry, the certificate of overpayment will have the force and effect of a judgment of the circuit court and will bear interest at the rate of 10 percent annually.

## District of Columbia

*Financing.* An amount of \$7.241 million was appropriated from Reed Act monies for the administration of the unemployment compensation and employment service programs, applicable as of January 30, 2005.

*Monetary entitlement.* The maximum weekly benefit amount increased from \$309 to \$359, effective for benefit years commencing on or after April 12, 2005.

## Georgia

*Financing.* An employer's account is noncharged for any benefits paid out to the person who leaves to accompany a spouse reassigned from one military assignment to another.

*Nonmonetary eligibility.* Leaving an employer to accompany a spouse reassigned from one military assignment to another will be deemed voluntarily leaving for good cause.

## Idaho

*Financing.* State law was amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;

- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for State law purposes;
- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

### Illinois

*Nonmonetary eligibility.* The criteria used in determining whether a locked out employee is eligible for benefits was modified.

Unemployment compensation must be deducted from backpay when an employee is reinstated after a period of suspension or discharge and receives full compensation for such period if the charges are reversed.

### Indiana

*Coverage.* The definition of "employment" excludes an owner-operator that provides a motor vehicle and the services of a driver to a motor carrier under a written contract.

Provisions concerning PEOs have been provided; a covered employee of a PEO is an employee of the PEO.

*Financing.* State law is amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to

persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for State law purposes;

- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

The administration of the Skills 2016 Training Program, the Skills 2016 Training Fund (Fund), and all Fund money has been transferred from the Department of Workforce Development (Department) to the Indiana Economic Development Corporation (Corporation) until the expiration date of December 31, 2008. From now until the expiration date:

- the Corporation must enter into agreements with the Department for the Department to administer the Fund and to administer the Fund using money appropriated from the Fund;
- the requirements that 50 percent of money in the Fund be allocated to the State educational institution and that certain amounts of such money be allocated and used for specific purposes have been removed;
- the sources for the money in the Fund and how the money in the Fund will be allocated have been established;
- special consideration must be given to the State educational institution to be the provider of the training funded whenever the institution meets certain criteria;
- the requirement that the first \$450,000 of the Fund assessment be deposited in and paid into the Special Employment and Training Services Fund for training and counseling assistance has been removed;
- the Fund assessment must be deposited in the Fund and must be used for worker training grants; and
- the provisions relating to an in-

cumbent worker council and the incumbent worker training board have been removed.

A PEO is responsible for the payment of contributions, penalties, and interest on wages paid by the PEO to the PEO's covered employees during the term of the professional employer (PE) agreement; the PEO must report and pay all required contributions to the unemployment compensation fund using the State employer account number and the contribution rate of the PEO; upon the termination of a PE agreement or failure by a PEO to submit reports or make tax payments as required, the client must be treated as a new employer without a previous experience record unless the client is otherwise eligible for an experience rating.

### Iowa

*Financing.* State law was amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for State law purposes;
- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

### Kentucky

*Financing.* State law was amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for State law purposes;
- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

If any employing unit succeeds to a portion of the trade or business of another employing unit; becomes a subject employer with substantially the same ownership, management, or control as the predecessor; and lays off/terminates more than one-half of the original employees transferred within 6 months, then the succession and creation of the new employing unit will be voided, and the benefits due to the layoffs/terminations will be charged to the reserve account of the original employing unit.

If there is a transfer of the reserve account upon succession, the successor's contribution rate will be recalculated if there is a substantially common ownership, management, or control of the predecessor and successor, effective on the first day of the calendar quarter immediately following the date of the transfer.

## Maine

*Appeals.* An individual under the Maine Enterprise Option Program is permitted (1) to appeal to the Commission from a hearing officer's decision as long as the appealing party participated in the hearing and was notified in writing of the effect of the failure to participate prior to the hearing and (2) to appeal from the Commission's decision pursuant to the State law.

*Coverage.* Service performed by an individual in the exercise of duties as an election official or election worker is excluded from coverage if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000.

The exemption to the definition of "employment" was clarified concerning the delivery and distribution of periodicals by replacing the term "periodicals" with the term "newspapers or magazines."

