

Changes in Federal and State unemployment insurance legislation, 2006

State enactments include provisions relating to appeals, contribution rates, experience rating, financing, and overpayments

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One Federal enactment affected the Federal-State unemployment insurance program during 2006. The Katrina Emergency Assistance Act of 2006 (P.L. 109-176) was signed on March 6, 2006. The act provides that unemployment assistance as a result of disaster declarations made for

Hurricanes Katrina and Rita (on or after August 29, 2005) will be made available for 39 weeks (an additional 13 weeks beyond the 26 weeks allowed) after the date of the disaster declarations.

The following is a summary of some significant changes in State unemployment insurance legislation enacted in 2006:

Alabama

Coverage. A covered employee is a co-employee of both the professional employer organization (PEO) and the client. The PEO is required to pay wages and collect, report, and pay employment-related taxes and report and pay unemployment taxes for covered employees to the extent that the client employer has funded those obligations.

Financing. The quarterly 0.06-percent special assessment used to fund the Employment Security Enhancement Fund, applicable to certain employers, is extended from March 31, 2006, to March 31, 2008.

The current tax rate structure for determining an employer's contribution rate also is extended from March 31, 2006, to March 31, 2008.

Monetary Entitlement. The weekly maximum benefit amount increased from \$220 to \$230, for benefit years beginning on or after July 2, 2006, and increases to \$235 for benefit years beginning on or after July 1, 2007.

The weekly benefit amount is computed as 1/26 (previously 1/24) of the average of wages during the two highest quarters of the base period for benefit years beginning on or after July 2, 2006.

Alaska

Financing. Effective, July 1, 2006, the State law is amended to include SUTA dumping prevention provisions which

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

ments, 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 "rates for successors in business" provision has been modified to provide that this provision does not apply to an acquisition, transfer of a trade or business, or transfer of an employer's workforce conducting the trade or business if the acquisition or transfer is determined by the commissioner (1) to have been primarily for the purpose of obtaining a more favorable rate of contributions, (2) to be inequitable to the parties, (3) to be contrary to the public interest, or (4) to be in violation of the SUTA Dumping Prevention Act of 2004 (effective July 1, 2006).

California

Coverage. The definition of "employer" has been modified to include any employing unit that is a motion picture payroll services company that pays and controls the payment of wages to a motion picture production worker for services either to a motion picture production company or to an allied motion picture services company.

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Financing. A penalty is assessed of not less than 2 nor more than 10 times the claimant's weekly benefit amount against an employer who willfully makes a false statement or representation or willfully fails to report a material fact concerning the termination of a claimant who performed services for an educational institution. The penalty must be deposited into the Employment Development Department Contingent Fund.

State law was amended to provide penalties for each rating period beginning on or after January 1, 2007, for employers operating as motion picture payroll services companies who obtain or attempt to obtain more favorable rates of contributions due to deliberate ignorance, reckless disregard, fraud, intent to evade, misrepresentation, or willful nondisclosure (effective until January 1, 2012).

On and after January 1, 2007, whenever a motion picture payroll services company creates or acquires a motion picture payroll services company, or acquires substantially all of the assets of a motion picture payroll services company, the created or acquired motion picture payroll services company must constitute a separate employing unit, notwithstanding certain other provisions of the UI law (effective until January 1, 2012).

When a motion picture payroll services company transfers all or part of its business or payroll to another motion picture payroll services company, the reserve account attributable to the first company also must be transferred to the new motion picture payroll services company (effective until January 1, 2012).

Colorado

Financing. New legislation modifies the SUTA dumping prevention provisions concerning the transfer of experience to conform to Federal law.

Nonmonetary eligibility. The new law deletes the requirement for an individual quitting to relocate because of a spouse in the military transferred for medical-related purposes in time of war or armed conflict to submit an affidavit stating residence in Colorado for a period of at least 2 years.

The new law also deletes the requirements that the State agency certify and notify the employer and hearing officer that an individual had been awarded benefits

- within the preceding 10 years under the intoxicating beverages or controlled substances provisions; and
- under the domestic abuse provisions within the preceding 3 years.

