

Changes in Federal and State unemployment insurance legislation in 2010

Federal enactments extend benefits and provide Federal funding to the States to cover costs, and additional enactments include other provisions affecting the unemployment insurance program; State enactments include provisions regarding extended benefits, work sharing, tax schedules, and taxable wage bases

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During 2010, there were six Federal legislative enactments and one rule that affected the Federal–State unemployment compensation program.

Temporary Extension Act of 2010 (P.L. 111-144), enacted March 2, 2010

Emergency Unemployment Compensation. The ending date for the Emergency Unemployment Compensation (EUC) program is extended for new entrants from February 28, 2010, to April 5, 2010, and the ending date for phaseout for current beneficiaries is extended from July 31, 2010, to September 4, 2010.

The funding of EUC benefits from the general fund of the Treasury and of administrative costs from the employment security administration account has been authorized to continue.

Extended benefits. The ending dates for the 100-percent Federal funding of extended benefits and the provision expanding extended benefit eligibility are extended from February 28, 2010, to April 5, 2010, and the ending date for phaseout for current beneficiaries is extended from July 31, 2010, to September 4, 2010.

The ending date of the provision for the Federal funding of the first week of extended benefits in States with no waiting week is extended from July 31, 2010, to September 4, 2010.

Federal Additional Compensation. The ending date for the Federal Additional Compensation program increasing the weekly benefit amount by \$25 is extended from February 28, 2010, to April 5, 2010, and the ending date for phaseout for current beneficiaries is extended from August 31, 2010, to October 5, 2010.

Continuing Extension Act of 2010 (P.L. 111-157), enacted April 15, 2010

These provisions take effect as if included in the Temporary Extension Act of 2010 (P.L. 111-144).

Emergency Unemployment Compensation. The ending date for the EUC program is extended for new entrants from April 5, 2010, to June 2, 2010, and the ending date for phaseout for current beneficiaries is extended from September 4, 2010, to November 6, 2010.

Extended benefits. The ending dates for the 100-percent Federal funding of extended benefits and the provision expanding extended benefit eligibility are extended from April 5, 2010, to June 2, 2010, and the ending date for phaseout for current beneficiaries is extended from September 4, 2010, to November 6, 2010.

The ending date of the provision for the Federal funding of the first week of extended benefits in States with no waiting week is extended from September 4, 2010, to November 6, 2010.

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Federal Additional Compensation. The ending date for the Federal Additional Compensation program increasing the weekly benefit amount by \$25 is extended from April 5, 2010, to June 2, 2010, and the ending date for phaseout for current beneficiaries is extended from October 5, 2010, to December 7, 2010.

Unemployment Compensation Extension Act of 2010 (P.L. 111-205), enacted July 22, 2010

Emergency Unemployment Compensation. The ending date for the EUC program is extended for new entrants from June 2, 2010, to November 30, 2010, and the ending date for phaseout for current beneficiaries is extended from November 6, 2010, to April 30, 2011.

The funding of EUC benefits from the general fund of the Treasury and of administrative costs from the employment security administration account has been authorized to continue.

The EUC agreement will no longer apply, and EUC benefits will not be payable in a State if the method of computing regular compensation has been modified and results in the average weekly benefit amount payable of regular compensation (disregarding any Federal Additional Compensation payable) being lower than it was on June 2, 2010.

Modification of EUC requirement regarding regular compensation entitlement. The EUC requirement that individuals exhaust all regular compensation entitlement before receipt of EUC entitlement was modified. It now provides that if

- a claimant was determined to be entitled to EUC with respect to a benefit year,
- that benefit year expired,
- the claimant has remaining entitlement to EUC with respect to that benefit year, and
- his or her weekly benefit amount of regular compensation in a new benefit year would be at least either \$100 or 25 percent less than his or her initial weekly benefit amount,

then the State will take one of the following four actions:

1. establish a new benefit year for the individual but defer payment of regular compensation until the EUC claim has been exhausted;
2. defer the establishment of the new benefit year and “freeze” the base-period wages currently available

for use in establishing a benefit year when the EUC claim has been exhausted;

3. establish the new benefit year, commence regular compensation payments, and augment the new weekly benefit amount with funds from the claimant’s EUC account equal to the difference between the new regular compensation weekly benefit amount and the old EUC claim’s weekly benefit amount; or
4. continue to pay the EUC claim if the individual elects not to file a claim for regular unemployment insurance benefits in the new benefit year.

Taking one of these four actions determines whether an individual will receive EUC or regular compensation. This provision is applicable to claimants whose benefit year expires after July 22, 2010.

Extended benefits. The ending dates for the 100-percent Federal funding of extended benefits and the provision expanding extended benefit eligibility are extended from June 2, 2010, to December 1, 2010, and the ending date for phaseout for current beneficiaries is extended from November 6, 2010, to May 1, 2011.

The ending date of the provision for the Federal funding of the first week of extended benefits in States with no waiting week is extended from November 6, 2010, to April 30, 2011.

Claims Resolution Act of 2010 (P.L. 111-291), enacted December 8, 2010

Unemployment compensation debts. The following are some of the provisions of the Claims Resolution Act of 2010:

- to amend the Internal Revenue Code of 1986 regarding collection of past-due, legally enforceable State debts
- to remove the requirement that an offset for an overpayment of Federal income taxes be permitted only against residents of the State seeking the offset; the offset now applies to residents of any State
- to remove the requirement to notify the taxpayer, by certified mail with return receipt, of the covered unemployment compensation debt
- to modify the definition of “covered unemployment compensation debt” to include a past-due debt for the person’s failure to report earnings
- to modify the definition of “covered unemployment compensation debt” to mean contributions due to the

unemployment fund of a State that has determined the person to be liable (no longer limited to liability due to fraud)

- to provide that “covered unemployment compensation debt” may be collected beyond 10 years (under prior law, the debt was uncollectable after 10 years)

Reporting of first day of earnings to the National Directory of New Hires. The Claims Resolution Act of 2010 amends the Social Security Act to require employers to report to the National Directory of New Hires the date on which services for remuneration were first performed by the newly hired employee. The amendment also provides that each required report furnished to the National Directory of New Hires shall, to the extent practicable, be made on a W-4 form. (Previously, the report had to be furnished on a W-4 form.)

Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), enacted December 17, 2010

Emergency Unemployment Compensation. The ending date for the EUC program is extended for new entrants from November 30, 2010, to January 3, 2012, and the ending date for phaseout for current beneficiaries is extended from April 30, 2011, to June 9, 2012.

The funding of EUC benefits from the general fund of the Treasury and of administrative costs from the employment security administration account has been authorized to continue.

Extended benefits. The ending dates for the 100-percent Federal funding of extended benefits and the provision expanding extended benefit eligibility are extended from December 1, 2010, to January 4, 2012, and the ending date for phaseout for current beneficiaries is extended from May 1, 2011, to June 11, 2012.

New extended benefit provisions permit States to amend their laws to temporarily modify the provisions concerning “on” and “off” indicators on the basis of the insured unemployment rate and the total unemployment rate. States are permitted to make determinations of whether there is an “on” or “off” indicator by comparing current unemployment rates with the unemployment rates for the corresponding period in the 3 preceding years (known as the “look back” period), effective with respect to compensation for weeks of unemployment beginning after December 17, 2010, or if later, the date established pursuant to State law, and ending on or before December

31, 2011. Prior law limited the “look back” period to the 2 preceding years.

A technical correction to Section 6402(f) of the Internal Revenue Code of 1986 provides that any covered unemployment compensation debt may be collected via the Treasury Offset Program.

Omnibus Trade Act of 2010 (P.L. 111-344), enacted December 29, 2010

This act extended for 6 weeks, through February 12, 2011, the Trade Adjustment Assistance program created under the Trade Act of 1974 and the American Recovery and Reinvestment Act of 2009. The Trade Adjustment Assistance program had been set to expire December 31, 2010.