*Financing.* State law is amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for State law purposes;
- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

Benefits paid must be charged against the General Fund instead of the last employer's experience rating record if the claimant was hired by the claimant's last employer to fill a position left open by an individual who left to enter active duty in the U.S. military, and the claimant's separation from this employer was because the employer restored the military serviceperson to the person's former employment upon separation from military service.

## Maryland

*Nonmonetary eligibility.* Unemployment

benefits including benefits payable under the Ex-Servicemembers program may not be reduced for any week that the individual receives or is eligible to receive military disability severance payments, applicable to all determinations completed on or after July 3, 2005.

## Michigan

*Financing.* State law is amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for State law purposes;
- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

## Montana

*Financing.* An employer's account is noncharged for benefits paid due to a voluntary quit or discharge because of circumstances resulting from sexual assault or stalking.

*Monetary entitlement.* The minimum weekly benefit amount increased from 15 percent to 19 percent of the average weekly wage, which is determined by dividing the average annual wage by 52; the minimum weekly benefit amount payable increased from \$75 to \$95.

*Nonmonetary eligibility.* The terms sexual assault and stalking were defined; the term domestic violence was redefined.

An individual will not be denied benefits because of leaving work or for being discharged due to circumstances resulting from the individual or a child of the individual being a victim of sexual assault or stalking, or the individual left work or was discharged because of an attempt on the individual's part to protect the individual or the individual's child from sexual assault or stalking.

## North Dakota

*Coverage.* Service performed as a participant in an Americorps program is excluded from coverage.

*Nonmonetary eligibility.* The weekly benefit amount will not be reduced due to receipt of Federal Social Security retirement benefits.

## Oklahoma

*Administration.* Disclosing employer tax information and benefit claim information to the Oklahoma Health Care Authority for use in determining eligibility for a program that will provide subsidies for health insurance premiums for qualified employers, employees, self-employed persons, and unemployed persons is permitted.

*Appeals.* The provision requiring employers to file a bond to appeal from decisions other than those assessing contributions was removed.

*Coverage.* The definition of "employer" has been expanded to include that if two or more employers share common ownership, management, or control, the Commission may combine their merit rating accounts, including their actual contribution and benefit experience, annual payrolls, and contribution rates into one account.

*Financing.* State law was amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition

is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for State law purposes;

- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

The cap on the petty cash fund increased from \$250 to \$600.

Reed Act money in the amount of \$9,269,043 was appropriated for the purpose of paying administrative expenses for Employment Service programs, the Unemployment Insurance program, and One-Stop Center expenses (attributable to employment service and unemployment insurance).

The language relating to noncharging was modified to require the employer to prove to the Commission's satisfaction that the benefit wage charge includes wages paid by the employer to employees or former employees who are unemployed for certain specific reasons in order for the employer to be relieved of a benefit wage charge.

The provision establishing a \$700 petty cash fund for providing meal allowances to Job Corps students was removed.

*Monetary entitlement.* The types of qualified retirement plan payments that are excluded from the definition of wages were expanded.

*Nonmonetary eligibility.* Good cause for quitting due to domestic violence or abuse is no longer conditioned on the filing of a protection order effective at the time of termination.

*Overpayments.* The benefit overpayment provisions relating to fraud overpayment and claimant error overpayment were modified to require deducting the principal sum of benefits from any future benefits payable to the individual.

## Oregon

*Extensions and special programs.* The

emergency benefit period changed to begin May 1, 2005, and end August 13, 2005; individuals must have exhausted regular benefits with payment for the week ending December 4, 2004, or later; an individual is entitled to receive 25 percent of the most recent regular Oregon claim; emergency benefits are applicable for weeks beginning May 1, 2005, and ending August 13, 2005.

*Financing.* State law was amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for State law purposes;
- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

Applies to tax years beginning on and after January 1, 2006.

The State agency is authorized to issue warrants to collect unemployment insurance taxes and other debts in any case in which there is a favorable judgment rendered for amounts due.

## Rhode Island

*Nonmonetary eligibility.* Holiday pay is considered wages which will be used in the base period when computing a claim.

For those who have gross earnings, holiday pay is deducted during the week in which the holiday occurs and prior to computing a weekly benefit amount or recording a waiting period.

Pay will only be considered holiday pay for holidays declared under Rhode Island law.

## South Carolina

*Financing.* State law was amended to include SUTA dumping prevention provisions which:

- provides meaningful civil and criminal penalties for knowingly attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

A contributing employer's account is noncharged for benefits paid for voluntary quitting or a discharge due to domestic violence.