Connecticut

Nonmonetary eligibility. Notwithstanding certain other provisions of law, new State legislation allows disabled individuals to limit their availability for work to part-time employment provided that certain conditions are met and that such limitation does not effectively remove such individuals from the labor force. In determining whether such individuals have remained in the labor market, their work history, efforts to find work, the hours they are medically permitted to work, and their availability during such hours for work that is suitable in light of their impairment must be considered.

Delaware

Financing. New legislation deletes the provision stating that the State experience factor cannot be increased by more than 2.0 percent from the previous calendar year when the balance in the Unemployment Insurance Trust Fund is equal to or greater than \$200 million as of September 30 and that the State experience factor cannot be increased by more than 4.0 percent from the previous calendar year in any case (effective for the tax rate determination process for calendar year 2007 and thereafter).

Prior tax rate tables have been replaced with new tax rate tables that expand the State experience factor range. The employer's basic assessment rates are unchanged, ranging from 0.0 percent to 7.9 percent, in intervals of 1 percentage point; and the employer's benefit wage ratios are unchanged, ranging from 0.0 percent to 7.9 percent, in intervals of 2 percentage points (effective for the tax rate determination process for calendar year 2007 and thereafter).

Georgia

Financing. The suspension of the overall rate increase has been extended to include the period from January 1, 2007, to December 31, 2007. If the statewide reserve ratio is less than 1.25 percent on the computation date with respect to rates applicable to calendar year 2007, then the Commissioner of Labor shall have the option of imposing an increase in the overall rate of up to 35 percent, as of the date of computation for each employer.

Idaho

Financing. The 3-percent Workforce Development Training Fund tax is extended from January 1, 2007, to January 1, 2012.

New legislation adds the option of refunding overpayments to the employer when payments from reimbursable employers exceed benefit costs. When payments are not suffi-

cient to pay benefit costs, it adds an option that such an employer's advance payment rate for the next taxable year will be set at a rate that will cover the costs.

Amounts owed for penalty and interest on debts owed to the Department or the State Tax Commission are permitted to be offset against refunds owed to the debtor by either agency.

Illinois

Administration. New legislation amends the "disclosure of information" provision to require the Director to make available to the Department of State Police, upon request, any information concerning the place or former places of employment of a registered sex offender that may be useful in enforcing the registration provisions requiring disclosure of places of employment to the law enforcement agency.

Indiana

Appeals. The finding and the assessment, if any, by the liability administrative law judge from an appeal of an employing unit protesting an assessment becomes final 30 days (formerly 15 days) after the finding, absent further appeals.

Financing. The normal contribution rate—that is, the rate from which reduced rates are computed—changed from 5.4 percent to 5.6 percent of wages.

Except as otherwise provided, the contribution rate increased from 5.4 percent to 5.6 percent for experience-rated employers who fail to file all required contribution and wage reports and pay all contributions, penalties, and interest due in a timely fashion (effective July 1, 2006).

The State Unemployment Tax Act dumping prevention provisions have been amended. The meaning of violating or attempting to violate the law's requirements (the transfer of a trade or business solely or primarily for the purpose of obtaining a lower employer contribution rate) and the civil and criminal penalties have been clarified (effective July 1, 2006).

A special employment and training services fund has been established. An annual allocation of up to \$2 million from the fund to establish reemployment training accounts to provide training and reemployment services to department employees dislocated under certain conditions is now allowed. Interest and civil penalties collected on overpayments must be deposited in the special employment and training services fund.

The department may grant an application for adjustment or refund, make an adjust-

ment or refund, or set off a refund for not later than 4 years after the date upon which any contributions, "skills 2016" training assessments, or interest were paid. The department may grant such application in whole or in part and may make an adjustment without interest in connection with subsequent contribution payments or skills 2016 training assessments, or refund such amounts, without interest from the fund.

The department may set off any refund available to an employer against any delinquent contributions, payments in lieu of contributions, skills 2016 training assessments, and the interest and penalties, if any, related to the delinquent payments and assessments.