Final rule regarding funding goals for interest-free Title XII advances

The U.S. Department of Labor issued a final rule (effective October 18, 2010) implementing Federal requirements conditioning a State’s receipt of interest-free Title XII advances from the Federal Government for the payment of unemployment compensation upon the State meeting “funding goals” established under regulations issued by the Secretary of Labor. The final rule requires that States meet a solvency criterion in 1 of the 5 calendar years preceding the year in which advances are taken, and also meet two tax-effort criteria for each calendar year after the solvency criterion is met, up to the year in which an advance is taken.

Following is a summary of some significant changes in State unemployment insurance laws that occurred in 2009 and 2010:

Base periods. The following 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: Maryland, Nebraska, South Carolina, Utah, and Virgin Islands (2009). The effective dates vary among the States.

Following are some of the modified or new provisions in State unemployment compensation laws, regulations, or policies, along with a list of States that clarified, amended, interpreted, or added each 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. (Colorado (2009), District of Columbia, Nebraska, Nevada, South Carolina, South Dakota, and Virgin Islands (2009).)

- An individual will not be disqualified from receiving benefits due to separation from employment if that separation is because of (1) a compelling family reason such as domestic violence or illness or disability of the individual's immediate family, or (2) the need to accompany one's spouse—because of a change in the location of the spouse's employment—to a place from which it is impractical for the individual to commute. (Alaska, Nevada, Rhode Island, South Carolina, and Virgin Islands (2009).)

- Individuals who are entitled to receive benefits and who have a dependent will receive a dependents' allowance of \$15 per dependent per week, and the total dependents' allowance payable to any claimant is capped at \$50

or 25 percent of the individual's weekly benefit amount, whichever is greater. (Rhode Island.)

- 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 for entry into a high-demand occupation who have been separated from a declining occupation or who have been involuntarily separated from employment because of a permanent reduction in operations at their place of employment. (Maryland, Nebraska, and South Dakota.)

The effective dates of the provisions vary among the States.

Alabama

Extensions and special programs. The expiration date for paying extended benefits based upon the seasonally adjusted total unemployment rate (TUR) to establish an "off" indicator was changed to the end of the week ending 4 weeks prior to the last week for which the Federal Government pays 100 percent of most extended benefits (EB) costs. The alternative expiration date of on or before December 5, 2009, is removed.

Financing. The quarterly 0.06-percent special assessment used to fund the Employment Security Enhancement Fund was extended from September 30, 2010, to September 30, 2011.

The current tax rate structure for determining an employer's contribution rate was extended from September 30, 2010, to September 30, 2011.

Arizona

Financing. Benefits paid to individuals whose employment was terminated because their employer was called to active duty in the military will not be charged to employers' accounts.

Benefits paid to individuals whose employment was terminated because a former employee of the employer returned to work for the employer after being called to active

duty in the military will not be charged to employers' accounts.

California

Administration. The Employment Development Department is required to submit a report to the Governor and legislature on the effectiveness of the California Training Benefits Program no later than September 1, 2016.

The Department is required to revise current language in the California Employer's Guide to make clear that an elected official is not eligible to collect unemployment insurance benefits on the basis of income earned while serving as an elected official.

Coverage. The director of the Employment Development Department is required to adopt regulations no later than July 1, 2011, clarifying that service performed as an elected official is excluded from coverage for purposes of unemployment insurance benefit eligibility.

Monetary entitlement. The effective date for implementing an alternative base period changed from as soon as possible, but no later than April 3, 2011, to as soon as possible, but no later than September 3, 2011.

Nonmonetary eligibility. An individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to protect his or her family (previ-

ously, children), or himself or herself, from domestic violence.

The eligibility requirements for training/retraining benefits are revised by establishing the California Training Benefits Program, effective January 1, 2011, or, if not feasible, no later than July 1, 2011. Individuals eligible for unemployment benefits who apply under the Training Benefits Program will be issued a determination of automatic eligibility for a period of training/retraining benefits if certain criteria are met, including that the training be authorized by the Workforce Investment Act of 1998 or by the Trade Act of 1974, as amended. If automatic eligibility for a period of training/retraining benefits is not authorized, individuals eligible for unemployment benefits will be issued a determination of potential eligibility for a period of training/retraining benefits if certain criteria are met. (Previously, eligible individuals could receive retraining benefits pursuant to the Trade Act of 1974, as amended, until January 1, 2015; and the law authorized individuals eligible for unemployment benefits to apply for training/retraining benefits and required that a determination of potential eligibility for specified training/retraining benefits be issued if specified conditions apply.)

Colorado

Extensions and special programs. The director of the Colorado Department of Labor and Employment is required to establish a

voluntary work-share program allowing the payment of unemployment compensation benefits to employees whose wages and hours have been reduced by at least 10 percent but not more than 40 percent. The maximum number of weeks payable is 18 weeks. A negative-excess employer is not eligible to participate in the work-share program. Work-share benefits paid shall be charged to the account of the participating employer in the same manner as regular benefits. Participation in the work-share program requires that the employer not eliminate or diminish health insurance, retirement benefits received under a pension plan, paid vacation or holidays, sick leave, or any other similar employee benefits provided, immediately prior to submitting the work-share plan. The period of an approved plan is 12 months. The work-share plan may be modified to meet changed conditions, if the modification meets certain requirements. If the director finds that the work-share program causes the unemployment insurance cash fund to accelerate towards insolvency, the work-share provisions will be repealed effective July 1, 2013.

Connecticut

Financing. Both the State and Indian tribes, towns, cities and other political and governmental subdivisions of the State shall pay 100 percent of all extended benefits paid that are attributable to service in their employ.

District of Columbia

Appeals. The period for filing an appeal is extended from 10 calendar days to 15 calendar days after the mailing of the notice or the actual delivery of such notice. The 15-day appeal period is extended if the claimant or any party to the proceeding shows excusable neglect or good cause.

Extensions and special programs. The director of the District of Columbia Department of Employment Services is required to establish a voluntary shared work unemployment compensation (short-time compensation) program applicable when the normal weekly hours of work are reduced by not less than 20 percent and not more than 40 percent. The maximum number of weeks payable is 50 calendar weeks during the 12-month period of the shared work plan, provided that 2 weeks of additional benefits shall be payable when regular benefits and any other Federal or State

extended benefits are exhausted. A plan may be approved if

- a participating employer has filed all past and present required reports, and has paid all contributions and benefit cost payments, or if a reimbursing employer has made all past and current payments in lieu of contributions;
- the shared work plan applies to and identifies a specific affected unit;
- the employer has at least two employees;
- the employees in the affected unit are identified by name and Social Security number;
- the shared work plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit; and
- the employer certifies that the shared work plan will not be used to reduce the fringe benefits offered to employees.

A shared work plan shall not be implemented to subsidize seasonal employers during the off-season or to subsidize employers who have traditionally used part-time employees.

A shared work plan may be modified to meet changed conditions, if the modification does not substantially change the basic provisions of the plan.

The term “fringe benefits” is defined to mean health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit provided by an employer.

The voluntary shared work unemployment compensation program expires March 6, 2011.

All individuals who have exhausted all rights to regular unemployment compensation, and who are enrolled in and making satisfactory progress in a State-approved training program or a job training program authorized under the Workforce Investment Act of 1998, will be entitled to a training extension of benefits equal to 26 times their average weekly benefit amount for the most recent benefit year, less any deductible income. Such training programs will prepare individuals for entry into a high-demand occupation. These people will be individuals who have been separated from a declining occupation or who have been involuntarily separated from employment because of a permanent reduction of operations at their place of employment.

Financing. The quarterly 0.2-percent administrative funding assessment expiration date is extended from December 31, 2008, to December 31, 2013.

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

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

Monetary entitlement. Each individual who is entitled to receive benefits and has at least one dependent will receive an additional \$15 per dependent per week, subject to an aggregate limitation on the total dependents’ allowance of \$50 per week or 50 percent of the individual’s weekly benefit amount, whichever is lesser. The dependents’ allowance provision is applicable to claims for benefit years beginning August 10, 2009, through December 31, 2010.