*Nonmonetary eligibility.* An individual is eligible for waiting week credit and unemployment compensation for voluntary leaving or discharged because of circumstances directly resulting from domestic abuse and certain other conditions are met.

An individual is considered to have been discharged for cause connected with the work and is ineligible for benefits if the insured worker fails or refuses to take a drug test or submits to a drug test which tests positive for illegal drugs or legal drugs used unlawfully and other conditions are met.

## South Dakota

*Financing.* State law was amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an

employer for State law purposes;

- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

Experience-rated employers' accounts will be noncharged for benefits directly attributable to the reinstatement of another employee upon that employee's completion of service in the uniformed services as of January 1, 2005, or the completion of State active duty by members of the National Guard who are activated pursuant to a call from the Governor as provided by law.

Employers' contribution rates are increased quarterly (instead of annually) if on the last day of any calendar quarter (instead of on the computation date), the amount in the unemployment compensation fund reduced; the increased contribution rates apply to taxable wages paid on and after the first day of the immediately following calendar quarter; rates remain in effect until the balance in the unemployment fund on the last day of any quarter is equal to or greater than 150 percent of the highest balance in the fund.

Beginning calendar year 2006 and thereafter, 100 percent (formerly 50 percent) of noncharges for the preceding calendar year is to be divided by the total taxable payroll for the preceding calendar year to compute the benefits prorated among all employer experience-rating accounts when benefits paid are not charged to the experience-rating account of any employer.

The provision establishing September 30 as the annual computation date and requiring on such computation day each year for interest credited to the State's account in the unemployment trust fund be credited to the employers' experience-rating account having an excess of contributions over total charges of benefits has been repealed.

*Monetary entitlement.* The definition of base period has been modified to include that no calendar quarter used in one base period of a valid claim may be used in a subsequent base period.

## Utah

*Financing.* State law was amended to include SUTA dumping prevention provisions

which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for State law purposes;
- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

Taxable wages is defined as all remuneration paid by an employer to employees for insured work that is subject to unemployment insurance contributions.

Unemployment experience is defined as all factors, including benefit costs and taxable wages, which bear a direct relation to an employer's unemployment risk.

The employer's overall contribution rate does not include the addition of any penalty applicable to an employer assessed a penalty rate for knowingly violating or attempting to violate and for knowingly advising to violate the law regarding transfers of unemployment experience.

Upon the transfer or acquisition of a trade or business employer, contribution rates are recalculated and assigned.

## Virginia

*Coverage.* The Internal Revenue Service 20-factor test, instead of the ABC test, is used in determining whether an individual is an employee or independent contractor.

*Financing.* The requirement that individuals return to their regular full-time employment once the business reopened, for purposes of noncharging an employer's account for benefits received by an individual

unable to work at his regular employment due to a disaster-related business closure, has been removed.

Employers are noncharged for benefits paid to an individual hired to replace a member of the Reserve of the United States Armed Forces or the National Guard called into active duty in connection with an international conflict and whose employment is terminated concurrent with and because of that member's return from active duty; deletes reference to Operation Desert Storm/Shield.

**Monetary entitlement.** The minimum and maximum weekly benefit amounts increased from \$50 to \$54 and from \$326 to \$330, respectively, effective July 3, 2005.

The earnings needed in the two highest quarters of the base period to qualify increased from \$2,500 to \$2,700, effective July 3, 2005.

The weekly earnings disregarded increased from \$25 to \$50.

**Nonmonetary eligibility.** An individual is disqualified for misconduct connected with his work due to chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence; the Commission may consider evidence of mitigating circumstances in determining whether misconduct occurred.

The weekly benefit amount (WBA) will be reduced by 50 percent of Federal Social Security pensions only if the fund balance factor is below 50 percent, effective the first Sunday in January following such determination; the WBA will not be reduced by Federal Social Security pensions if the fund balance factor meets or exceeds 50 percent.

## Washington

**Financing.** The difference in benefits, by calculating the weekly benefit amount as an amount equal to 3.85 percent of the average two highest quarters of the base period, effective on or after April 24, 2005, and before July 1, 2007, instead of calculating the weekly benefit amount as 1 percent of total base period wages, will not be charged to the experience rating account of any contribution paying employer.