Any decision by the department to grant an application for adjustment or refund, make an adjustment or refund on its own initiative, or set off a refund constitutes an initial determination and is subject to hearing and review.

Nonmonetary eligibility. Individuals receiving unemployment benefits determined under the domestic or family violence provisions may restrict their availability for work because of the need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (effective July 1, 2006).

Overpayments. When individuals receive unemployment benefits, extended benefits, or any other Federal unemployment benefits to which they are not entitled, an overpayment and the amount of the overpayment must be established, and such individuals are liable to repay the overpayment amount (effective July 1, 2006).

A monthly interest rate of 0.5 percent is charged on the amount of the overpayment for fraudulent overpayments—such as when an individual knowingly makes, or causes to be made by another, a false statement or a representation of a material fact knowing it to be false or fails, or causes another to fail, to disclose a material fact that results in receipt of benefits to which he or she is not entitled.

The time period for offsetting fraudulent overpayments from any benefits received is changed *from* within the 6-year period following the filing of a claim *to* within the 6-year period following the later of the date the overpayment was established or becomes final following exhaustion of all appeals.

The time period for offsetting nonfraudulent overpayments from any benefits received is changed *from* within the 3-year period following the date of the filing of a claim *to* within the 3-year period following the later of the date the overpayment was established or becomes final following exhaustion of all appeals.

Overpayments are permitted to be waived upon request by certain individuals because of an employer or department error.

The disqualification for misrepresentation or failure to disclose has been modified to provide that the individual forfeits any wage credits earned—formerly wage credits were cancelled—or any benefits or extended benefits that might otherwise be payable for the period in which failure to disclose earnings or facts or falsification occurs.

Civil penalties for knowingly failing to disclose or falsifying any fact in addition to the amounts forfeited are established as follows: for the first instance, 25 percent; for the second, 50 percent; and for the third and each subsequent infraction, 100 percent of the benefit overpayment.

Kansas

Coverage. An independent contractor relationship may exist between an owner-operator and a licensed motor carrier under certain conditions. A licensed motor carrier does not exercise control over a driver because such carriers require the driver to comply with applicable regulations.

Financing. Any person is prohibited from knowingly and intentionally misclassifying an employee as an independent contractor for the sole or primary purpose of avoiding State unemployment insurance contributions reporting requirements. Penalties are imposed for violating such law.

Louisiana

Financing. Benefits paid pursuant to specific executive orders and hurricane-related layoffs that are chargeable and reimbursable must be deferred, without assessment of penalty and interest, until January 1, 2007, to allow time for such benefit charges to be identified and quantified and for payment arrangements to be made through loans, grants, or State or Federal legislation.

The administrator is authorized, by request of the employing unit, to negotiate payment terms for benefit charges assessed as a result of hurricanes Katrina and Rita and the specific executive orders. Such payment terms, without penalty and interest assessment, must be made quarterly for periods not to exceed 2 years beginning January 1, 2007.

Charging experience-rated employers for benefits paid pursuant to the governor-issued executive orders dealing with layoffs resulting from hurricanes Katrina and Rita is prohibited; recoupment of such benefits by spreading the noncharged benefits to all employers through the social charge account is prohibited.

The time period has been extended from January 1, 2007, to July 1, 2007, for deferring, without assessment of penalty and interest, the reimbursement of benefits paid pursuant to specific executive orders and hurricane-related layoffs that are chargeable to the accounts of nonprofit organizations, the State, its political subdivisions and Indian tribes or tribal units to allow time for such benefit charges to be identified and quantified and for payment arrangements to be made through loans, grants, or State or Federal legislation.

The beginning time for quarterly payments for benefit charges assessed as a result of hurricanes Katrina and Rita and the specific executive orders has been changed from January 1, 2007, to July 1, 2007.

New Hampshire

Administration. The way employer liability determinations are sent has been changed *from* registered mail *to* certified mail, return receipt requested, or first class mail, whichever the commissioner determines to be most appropriate. The liability determinations are sent to the last known address of each employing unit or employer affected, according to the records of the department, (effective July 1, 2006).