Nonmonetary eligibility. Individuals will not be disqualified from receiving benefits due to separation from employment if that separation is for a “compelling family reason.” Two compelling family reasons are the following:

- the illness or disability of a member of the individuals’ immediate family
- the need for the individuals to accompany their spouse—because of a change in the location of the spouse’s employment—to a place from which it is impractical for them to commute

The domestic violence provision is amended by providing that an individual will not be disqualified from receiving benefits due to separation from employment if that separation is for the compelling family reason of domestic violence against the individual or any member of the individual’s immediate family, unless the individual was the perpetrator of the domestic violence.

Florida

Administration. Lawmakers have deleted the provision stating that the tax collection service provider may grant a waiver from electronic reporting only if the employer timely files by TeleFile unless the employer wage detail exceeds the service provider’s TeleFile system capabilities.

The process for filing claims must incorporate the process for registering for work, and a

claim for benefits may not be processed until the work registration requirement is satisfied.

Liens securing the payment of unemployment tax obligations lapse 10 years after the date of the original filing of the notice of lien. An action to collect amounts due may not be commenced after the expiration of the lien securing the payment of the amounts owed.

An employing unit that files an erroneous, incomplete, or insufficient report shall pay a penalty of \$50 or 10 percent of any tax due, whichever is greater, but no more than \$300 per report. The penalty will be added to any tax, penalty, or interest otherwise due and shall be waived if the employing unit files an accurate, complete, and sufficient report within 30 days after a penalty notice is issued. The penalty may not be waived more than once during a 12-month period.

The penalty on employers for failing to file the Employer's Quarterly Report by approved electronic means increased from \$10 to \$50 plus \$1 for each employee. The penalty does not apply if the tax collection service provider waives the electronic filing requirement in advance.

The penalty for failing to remit contributions or reimbursements by approved electronic means increased from \$10 to \$50.

The penalty on individuals who prepare and report for 100 or more employers for failing to file the Employer's Quarterly Report by approved electronic means increased from \$10 to \$50 plus \$1 for each employee. The penalty does not apply if the tax collection service provider waives the electronic filing requirement in advance.

Liens securing the payment of unemployment tax obligations will lapse 10 years after the date of the original filing of the notice of lien. An action to collect amounts due may not be commenced after the expiration of the lien securing the payment of the amounts owed.

The Agency for Workforce Innovation may revoke all certificates of registration, permits, or licenses issued by the agency to a taxpayer when the agency files a warrant, notice of lien, or judgment lien certificate against the property of a taxpayer, provided that certain procedures are followed.

Coverage. Single-member limited liability companies will be treated as employers.

Extensions and special programs. The expiration date of an "on" indicator week based on the seasonally adjusted total unemployment rate (TUR) for the Federal-State Extended

Benefits (EB) Program changed from December 12, 2009, to January 30, 2010.

The expiration date of a "high unemployment period" based on the seasonally adjusted TUR for the Federal-State EB program changed from December 12, 2009, to January 30, 2010.

The EB provisions are applicable to claims for weeks of unemployment in which the "exhaustee" establishes entitlement to EB for weeks between February 22, 2009, and February 27, 2010 (previously, between February 22, 2009, and January 2, 2010).

The expiration date of an "on" indicator week based on the seasonally adjusted TUR for the Federal-State EB program changed from January 30, 2010, to May 8, 2010.

The expiration date of a "high unemployment period" based on the seasonally adjusted TUR for the Federal-State EB program changed from January 30, 2010, to May 8, 2010.

The expiration date of an "on" indicator week based on the seasonally adjusted TUR for the Federal-State EB program changed from May 8, 2010 to November 6, 2010.

The expiration date of an "on" indicator week based on the seasonally adjusted TUR for the Federal-State EB program changed from November 6, 2010 to December 10, 2011.

The EB provisions are applicable to claims for weeks of unemployment in which the exhaustee establishes entitlement to EB for weeks between February 22, 2009, and June 2, 2010 (previously, between February 22, 2009, and February 27, 2010).

The following definition and work search requirement are applicable to the Federal-State EB program:

"Good job prospects": An individual has good job prospects if he or she has a definite return-to-work date within 4 weeks of the determination notice of eligibility for EB. If, after 4 weeks of EB, an individual having good job prospects remains unemployed, the individual is required to fill out and return the Unemployment Compensation Extended Benefits Eligibility Review Questionnaire within 10 days of the mailing date. Failure to comply will result in disqualification from receiving EB until 4 weeks have passed and the individual has earned wages equal to 4 times his or her weekly benefit amount.

It is required for any individual who applies for unemployment insurance benefits to conduct at least two work-search activities on

separate days per week, unless the individual's situation meets the definition of "good job prospects."

Financing. The taxable wage base remains at \$7,000 for calendar years 2010 and 2011 (supersedes previous legislation increasing it to \$8,500).

The taxable wage base increases to \$8,500 for calendar years 2012, 2013, and 2014.

The taxable wage base decreases from \$8,500 to \$7,000 for calendar year 2015 and each year thereafter, and increases to \$8,500 in any calendar year in which repayment of the principal amount of a Title XII advance is due to the Federal Government.

The positive adjustment factor for when the trust fund balance is less than 4 percent of taxable payrolls is effective January 1, 2012.

To calculate the employer tax rate effective on January 1, 2012, and January 1, 2013, use taxable-payroll data available for 2009 based on the \$7,000 taxable wage base, and use taxable-payroll data available for 2010 and 2011 based on the \$8,500 taxable wage base.

An additional rate is assessed on contributing employers to pay for interest due on Title XII advances. The additional rate will be assessed no later than February 1 in each calendar year in which an interest payment is due. The amount of such interest shall be estimated no later than December 1 of the calendar year preceding the calendar year in which an interest payment is due. The basis for the estimate includes the following at a minimum:

- the amounts actually advanced to the trust fund,
- the amounts expected to be advanced to the trust fund on the basis of current and projected unemployment patterns and employer contributions,
- the interest payment due date, and
- the interest rate that will be applied by the Federal Government to any accrued outstanding balances.

For an annual administrative fee not to exceed \$5 each year, contributing employers may pay their 2010 and 2011 quarterly contributions due for wages paid in the first three quarters of 2010 and 2011 in equal installments if those contributions are paid under certain specific conditions.

September 30 (previously, June 30) is the date that the Unemployment Compensation Trust Fund balance is determined for purposes

es of computing a positive adjustment factor, beginning January 1, 2012. If a contributing employer fails to respond within 20 days after the delivery of the notice of claim, the employer's account under certain circumstances may not be relieved of benefit charges.

Nonmonetary eligibility. To be eligible to receive benefits, individuals (except non-Florida residents, persons on a temporary layoff, union members hired through a union hiring hall, and persons claiming benefits under an approved short-time compensation plan) must register with the Agency for Workforce Innovation for work and subsequently report to the one-stop career center as directed for reemployment services.

Overpayments. Nonfraud overpayments are nonrecoverable (through repaying or deduction of future benefits payable) if benefits were received to which a person was not entitled as a result of an employer's failure to respond to a claim notice within the established timeframe.

Hawaii

Financing. Whenever the State requests a Title XII advance to pay expected benefit claims during a specified period, the director of the Hawaii Department of Labor and Industrial Relations may assess all employers the amount that is sufficient to pay the principal and interest costs on the advance, provided that the director develops a mechanism of distributing these payments among employers in a fair and equitable manner.

The calculation of the taxable wage base changed for calendar years 2010 and 2011 only. "Wages" do not include remuneration in excess of the wages paid with respect to employment to an individual by an employer during the calendar year that exceeds 90 percent (previously, 100 percent) of the average annual wage (retroactive to January 1, 2010). Thereby, the taxable wage base increased from \$13,000 to \$34,900 for 2010 and decreased to \$34,200 for 2011.