The graduated social cost factor rate will be determined by using the calculation of a different flat social cost factor for year 2007.

The NAICS instead of the SIC is now used. For contributions assessed beginning July 1, 2005, through June 30, 2007, for employers with certain NAICS codes, the graduated social cost factor rate is 0.0.

The term "social cost" for rate year 2007 has a new definition.

Requires that moneys for the payment of regular benefits must be withdrawn during fiscal years 2006 and 2007 in the following order:

- first, from 2002 Reed Act moneys credited to the State's Unemployment Trust Fund, the amount equal to the amount of benefits charged that exceed the contributions paid in the four consecutive calendar quarters ending on June 30, 2006, for the fiscal year 2006 calculation, and ending on June 30, 2007, for the fiscal year 2007 calculation, because the social cost factor contributions that employers are subject to are less than the social cost factor contributions that these employers could otherwise have been subject to under State law;
- second, from all other moneys credited to the State's Unemployment Trust Fund.

After the order of withdrawal required above, if applicable, moneys for the payment of regular benefits must be requisitioned during calendar year 2007 in the following order:

- first, from 2002 Reed Act moneys credited to the State's Unemployment Trust Fund, the amount equal to the amount of benefits paid as provided in State law beginning on April 24, 2005, and ending on June 30, 2007, that exceed the amount of benefits that would have been paid if the weekly benefit amount had been determined as 1 percent of the total wages paid in the individual's base year;
- second, from all other moneys credited to the State's Unemployment Trust Fund.

**Monetary entitlement.** The calculation of the weekly benefit amount is changed to require that the weekly benefit amount be an amount equal to 3.85 percent of the average two highest quarters of the base pe-

riod, effective on or after April 24, 2005, and before July 1, 2007.

## West Virginia

**Nonmonetary eligibility.** The weekly benefit amount must not be reduced by any Social Security retirement benefits an individual is receiving or has received or similar payments under any act of Congress.

## Wyoming

**Administration.** The department must disclose and submit specified information including unemployment insurance (UI) benefit, wage, and claim information to certain persons of specific departments and agencies upon request and pursuant to contract and on a reimbursable basis.

The department is allowed, not required, to disclose and furnish copies of records relating to UI administration to the railroad retirement board.

The department may upon request and pursuant to contract and on a reimbursable basis disclose necessary information obtained from any employing unit, individual, and any determination of benefit rights to any State or Federal agency administering the Wagner Peyser Act or Workforce Investment Act training services, except when information and determinations are confidential.

The department may disclose information to the Social Security Administration utilizing the UI interstate inquiry system pursuant to contract on a nonreimbursable basis.

The department may require any recipient of information disclosed to comply with any safeguards necessary as specified in Federal regulation to ensure the information will be used only for purposes authorized.

The department may disclose—subject to commission regulations—necessary information obtained from any employing unit, individual, and any determination of benefit rights to any State or Federal agency administering UI laws or Federal tax laws and to the office of the U.S. bankruptcy trustee, except when information and determinations are confidential.

Repeals the provision providing that the department may furnish information obtained under certain offices and services to any person or agency operating a public employment service.

**Financing.** Provides that a temporary service contractor is the employing unit of the temporary worker provided to an em-

ployer and is liable for unemployment contributions.

State law was amended to include SUTA dumping prevention provisions which:

- mandate transfer of experience (both total and partial transfers) from one employer to another when there is substantially common ownership, management, or control;
- prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; this prohibition applies to persons, who prior to the acquisition of the business, (a)

had no employees and (b) had some employees but not enough to be an employer for State law purposes;

- provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and
- establish procedures to identify the transfer or acquisition of a business for purposes of the law.

Upon full satisfaction of an employer's delinquent account and by written request, the department may, for good cause shown, reduce or eliminate the additional amounts payable as a result to the 2 per-

cent delinquency rate assigned for failing to pay contributions, interest, and penalties or failing to submit quarterly contribution reports.

*Monetary entitlement.* The department may make a monetary redetermination at any time prior to the end of the benefit year (instead of within 1 year after the date of an original determination) whether or not a party has filed a timely appeal.

*Nonmonetary eligibility.* The provisions requiring the withholding of the amount of child support specified by the individual from benefits and any amount otherwise required to be withheld from benefits due to legal process has been repealed.

The 1-week waiting period has been eliminated, effective July 1, 2005. □