Financing. The percentage point decrease in the contribution rates changes based on the amounts in the unemployment fund on September 30 of the preceding calendar year. The reduction in the contribution rate occurs for the four calendar quarters during a calendar year. The range is a decrease of 0.5 percent if the fund equals or exceeds \$225,000,000, a decrease of 1.0 percent (formerly 0.5 percent) if the fund equals or exceeds \$250,000,000, and a decrease of 1.5 percent (formerly 0.5 percent) if the fund equals or exceeds \$275,000,000 (effective July 1, 2006). The minimum contribution rate cannot be less than 0.01 percent, effective July 1, 2006, and not less than 0.10 percent, effective January 1, 2007.

Any employing unit, officer or employee of a corporation, or member or employee of a partnership or limited liability company commits falsity, when, as such an officer, employee, or member, is under a duty to perform and who fails or refuses to furnish a report that includes every individual who performed services in employment for the time period applicable to such report. The new regulations provide that a penalty may be imposed of up to \$25 for each such individual not reported for each calendar day such a violation continues.

An amnesty is applied from the assessment or payment of all penalties and of interest greater than ½ a percentage point per month for unpaid contributions reported and paid in full during the period from July

1, 2006, through and including October 31, 2006, regardless of whether previously assessed; amnesty applies to contributions due but unpaid on or before October 31, 2006.

The unemployment fund—rather than the most recent employer—is charged whenever unemployment benefits are paid and a chargeable employer has not been established following a determination that an individual who previously was disqualified, but now is eligible due to monetarily requalifying.

For purposes of being totally unemployed and partially unemployed, the term “wages” has been modified to add that the application of longevity, stay, retention, attendance, and similar payments commencing with a period of 1 or more weeks of partial or total unemployment must be presumed reasonable if such payment was received 90 or fewer days prior to the commencement of such a period.

The employing unit must make restitution to the unemployment compensation fund in full for any and all unemployment benefits paid to an employee for a period covered by, or reasonably deemed to be, included in any arbitration award, back pay award, settlement agreement, or jury verdict.

The provisions concerning payment of contributions by the State, county, city, town or other political subdivision of New Hampshire have been modified to provide that if during the base period a claimant was employed by the State, county, city, town or other political subdivision of New Hampshire, and by certain other employers, the amount to be paid into the fund by such State, county, city, town or other political subdivision of New Hampshire with respect to such a claimant will be prorated among the liable employers in proportion to the wages paid to such an individual by such an employer during the base period. The law previously required the State, county, city, town or other political subdivisions of New Hampshire to pay the fund the amount of benefits received by the claimant that were in addition to such amount as the claimant was entitled to receive on the basis of the wages paid by the other employers.

The provision concerning proration of payments has been repealed and reenacted to provide that if the base period wages of an individual include wages from one or more reimbursing employers and one or more additional employers, reimbursing employer or taxpayer, benefits paid to such individual must be charged to any such reimbursing employer in the same proportion as the wages from such reimbursing employers bears to the total amount of all wages in the individual’s base period. Any benefit not charged to a reimbursing employer shall be charged to the most recent employer or as otherwise required by the state unemployment compensation law.

The provision pertaining to charging when an individual performed employment

for more than one employer simultaneously has been modified by defining “performed employment” as including the receipt of wages or earnings found to apply to such time period.

Monetary entitlement. The maximum weekly benefit amount increases from \$372 to \$427 and the maximum benefits payable from \$9,672 to \$11,102, effective July 1, 2007.

The minimum wage credits required in the base period to qualify for the maximum weekly benefit amount increases from \$36,500 to \$41,500, effective July 1, 2007.

Nonmonetary eligibility. The term “most recent employer” is redefined to mean the last employer prior to the effective date of the initial claim with whom an individual’s work record exceeded 4 consecutive weeks of employment while such individual received no benefits. (Previous definition was the last employer with whom an individual’s work record exceeded 4 consecutive weeks of employment or exceeded 9 weeks of employment in the immediately preceding 13-week period while such individual received no benefits.)