For calendar year 2011 (previously, for calendar 2011 and thereafter) "adequate reserve fund" means an amount equal to the amount derived (previously, equal to 1½ times the amount derived) by multiplying the benefit cost rate by the total remuneration paid by all employers.

Notwithstanding the ratio of the current reserve fund to the adequate reserve fund, contribution rate schedule D shall apply for

calendar year 2010 and contribution rate schedule F shall apply for calendar year 2011 (retroactive to January 1, 2010). For schedule D, the minimum contribution rate is 0.20 percent and the maximum rate is 5.4 percent, and for schedule F the minimum rate is 1.20 percent and the maximum is 5.4 percent.

Monetary Entitlement. The maximum weekly benefit amount (MWBA) for calendar years 2010 and 2011 shall be calculated at 75 percent of the average weekly wage. (For 2010 the MWBA is \$559, and in 2011 it decreases to \$549.) Beginning with calendar year 2012, the MWBA shall be calculated at 70 percent of the average weekly wage. (Previously, the reduction to 70 percent was to begin with calendar year 2011.)

Indiana

Administration. The provision establishing an unemployment claims compliance center and required procedures for the center is deleted (effective January 1, 2010).

The deadline for employer response for information changed from within 10 days after the date a request is delivered to within 10 days after the date it is mailed (effective January 1, 2010).

An interim study committee is established to study the feasibility of indexing unemployment benefits and the taxable wage base. A final report is required before November 1, 2010. The provision expires January 1, 2011.

The Helping Indiana Restart Employment (HIRE) program is established to provide employer subsidies for hiring (applicable upon approval of reimbursement available from the TANF emergency fund), and the commissioner of the Department of Workforce Development is required to determine whether expenditures by an eligible employer allocated to the State match money for the program may be credited under State or Federal law toward the eligible employer's unemployment insurance contributions. A report is due to the budget committee no later than June 1, 2010. The provision expires June 30, 2010.

Appeals. Effective July 1, 2010, each administrative law judge employed or used by the Department of Workforce Development is required to be an attorney who is licensed to practice law in Indiana.

Coverage. The Indiana Department of Labor has the power to investigate questions and complaints concerning the classification of

employees, effective July 1, 2010. The department is directed to establish guidelines and procedures that must include mechanisms to share data with appropriate State agencies and recoup contributions owed, recordkeeping requirements for contractors, investigative procedures, and penalties for violations. The definition of "employee" found in section 3401(c) of the Internal Revenue Code of 1986 and the 20-factor test conducted by the Internal Revenue Service are required to be used. Recommendations for legislative changes, including budgetary recommendations, shall be provided before November 1, 2010, to the legislative council. After the consideration of any recommendations from the pension management oversight commission, guidelines and procedures shall be converted to rules by August 1, 2011.

Financing. The taxable wage base for calendar year 2010 has been reduced to \$7,000 (previously, \$9,500). Beginning with calendar year 2011, the taxable wage base increases to \$9,500.

The standard contribution rate was reduced to 5.6 percent for calendar year 2010 (previously, 12.0 percent). Beginning with calendar year 2011, the standard contribution rate is 12.0 percent. (Effective January 1, 2010.)

The new employer rate increased to 2.7 percent from 2.5 percent for calendar year 2010. Beginning with calendar year 2011, the new employer rate decreases to 2.5 percent. (Effective January 1, 2010.)

During calendar year 2010, employers are required to pay a rate of not less than 5.6 percent if (1) the required contribution and wage reports are not filed within 31 days following the computation date, and (2) all contributions, penalties and interest due have not been paid within the specified timeframe. Beginning with calendar year 2011, an employer's rate shall be increased by 2 percent if (1) the required contribution and wage reports are not filed within 31 days following the computation date and (2) all contributions, penalties and interest due have not been paid within the specified timeframe. (Effective January 2, 2010.)

The contribution rate for governmental entities decreased to 1 percent for calendar year 2010. Beginning with calendar year 2011, the new employer rate for State and political subdivisions increases to 1.6 percent. (Effective January 1, 2010.)

For the calculation of 2010 employer contribution rates, one of four schedules (A, B,

C, or D) will be used. Rates range from 1.1 percent to 5.6 percent under Schedule A, to 0.1 percent to 5.4 percent under Schedule D. New fund ratio schedules and new rate schedules (which include additional schedules and different ranges of rates for accounts with credit or debit balances) are established for calendar years after December 31, 2010. Rates for new schedules range from 0.75 percent to 10.2 percent for Schedule A and from 0.0 percent to 5.4 percent for Schedule I. Schedule B is required to be used for calendar year 2011 to assign each employer's contribution rate.

Monetary entitlement. Payments made by a court system for jury service are not deductible income.

Nonmonetary entitlement. The requirement for claimants to submit one application for work in each week for which they claim benefits is deleted (effective July 1, 2010).

An individual may not be denied benefits for any week or determined not able to work, available for work, or actively seeking work because the individual is responding to a summons for jury service. Court proof of jury service must be provided to the Indiana Department of Labor (effective July 1, 2010).

Iowa

Extensions and special programs. The maximum duration of a shared work plan increases from 26 weeks to 52 weeks. The language stating that an employing unit is eligible for approval of only one plan during a 24-month period is deleted.

Financing. The experience rating account of both contributory and reimbursable employers is not charged for benefits paid to individuals who leave because of the relocation of a military spouse.

Nonmonetary eligibility. Individuals who voluntarily quit because of the relocation of a military spouse will not be disqualified from receiving unemployment compensation.

Kansas

Financing. Each employer's experience rate will be calculated for the 2010 and 2011 tax years, and each employer will be assigned to an appropriate rate group on the basis of that calculation, and assigned a rate based on the tax table used in 2010.

The exception to the due date for paying quarterly contributions for calendar years 2010 and 2011 is that contributing employers or their officers or agents shall have up to 90 days past the due date for any of the first three calendar quarters in a calendar year without being charged any interest; however, when the 90-day period has passed, employers failing to timely pay shall pay a penalty and shall pay contributions by the last day of the month following the close of the calendar quarter.

Kentucky

Extensions and special programs. The expiration date of an "on" indicator week based on the seasonally adjusted total unemployment rate (TUR) for the Federal-State Extended Benefits (EB) Program changed to cease to be effective at the end of the week ending 4 weeks (previously 3 weeks) prior to the last week for which the Federal Government pays 100 percent of most EB costs (previously to cease to be effective on or before December 12, 2009).

Financing. Effective for calendar year 2012, the taxable wage base increases from \$8,000 to \$9,000 and shall increase by an additional \$300 on January 1 of each subsequent year to 2022, but will not exceed \$12,000.

The trust fund trigger date (the date that the fund's balance is determined) changed from December 31 to September 30.

The computation date (the end of the period used to determine the employer's experience with unemployment) changed from October 31 to July 31.

The date the reserve ratio will be determined changed from September 30 to June 30 and now immediately precedes the computation date.

The applicable rate schedule for the year is based on the trust fund balance as of September 30 (previously December 31).

The amount of money required in the trust fund to effectuate Schedules A, B, and C of Table A changes as follows. If the trust fund balance

- equals or exceeds \$500,000,000 (previously \$350,000,000) but is less than the amount required to trigger the trust fund adequacy rates, the rates in Schedule A shall be in effect;
- equals or exceeds \$350,000,000 (previously \$275,000,000) but is less than \$500,000,000 (previously \$350,000,000),

the rates listed in Schedule B shall be in effect;

- equals or exceeds \$250,000,000 but is less than \$350,000,000 (previously \$275,000,000), the rates listed in Schedule C shall be in effect.

Reimbursable nonprofit organizations and reimbursable governmental entities are charged, on a quarterly basis or on the basis of any other period determined by the secretary of the Department of Workforce and Employment Services, the interest due on the total amount billed for regular benefits and extended benefits, which shall be credited to the unemployment insurance fund.

Effective January 1, 2012, any employer subject to paying contributions that has a negative reserve account balance may make voluntary payments to the fund every other calendar year, in addition to the contributions required. (Previously, employers with a negative reserve account could make voluntary contributions annually.)