The introductory paragraph of the provision’s “disqualifications for benefits” section has been modified. In this section, the term “date” means the last calendar day on which the individual performed services for his or her employer.

The definition of “gross misconduct” as it pertains to unemployment insurance has been amended. An unemployed individual who is discharged for assault that causes bodily injury or who is discharged for criminal threatening will suffer loss of all wage credits earned prior to the date of his or her dismissal.

North Carolina

Appeals. Employers must receive written notice of the employer’s appeal rights and any forms that are required to allow the employer to protest the claim. All forms must contain a section referencing the appropriate rules pertaining to appeals and the instructions on how to file an appeal (applies to claims filed on or after October 1, 2006).

Financing. For the purpose of determining an employer’s rate of contributions, no experience will be transferred to the successor employing unit when the assets of the predecessor are acquired in a sale in bankruptcy, unless the successor employing unit shares common ownership with the predecessor. (Applies to acquisitions made on or after August 1, 2003.)

Nonmonetary eligibility. The interested employer’s protest period has decreased from 15

to 10 days from the earlier of mailing or delivery of the notice of filing a claim. A copy of the notice of claim filing must be sent contemporaneously to the employer by telefacsimile if a fax number is on file (applies to claims filed on or after October 1, 2006).

Oklahoma

Administration. The Commission is permitted to release employer tax information and benefit claim information to the State Department of Rehabilitation Services for use in assessing results and outcomes of clients served.

Appeals. The Board of Review must certify and file with the court a certified copy of the record of the case within 60 days of the filing of the petition.

The appeal of determinations provisions is modified to allow employers to file a written request for a review and redetermination on determinations regarding any aspect of an employer’s account; determination becomes final for failure to file such request. The Commission must provide for a review and issue a Notice of Redetermination. The employer is allowed to appeal in a written protest the redetermination within 14 days of the date of the mailing of the notice; redetermination becomes final for failing to appeal, and no further appeal is allowed.

The Commission must provide for an oral hearing *de novo* to allow evidence to be presented in support of the protest. The order issued pursuant to the hearing may be appealed via Petition of Review by the employer or the Commission to the district court of the county in which the employer has its principal place of business, and if the employer does not have a principal place of business in any county in Oklahoma, then the Petition for Review must be filed with the Oklahoma County District Court.

Determinations made under the following unemployment insurance law provisions may be appealed by employers under the appeal (formerly protest) of determinations provisions: successor and predecessor employers, election by employer, and assessments.

Coverage. The definition of employer is amended to include any individual or employing unit which acquires substantially all of the employees of an employer or an employing unit.

Financing. New legislation defines “experience period” to mean for any tax year occurring

- before January 1, 2007, the most recent 3 consecutive completed calendar years

occurring before the calendar year for which a tax rate is being calculated; and

- after December 31, 2006, the most recent 12 consecutive completed calendar quarters occurring before July 1 of the year immediately preceding the year for which the employer's contribution rate is being calculated.

The new law adds that the provisions pertaining to payment of contributions by employers do not apply to Indian Tribes or Tribal Units electing to make payments in lieu of additional contributions to certain nonprofit organizations that make payments in lieu of contributions and State and political subdivisions and their instrumentalities.

The date for notifying employers of their contribution rate is changed *from* the calendar year before March 31 of such year, *to* a given calendar year on or before September 30, of the previous calendar year.

The base period employer has 20 days (formerly 14) from the date on the notice to file written objections from the written notice showing the benefit wages charged; this 20-day time period may be waived for good cause shown.

The time period is decreased *from* 20 days *to* 14 days after mailing of the determination by the Commission as to whether or not the employer will be charged for benefit wages for the employer to protest and request an oral hearing; the determination becomes final for failure by the employer to file within 14 days.

The current provisions that calculate the benefit wage ratio to apply to any tax year occurring before January 1, 2007 has been modified.

An additional calculation of the benefit wage ratio applicable to any tax year occurring after December 21, 2006 has been provided. The benefit wage ratio of each employer will be a percentage equal to the total of the employer's benefit wages in the experience period divided by the employer's total taxable payroll for the experience period on which contributions have been paid to the Commission on or before July 31 of the calendar year immediately preceding the year for which the contribution rate is being calculated.

The calculation of the State experience factor is modified to reflect the experience period instead of the most recent 3 consecutive completed calendar years. The date is changed *from* at the beginning of each year *to* July 1 of any given year for conditions a through d (in the original document) when a contribution rate increase is due for employers for the next calendar year.

The period for looking at net benefits paid is changed *from* the most recent 5 consecutive completed calendar years *to* the most recent 20 consecutive completed calendar quarters for conditions a through d (in the original document) when a contribution rate increase is due.

The definition of "net benefits paid" has been modified to change *from* using the most recent 5 consecutive completed calendar years *to* using the most recent 20 consecutive completed calendar quarters.

The provision creating a Special Surtax Fund is deleted. The provision imposing a special surtax for employers assigned a contribution rate in excess of 5.4 percent, which is required to be transferred to the Special Surtax Fund, is deleted.

A total of \$6,945,383.39 of Reed Act funds transferred to the State on March 13, 2002, has been appropriated to pay for administrative expenses for the following programs in the following amounts:

- Employment Service Program, \$3,930,571.88
- One-Stop Career Center expenses attributable to the employment service and the unemployment insurance program, \$300,000
- Unemployment Insurance Program, \$2,713,811.51

The appropriated Reed Act funds must be expended on or before December 31, 2007.

Nonmonetary eligibility. The meaning of "supplemental unemployment benefit plan" is modified to include, in addition to payments made during a temporary layoff, payments made during a permanent layoff.

The purpose of a supplemental unemployment benefit plan is changed *from* a plan that allows an employer the opportunity to keep its employees intact during a temporary layoff *to* a plan that allows an employer to sustain the purchasing power of its employees or former employees during a layoff.

The requirements that a supplemental unemployment benefit plan must meet for a temporary layoff are modified, and the requirements that a supplemental unemployment benefit plan must meet for a permanent layoff are established.

The requirements to seek and accept work will be waived *only* for unemployment compensation claimants receiving supplemental benefits due to a temporary layoff.

The seek-and-accept work disqualification requirements are modified to provide that an individual will be disqualified for failing to make application for work with employers who could reasonably be expected to

have work available. (Formerly, work had to be available within that general geographic area of the State.)

The seek-and-accept work disqualification requirements are waived if the individual has been summoned to appear for jury duty; the waiver continues for as long as the individual remains on jury duty according to the summons.

The "good cause for voluntarily leaving" provision is amended to provide that it is good cause when the claimant was separated from employment with the employer because a physician diagnosed or treated a medically verifiable illness or medical condition of the claimant or the minor child of the claimant, and based on available information, the Oklahoma Employment Security Commission finds that it was medically necessary for the claimant to stop working or change occupations. (Formerly the physician had to find that it was medically necessary.)

No person drawing unemployment benefits on or after January 1, 2006, will be disqualified from benefits, nor will any overpayment recoupment action be taken against any person who receives benefits on or after January 1, 2006, if the claim of disqualification or recoupment is based upon such a person's receipt of payment under a supplemental unemployment benefit plan that meets the requirements of the Oklahoma unemployment insurance law.

South Dakota

Financing. The taxable wage base increases from \$7,000 to \$8,500 for calendar year 2007; to \$9,000 for calendar year 2008; to \$9,500 for calendar year 2009; and to \$10,000 on or after January 1, 2010.

For calendar years 2007 and thereafter, the maximum contribution rate increases from 7.0 percent to 8.5 percent and the minimum contribution rate increases from 1.0 percent to 1.5 percent for employers with a negative reserve ratio. The maximum contribution rate increases from 0.9 percent to 1.0 percent for employers with a positive reserve ratio. The minimum contribution rate remains at 0.0 percent for employers with a positive reserve ratio.