Monetary entitlement. A waiting week is established, applicable to initial claims made on or after January 1, 2012, that is required for each benefit year, whether or not consecutive. The waiting week becomes compensable once the remaining balance on the claim is equal to or less than the compensable amount for the waiting week.

The weekly benefit rate, except as otherwise provided, is calculated as 1.3078 percent of base-period wages, (previously, 1.185 percent of base-period wages), except that no weekly benefit amount shall be less than \$39 or more than the maximum rate. Effective with claims on or after January 1, 2012, the calculation of the weekly benefit rate, except as otherwise provided, shall be 1.1923 percent of base-period wages, except that no weekly benefit amount shall be less than \$39 or more than the maximum rate.

The amount required in the trust fund to determine the maximum weekly benefit rate (MWBR) changes as follows. If the trust fund balance as of September 30 immediately preceding the benefit year

- equals or exceeds \$120,000,000, but is less than \$200,000,000 (previously \$150,000,000), the MWBR shall not exceed the prior year's MWBR by more than 6 percent.
- equals or exceeds \$200,000,000 (previously \$150,000,000) but is less than \$300,000,000, (previously \$250,000,000),

the MWBR shall not exceed the prior year's MWBR by more than 8 percent.

- equals or exceeds \$300,000,000 (previously \$250,000,000), but is less than \$400,000,000 (previously \$275,000,000), the MWBR shall not exceed the prior year's MWBR by more than 10 percent.
- equals or exceeds \$400,000,000 (previously \$275,000,000), but is less than \$500,000,000 (previously \$350,000,000), the MWBR shall not exceed the prior year's MWBR by more than 12 percent.
- equals or exceeds \$500,000,000, the MWBR shall not exceed the prior year's MWBR by more than 15 percent.

Maine

Coverage. Services performed by a worker on an H-2A visa are excluded from the term "employment."

Monetary entitlement. In computing the weekly benefit for an individual who is partially unemployed, it is now the case that, up to an amount equal to the individual's most recent weekly benefit amount, the earnings for the week received as a result of participation in full-time training under the Trade Act of 1974 as amended by the Trade and Globalization Adjustment Assistance Act of 2009 are not considered wages.

Nonmonetary eligibility. Vacation pay is deleted from the definition of disqualifying income.

Maryland

Extensions and special programs. All individuals who have exhausted all rights to regular unemployment compensation, and who are enrolled in and making satisfactory progress in a job training program approved by the Maryland Department of Labor or authorized under the Workforce Investment Act of 1998, shall be entitled to a training extension of benefits equal to 26 times their average weekly benefit amount for the most recent benefit year. Such training programs shall prepare individuals for entry into a high-demand occupation. These people will be individuals who have been separated from a declining occupation or who have been involuntarily separated from employment because of a permanent reduction in operations at their place of employment. Individuals may not be denied additional training

benefits under the available-for-work and actively-seeking-work provisions. The payment of additional training benefits is limited to 1 year following the end of the benefit year. (Effective March 1, 2011, and applicable to all claims filed establishing a new benefit year on or after March 6, 2011.)

Financing. Contributing employers' accounts are not charged for additional training benefits paid to claimants (effective March 1, 2011, and applicable to all claims filed establishing a new benefit year on or after March 6, 2011).

The taxable wage base remains at \$8,500 for calendar years 2011 and 2012.

Notwithstanding the 1.5-percent interest rate, and except as otherwise provided, for any calendar year in which Table F is applicable, a contribution or reimbursement payment due and unpaid shall accrue interest at the rate of 0.5 percent per month or part of a month from the date due until the contribution or payment in lieu of contribution and the interest are received. The 0.5-percent interest rate is applicable for calendar years 2010 and 2011. (Applicable to contributions on taxable wages for covered employment beginning on or after January 1, 2012.)

The department is required during calendar years 2010 and 2011 to offer a variety of payment-plan options to employers. These options must allow contributions due on taxable wages for the first 9 months of the calendar year to be paid through December. The department is to implement regulations offering employers payment plans for any calendar year after 2011 in which employer contributions are to be calculated by use of Table F. These payment plans must allow payments for contributions due during the first 6 months of the year to be spread through August of that year.

Monetary entitlement. If a person would not be eligible for benefits because of the use of a base period consisting of the first four of the last five completed calendar quarters, then his or her eligibility shall be determined by use of a base period that includes the last four completed calendar quarters (effective March 1, 2011, and applicable to claims filed establishing a new benefit year on or after March 6, 2011).

The minimum weekly benefit amount increases from \$25 to \$50, the minimum wages needed in the base period to qualify for the minimum weekly benefit amount go up from \$900 to \$1,800, and the high-quarter wages

(that is, the wages in the quarter with the highest wages) needed in the base period to qualify for the minimum weekly benefit amount go up from \$576.01 to \$1,176.01. 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 rise from \$14,760 to \$15,480; and the high-quarter wages needed in the base period to qualify for the maximum weekly benefit amount rise from \$9,816.01 to \$10,296.01. (Effective March 1, 2012, and applicable to claims filed establishing a new benefit year on or after March 4, 2012.)

Any wages exceeding \$50 (previously, exceeding \$100) per week will be subtracted from the claimant's weekly benefit amount (effective March 1, 2011, and applicable to claims filed establishing a new benefit year on or after March 6, 2011).

Nonmonetary eligibility. The definition of "part-time worker" changes from an individual whose availability for work is restricted to part-time work and who works predominantly on a part-time basis throughout the year for at least 20 hours per week to an individual whose availability for work is restricted to part-time work and who worked at least 20 hours per week in part-time work for a majority of the weeks of work in the base period (effective March 1, 2011, and applicable to claims filed establishing a new benefit year on or after March 6, 2011).

A part-time worker may not be ineligible to receive benefits for a week in which the part-time worker is available for and seeking only part-time work if the part-time worker is actively seeking part-time work and is in a labor market in which a reasonable demand exists for part-time work. An individual is seeking only part-time work if the individual is aiming to work hours that are comparable to the individual's work at the time of the most recent separation from part-time employment, and to work at least 20 hours per week. Previous legislation required that a part-time worker be able to work, available for work, and actively seeking work, and be eligible to receive benefits if eligibility is based on wages predominantly earned from part-time work done at the previous employment. The legislation also required that that the worker not impose any other restrictions on the ability to work or availability for work and be in a labor market in which a reasonable demand exists for part-time work. (Effective March 1, 2011, and applicable to claims filed establishing a new benefit year on or after March 6, 2011.)

The disqualification for gross misconduct continues until the claimant has earned wages in covered employment equal to at least 25 (previously 20) times the claimant's weekly benefit amount (effective March 1, 2011, and applicable to claims filed establishing a new benefit year on or after March 6, 2011).

The disqualification for misconduct continues for a total of at least 10 to 15 weeks (previously 5 to 10 weeks). The length of time is based on the seriousness of the misconduct. (Effective March 1, 2011, and applicable to claims filed establishing a new benefit year on or after March 6, 2011.)

There was a provision allowing an individual who is eligible for unemployment insurance benefits and who has registered for work but subsequently becomes ill or disabled after filing for benefits to continue to receive unemployment insurance benefits if the individual is unable to work or to seek work because of the illness or disability; this provision has been deleted (effective March 1, 2011, and applicable to all claims filed establishing a new benefit year on or after March 6, 2011).

Massachusetts

Financing. The minimum and maximum experience rates are 1.26 percent and 12.27 percent, respectively (column E) for calendar year 2010.

Minnesota

Administration. An employer is penalized if that employer or any employee, officer, or agent of that employer offered employment to an applicant when, in fact, employment was unavailable, but only if the employer's action was taken in order to prevent or reduce payment of unemployment benefits, to reduce or avoid any payment required from an employer, or to cause an overpayment of unemployment benefits. The penalty is \$500 or 50 percent of the value of the overpaid or reduced unemployment benefits or any payment required, whichever is greater.