Beginning January 1, 2009, under certain conditions, the new law assesses interest on experienced employers with negative reserve balances. The interest rate will be the average of the quarterly interest rates paid by the U.S. Treasury on the unemployment insurance trust fund reserves in the calendar year ending on the interest calculation date and will be applied to the amount by which the negative balance increased from December 31, 2006, or from the date the employer became subject to a negative reserve balance, if later, to the computation date used for the

interest calculation date for the year. Interest payments are not credited to the employers' accounts.

The adjustment percentage application changes from an annual basis to a quarterly basis; it does not apply to wages paid from July 1, 2006, to June 30, 2009, unless the fund balance at the end of any quarter in that period is \$2 million or less; the rates must 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 \$11 million; the increased rate must be 0.1 percent if the fund balance is 100 percent or more, but less than 150 percent of \$11 million.

Nonmonetary eligibility. The pension offset provision is amended to provide that the weekly benefit amount will not be reduced due to receipt of Federal Social Security retirement benefits or payments made under the Railroad Retirement Act of 1974, if the unemployment trust fund balance reaches \$30 million at the end of any calendar quarter.

Tennessee

Financing. New legislation modifies tax rates by adding a new rate table to replace the most favorable table when the Tennessee job skills fee sunsets (effective July 1, 2006). The minimum and maximum rates are unchanged, but some rates within the table have been raised.

Employers must have filed an application for an adjustment or refund by the final day of February (formerly March 31) for an employer's assigned premium rate to be changed once an adjustment or refund has been approved (effective July 1, 2006).

Utah

Coverage. The definition of "employment" excludes service

- performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved under State law;
- in the employ of a governmental entity or Indian Tribe as an election official or election worker, if the amount of remuneration received as such an official or worker during the calendar year is less than \$1,000.

Nonmonetary eligibility. New legislation reduces the weekly benefit amount by 50 per-

cent of Social Security payments, from July 1, 2007, to July 1, 2011.

Vermont

Coverage. Service performed by an individual as a direct seller if the individual meets certain conditions is excluded from coverage.

Virginia

Monetary Entitlement. The maximum weekly benefit amount increases from \$330 to \$347 for claims effective on or after July 2, 2006.

Washington

Administration. Requires liberal construction of the Employment Security Act to reduce hardship of the unemployed person (due to be removed June 30, 2007).

Financing. The new law modifies the flat social cost factor provisions by

- deleting the special requirements for 2007;
- changing the maximum reduction in the flat social cost factor from 0.2 percent to 0.4 percent when the balance in the unemployment compensation fund is equal to more than 10 months of benefits (effective January 1, 2007); and
- changing the minimum flat social cost factor from 0.6 percent to 0.5 percent when the balance in the unemployment compensation fund is equal to at least 12 months of benefits, but less than 14 months of benefits, or 0.45 percent for rate class 1 employers only, when the balance in the unemployment compensation fund is equal to at least 14 months of benefits, and 0.5 percent for employers in all other rate classes (effective, January 1, 2007).

The new law also modifies the graduated social cost factor provisions for employers in certain industries by

- extending the zero rate from June 30, 2007, to December 31, 2007; and
- establishing a maximum rate of 5.7 percent beginning in 2008.

The law modifies the provisions for determining whether a solvency surcharge is

applicable and how much revenue needs to be generated by the solvency surcharge.

It makes permanent the provision for noncharging contributing employer's accounts for benefits paid that exceed the benefits that would have been paid if the weekly benefit amount had been determined as 1 percent of total wages.

Applicable retroactively to January 1, 2006, the State law is amended to include SUTA dumping prevention provisions which

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

Monetary entitlement. The law makes permanent the calculating of the weekly benefit amount at 3.85 percent of the average of the two highest quarters of earnings (due to expire July 2007 and return to 1 percent of base year wages).

Nonmonetary eligibility. The law provides that a military spouse can transfer to any location outside the local labor market and will not be disqualified for voluntarily quitting. (Previously, the person was only eligible if he or she moved to a State that had similar allowance laws for military spouses.)

Wisconsin

Nonmonetary eligibility. The law excludes certain volunteer wages from determination of what constitutes deductible income for determining an individual's entitlement to partial benefits for weeks beginning March 19, 2006. □