Coverage. Employment in a personal care assistance provider agency by an immediate family member of a recipient of personal care assistance who provides the direct care to the recipient through the personal care assistance program is excluded from coverage.

The term "staffing service" is defined as an employer whose business involves employing individuals directly for the purpose of

furnishing temporary-assignment workers to clients of the staffing service.

Contracts obtaining a taxpaying employer's workforce must include coverage of corporate officers for the duration of the contract (effective May 16, 2010).

Extensions and special programs. A special State extended unemployment insurance program is established that pays benefits to applicants not qualifying under the Federal-State Extended Benefits (EB) Program solely because of not meeting the earnings requirement of at least 40 times the applicants' weekly benefit amount. All other requirements under the Federal-State EB program must be met for a person to be eligible for special State extended unemployment insurance benefits. Special State extended unemployment insurance benefits are payable in the same amounts, for the same duration, and for the same period as provided for under the Federal-State EB program, except the maximum amount is reduced by the amount of the special State emergency unemployment compensation. Special State extended unemployment insurance benefits are payable from the trust fund. The special State extended unemployment insurance program is effective June 30, 2010, and expires on March 26, 2011, and no benefits may be paid under this program for a week that begins after that date.

Notwithstanding the June 30, 2010, expiration of the special State extended unemployment compensation program, if an applicant has filed for special State extended unemployment compensation for a week beginning prior to June 30, 2010, but has not exhausted the maximum amount available, the applicant may continue to receive special State extended unemployment compensation up to the determined maximum. This provision expires March 26, 2011, and no benefits may be paid under this program for a week that begins after that date.

Financing. The special State extended unemployment insurance benefits must not be used in computing the future unemployment insurance tax rate of a taxpaying employer, and they must not be charged to the reimbursing account of government or nonprofit employers (effective June 30, 2010, and expires March 26, 2011).

The tax rate provisions have been amended by providing that the base tax rate of 0.4 percent will be applicable if the trust fund is less than 0.55 percent but has a positive balance. Additionally, a new base tax rate of 0.5 per-

cent will be applicable if the trust fund has a negative balance and is borrowing from the Federal unemployment trust fund in order to pay unemployment benefits.

The provisions regarding the falling trust fund adjustment to the base tax rate have been deleted.

The computation of the tax rate changed for new taxpaying employers in an industry with a high experience rating who do not qualify for an experience rating *from* 8.0 percent plus the applicable base tax rate and any additional assessments *to* the tax rate for new taxpaying employers not in a high-experience-rating industry or the tax rate computed to the nearest one-hundredth of a percent for all employers in an industry with a high experience rating plus the applicable base tax rate and any additional assessments, whichever is greater.

The 25-percent surcharge on voluntary contributions is cancelled for calendar years 2011, 2012, and 2013.

The requirement that a State or political subdivision file a notice of election to become a taxpaying employer within 30 calendar days following January 1 of a calendar year is removed. The requirement that a State or political subdivision file a notice terminating the election to become a taxpaying employer no later than 30 calendar days before the beginning of the calendar year is removed. Instead, after the notice has been filed, the election or termination is effective at the beginning of the next calendar quarter. (Effective November 30, 2010.)

The requirement that a nonprofit organization file a notice of election to become a taxpaying employer no later than 30 calendar days before January 1 of any calendar year is removed. Instead, once a notice of election is filed, the election is effective at the beginning of the next calendar quarter. A nonprofit organization electing to become a reimbursing employer will continue to be liable for reimbursements until it files a notice terminating its election. The termination notice must be filed before the beginning of the calendar quarter during which the termination is to be effective. (Effective November 30, 2010.)

Monetary entitlement. If an applicant establishes a new benefit account within 39 weeks of the expiration of the benefit year on a prior benefit account, notwithstanding other provisions of law, the weekly benefit amount on the new benefit account will not be less than 80 percent of the weekly benefit amount on the prior benefit account (applicable to benefit ac-

counts effective on or after May 16, 2010, and expires on (1) the effective date of any Federal legislation allowing continued collection of Federal emergency unemployment compensation, notwithstanding the applicant qualifying for a new regular State benefit account, or (2) June 30, 2011, whichever is earlier).

Nonmonetary eligibility. Employment is not considered suitable if the employment is with a staffing service and less than 45 percent of the applicant's wage credits are from a job assignment with the client of a staffing service. A job assignment with a staffing service is considered suitable only if 45 percent or more of the applicant's wage credits are from job assignments with clients of a staffing service and the job assignments meet the definition of suitable employment. Actively seeking a suitable job assignment or other employment with a staffing service is considered actively seeking suitable employment.

Overpayments. Individuals who received unemployment benefits in 2009 shall not be determined overpaid because of receipt of vacation pay in 2009 that was earned in 2008 under a collective bargaining agreement with an employer located in Hibbing that had a layoff in May 2009 of over 400 workers (effective May 16, 2010).

Mississippi

Financing. The computation of the "cost rate criterion" will be adjusted only through annual computations and additions of future economic cycles.

For calendar-year 2010, no employer's unemployment contribution rate shall be less than 0.4 percent (previously 0.1 percent). Beginning with calendar-year 2011, the general experience rate in no event shall be less than 0.2 percent. For any year that the general experience rate computes as an amount less than 0.2 percent, the general experience rate shall be established at 0.2 percent.

During years that the Workforce Enhancement Training contribution is in effect, instead of paying a 2.7-percent tax rate, each employer newly subject to the contribution shall be assigned a tax rate of 2.4 percent, to which will be added the 0.3-percent Workforce Enhancement Training contribution.

Workforce Enhancement Training contributions must be deposited into the Mississippi Department of Employment Security clearing account and transferred within 2 business days to the Workforce Enhancement Training

Fund holding account. Any Workforce Enhancement Training contribution transaction not honored by a financial institution will be transferred back to the clearing account out of funds in the Workforce Enhancement Training contribution holding account.

Beginning January 1, 2010, the required Workforce Enhancement Training contribution is suspended if the insured unemployment rate (IUR) exceeds an average of 5.5 percent for the 3 consecutive months immediately preceding the effective date of the new rate year, and shall remain suspended throughout the duration of that rate year. Such suspension shall continue until such time as the 3 consecutive months immediately preceding the effective date of any subsequent rate year have an average IUR of less than 4.5 percent. All collections due or accrued prior to any suspension of the Workforce Enhancement Training Fund will be collected on the basis of the law at the time the contributions accrued, regardless of when they are actually due or collected.

New employers and employers meeting certain criteria are permitted to participate in the Mississippi Level Payment Plan. Employers electing to participate pay contributions according to the Mississippi Level Payment Plan pay schedule instead of doing so on or before the last day of the month after each calendar quarter.

The taxable wage base increases from \$7,000 to \$14,000 for calendar-year 2011 and thereafter.

The contribution rate for new employers decreases from 2.7 percent to 2.4 percent through December 31, 2010. Beginning January 1, 2011, the new employer rate shall be 1.0 percent for the first year of liability, 1.1 percent for the second year of liability, and 1.2 percent for the third and subsequent years of liability; however, once an employer's experience rating account has been chargeable for 12 consecutive calendar months ending on the most recent computation date, the employers' rates shall be determined on the basis of their experience.

Beginning on January 1, 2010, the 0.3-percent reduction in contribution rates for employers whose assigned contribution rate equals or is less than 5.4 percent is eliminated. The table used to reduce contribution rates is removed.

The Workforce Enhancement Training contribution shall be assessed at a rate of 0.3 percent through December 31, 2010. In calendar year 2011, and each year thereafter, the Workforce Enhancement Training contribu-

tion shall be assessed at a rate of 0.15 percent. Training contributions shall be reduced as necessary to prevent any employer from having a combined rate greater than 5.4 percent. For rate years beginning January 1, 2010, Workforce Enhancement Training contributions are suspended if the IUR exceeds an average of 5.5 percent for the 3 consecutive months immediately preceding the effective date of the new rate year, and shall remain suspended throughout the duration of that rate year. The suspension continues until the 3 consecutive months immediately preceding the effective date of any subsequent rate year have an average IUR of less than 4.5 percent.

The definition of "size of fund index" (SOFI) is modified and, beginning January 1, 2010, the target SOFI will be fixed at 1.0. If the IUR exceeds a 4.5-percent average for the most recent completed July-to-June period, the target SOFI will be 0.8 and remain at 0.8 until the computed SOFI equals 1.0 or the average IUR falls to 4.5 percent or less for any July-to-June period. If the IUR falls below 2.5 percent for any July-to-June period, the target SOFI shall be 1.2 until the computed SOFI is equal to or greater than 1.0, or the IUR is equal to or greater than 2.5 percent, at which point the target SOFI returns to 1.0.

After calendar year 2010, the general experience rate shall in no event be less than 0.2 percent. For any year that the general experience rate is computed as an amount less than 0.2 percent, such rate shall be established at 0.2 percent.

The amount that a reimbursing political subdivision may elect to pay the fund shall equal 0.25 percent of taxable wages, effective January 1, 2011 (previously, 0.5 percent) in order that the political subdivision be relieved of benefit charges that would not have been charged had the political subdivision opted to be contributory.

The rate that political subdivisions electing to pay contributions shall pay changes from 2.0 percent of taxable wages to 1.0 percent, effective January 1, 2011.

The amount of the surety bond that a nonprofit organization electing to reimburse the fund must file shall be equal to 1.35 percent of the organization's taxable wages paid for employment (previously, 2.7 percent), effective January 1, 2011.

Missouri

Extensions and special programs. The expiration date of an "on" indicator week based on the seasonally adjusted total unemployment

rate (TUR) for the Federal–State Extended Benefits (EB) Program is changed from December 5, 2009, to the week ending 4 weeks prior to the last week of unemployment for which 100-percent Federal sharing is available under the Recovery Act, or March 3, 2011, whichever should occur first.

The expiration date of a “high-unemployment period” based on the seasonally adjusted TUR for the Federal–State EB program is changed from December 5, 2009, to the week ending 4 weeks prior to the last week of unemployment for which 100-percent Federal sharing is available under the Recovery Act, or March 3, 2011, whichever should occur first.

The maximum number of calendar weeks payable under the work-sharing program increases from 26 to 52.

Nebraska

Administration. Each professional employer organization (PEO) currently operating in the State must register with the Nebraska Department of Labor by June 28, 2012. As of January 1, 2012, any PEO not operating in the State must register with the department prior to initiating operation within the State. Within 180 days after the end of the PEO’s fiscal year, the PEO must renew its registration with the department. Any PEO registered in another State that becomes aware that an existing client not based in Nebraska has employees and operations in Nebraska shall either decline to provide professional employer services for those employees or notify the department within 5 business days of its knowledge of this fact and file a limited registration application, or a full registration if there are more than 50 covered employees.

The department must maintain a list of registered PEOs and make it available to the public. Other than the list, all records, reports, and other information regarding the PEOs are not open to public inspection.

Financial requirements for PEOs have been established.

A majority of client employees must be covered employees in the State before a PEO can enter into an agreement, and before requirements for the agreement are established.

The Nebraska Department of Labor must prepare, maintain and publish a list of delinquent taxpayers who owe in excess of \$20,000 for which a notice of lien has been filed. The list will not include any taxpayer who has not exhausted or waived appeal rights from a final balance of tax liability. The list will in-

clude the name and address of the delinquent taxpayer, the type of tax or fee due, and the amount of tax or fee due, including interest, penalties, and cost. The list will be updated quarterly. The delinquent taxpayer’s name will be removed from the list within 15 days after entering a payment agreement or upon full payment of debt. A 30-day written notice to delinquent taxpayers must be provided prior to the taxpayers’ disclosure on the list.

Coverage. The term contractor is defined, and an individual performing construction labor is presumed to be an employee and not an independent contractor unless the individual meets certain specific criteria.

It is a violation for a contractor to designate an individual as an independent contractor who would be properly classified as an employee. The Nebraska Department of Labor must

- establish a hotline and Web site to report suspected violations;
- timely investigate all credible reports of suspected violations;
- upon finding that a contractor has violated the Employee Classification Act, have the Commissioner share any violations with the Department of Revenue and the Workers’ Compensation Court; and
- provide an annual report to the legislature.

A \$500 fine is assessed for each misclassified individual for the first offense; subsequent offenses are \$5,000 per misclassified individual.

The contractor of any contract with the State or political subdivision must follow the provisions of the act; violations are subject to contract rescission. Contractors must post a notice containing Employee Classification Act information at the jobsite or place of business.

Extensions and special programs. Notwithstanding any other provisions of the law, during an extended benefits period, the Governor may provide for the payment of emergency unemployment compensation pursuant to the Recovery Act, as amended, or any substantially similar Federal unemployment compensation paid entirely from Federal funds to individuals prior to the payment of extended benefits.

All individuals who have exhausted all rights to regular unemployment compensation, and who are enrolled in and making

satisfactory progress in a State-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 up to 26 times their average weekly benefit amount for the most recent benefit year. Such training programs will prepare individuals for entry into a high-demand occupation who have been separated from a declining occupation or who have been involuntarily separated from employment because of a permanent reduction in operations at their place of employment.

Financing. Benefits paid for the extension of training will not be charged to the experience account of any employer.

Monetary entitlement. “Base period” is defined to mean the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year. (Previously, “base period” meant the last four completed calendar quarters immediately preceding the first day of an individual’s benefit year, except that the commissioner could prescribe by rule and regulation that “base period” means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year.)

For benefit years beginning on or after July 1, 2011, if individuals would not be monetarily eligible for benefits on the basis of wages paid during the first four of the last five completed calendar quarters, then their eligibility will be determined on the basis of an alternative base period consisting of the last four completed calendar quarters immediately preceding the first day of the individuals’ benefit year.

Effective with benefit years beginning on or after July 1, 2011, the minimum base-period wages needed to monetarily qualify change from \$2,761 in the base period, \$800 in each of two quarters, and \$800 in the high quarter, to \$3,770 in the base period, \$1,850 in the high quarter, and \$800 in a second quarter.

Nonmonetary eligibility. Individuals will not be deemed unavailable for work, deemed to be failing to engage in an active search for work, or disqualified from receiving benefits for refusing to apply for available, full-time work or accept full-time work solely because they are seeking only part-time work if a majority of the weeks of work in their base period include part-time work.

“Seeking only part-time work” means seeking less than full-time work having com-

parable hours to the individual's part-time work in the base period, except that the individual must be available for work at least 20 hours per week.

There was an increase in the disqualification period for leaving work voluntarily without good cause, and the period is now defined as the week in which the individual left work and the 13 weeks (previously, 12 weeks) immediately following such week.

For a person who leaves work voluntarily for the sole purpose of accepting a better job but does not actually accept that job, the disqualification period changed to the week the individual left and the 2 weeks (previously, not more than 1 week) immediately following such week.

New Hampshire

Extensions and special programs. A work-sharing program is created. Employers are required to submit an agreement that meets specific criteria in order to be approved by the commissioner of the New Hampshire Department of Employment Security. The criteria are the following:

- The reduction of hours may not be less than 10 percent or more than 50 percent and must be spread equally among employees in the unit.
- Health benefits must continue to be provided, retirement contributions shall be made on the basis of hours worked, and the effect of reduction on other fringe benefits must be identified.
- The agreement shall not last more than 26 weeks and must include start and end dates.

The amount of the work-sharing benefit shall be the weekly benefit amount multiplied by the percentage of the work reduction, rounded down; it will be reduced by the amount of any remuneration received from any work for a non-work-sharing employer that exceeds 30 percent of the maximum benefit rate in effect, and may not exceed the maximum benefit amount. Individuals meeting the criteria will be eligible for extended benefits.

Financing. Work-sharing benefits shall be charged to the employer. Benefits paid to individuals for a compelling family reason, such as voluntarily leaving to accompany a spouse—because of a change in the location

of the spouse's employment—to a place from which it is impractical to commute, or leaving because of the illness or disability of a member of the individuals' immediate family, shall be charged against the fund and shall not be charged to the account of an individual employer.

Nonmonetary eligibility. No later than the last day of school each year, the superintendent is required to notify in writing the educational support personnel and noncertified school district employees who have completed their probationary period of the intent to continue or not to continue that employment into the next school year. "Educational support personnel" means teacher's aides; food-service staff; custodial and maintenance staff; security staff; health care staff; library, computer, and audiovisual staff; clerical and administrative staff; and transportation staff employed by a school district.

New Jersey

Appeals. The period for filing an appeal to the Board of Review is extended to 20 (previously 10) days after the date of notification or mailing of the tribunal's decision (applicable for decisions made on or after December 2, 2010).

Beginning on December 2, 2010, the regulations may provide for a schedule of registration fees for agents representing parties, except that, if a schedule of fees is set, the amount collected in fees shall not exceed the amount determined by the director of the Division of Unemployment and Temporary Disability Insurance to be necessary for the implementation of certain related provisions.

When a client or agent fails to appear at a hearing without requesting a postponement, no further hearings will be scheduled, unless it is satisfactorily demonstrated that such failure to appear was due to circumstances beyond the control of the client or agent.

Financing. Nonfraud unemployment benefit overpayments shall not be charged to the employer's account if caused by an error of the division and not by any error of the employer. The fine changes to \$100 or 25 percent of the amount fraudulently withheld for employers, their officers or agents, or any other person for knowingly making false statements/representations or knowingly failing to disclose a material fact to prevent or reduce payment of benefits, whichever is greater. (Previously, the fine was \$100.)

Overpayments. If an employer fails to timely respond to the request for information, the representative designated by the director, or "deputy," shall rely on information from an affidavit with respect to wages and time worked, and if such affidavit is nonfraudulently erroneous, the claimant shall be liable for any refund that resulted in benefit overpayments prior to the receipt of the employer's reply. (Previously, a refund liability was not imposed on the claimant.)

Persons are now liable for any nonfraud unemployment benefit overpayments that occurred before the finding of the overpayment. (Previously, persons were not liable for such overpayments.)

The period for filing an appeal from an overpayment determination notice is extended to 20 (previously 10) calendar days after delivery or mailing of the determination notification to the last known address (applicable to any determination other than an initial determination made on or after December 2, 2010).

Notwithstanding any other provisions of law and notwithstanding the actual fund reserve ratio, for fiscal year 2011, column C of the Experience Rating Tax Table is required to be used to determine the contribution rate for employers liable to pay contributions. Column C provides that rates range from 0.5 percent to 3.6 percent for positive-reserve employers and from 5.1 percent to 5.8 percent for deficit-reserve employers. During fiscal year 2011, the tax rate for new employers shall be 2.8 percent.

New Mexico

Financing. The use of Contribution Schedule 0 (zero) is required for assigning each employer's contribution rate from July 1, 2010, through December 31, 2010. The use of Contribution Schedule 1 is required for assigning each employer's contribution rate from January 1, 2011, through December 31, 2011. The use of one of Contribution Schedules 0–6 is required for each calendar year after 2011, except as otherwise provided, to assign each employer's rate. Use

- Contribution Schedule 0 if the fund equals at least 2.3 percent of the total payrolls (this is the most favorable schedule: its rates range from 0.03 percent to 5.40 percent),

- Contribution Schedule 1 if the fund equals less than 2.3 percent but not less than 1.7 percent of the total payrolls,
- Contribution Schedule 2 if the fund equals less than 1.7 percent but not less than 1.3 percent of the total payrolls,
- Contribution Schedule 3 if the fund equals less than 1.3 percent but not less than 1.0 percent of the total payrolls,
- Contribution Schedule 4 if the fund equals less than 1.0 percent but not less than 0.7 percent of the total payrolls,
- Contribution Schedule 5 if the fund equals less than 0.7 percent but not less than 0.3 percent of the total payrolls, and
- Contribution Schedule 6 if the fund equals less than 0.3 percent of the total payrolls (the least favorable schedule, with rates ranging from 2.7 percent to 5.40 percent).

The balance of the State unemployment trust fund, including all accrued earnings credited to such fund, is transferred to the unemployment compensation fund.

Monetary entitlement. The weekly benefit amount is changed to 53.5 percent (previously, 60.0 percent through June 30, 2011) of the average weekly wage for insured work in the base-period quarter in which total wages were highest. The weekly benefit amount may not be more than 53.5 percent (previously, 10.0 percent through June 30, 2011) of the State's average weekly wage for all insured work.

New York

Financing. The \$750-per-employee penalty collected from employers that do not permit the return of employees to their prior position upon conclusion of an industrial-controversy strike and to which the employer has certified in writing are permitted to return shall be paid into the unemployment insurance control fund.

Nonmonetary eligibility. In the case of an industrial-controversy strike, unemployment compensation benefits shall not be suspended if the commissioner of the New York State Department of Labor determines that the claimants are not participating in the industrial controversy and

- are not employed by an employer that is involved in the industrial controversy that caused their unemployment, or

- are not in a bargaining unit involved in the industrial controversy that caused their unemployment.

North Carolina

Nonmonetary eligibility. No substitute teacher or other substitute school personnel will be considered unemployed for days or weeks when not called to work unless the individual is or was employed as a full-time substitute during the period for which the individual is requesting benefits. For the purposes of this provision, "full-time substitute" is defined as a substitute employee who works more than 30 hours a week on a continual basis for a period of 6 months or more. (Previously, the law excluded from the definition of "employment" service performed by a substitute teacher or other substitute employee for a public, charter, or private school unless the individual was employed as a full-time substitute. An individual was employed as a full-time substitute when employed to work at least 30 hours per week over at least 6 consecutive months of a school year.)

Lawmakers have repealed the provision excluding from the definition of "employment" the performance of extra duties for a public, charter, or private school, such as coaching athletics, acting as a choral director, or performing other extra duties.

Ohio

Extensions and special programs. The effective dates of the optional extended benefits (EB) "on" indicator based on the seasonally adjusted total unemployment rate (TUR) have been modified by providing that the provisions cease to be effective on the close of the last day of the week ending 4 weeks prior to the last week for which 100-percent Federal sharing is authorized by Federal law. (Previous language stated that the provisions cease to be effective either on December 6, 2009, or at the close of the last day of the week ending 3 weeks prior to the last week for which Federal sharing is authorized by Federal law, whichever is later; it also stated that EB were not payable beyond May 29, 2010.)

Oklahoma

Extensions and special programs. The Shared Work Unemployment Compensation Program is created. An approved shared work plan is required to reduce the normal weekly hours of work for an employee in an affected

unit by not less than 20 percent and not more than 40 percent. An employer is required to maintain the fringe benefits of each employee in the affected unit at the benefit level in effect before implementation of the shared work plan. An employer is prohibited from implementing a shared work plan to subsidize seasonal workers or employees who work less than 32 hours per week. Employers with an experience tax rate of 5.4 percent or greater for a calendar year are ineligible to participate in the Shared Work Unemployment Compensation Program for that calendar year. Shared work benefits are limited to 26 weeks during the 12 consecutive calendar months that the shared work plan is in effect. The Oklahoma Employment Security Commission is permitted to terminate a shared work plan for good cause. The expiration date is the last day of the 12th full calendar month after the effective date of the shared work plan. No shared work benefit payment shall be made under any shared work plan for any week that commences before January 1, 2011.

Pennsylvania

Coverage. The Construction Workplace Fraud Act is renamed the Construction Workplace Misclassification Act and specifies criteria for the determination of independent contractors in the construction industry for unemployment compensation and workers' compensation. An individual performing services in the construction industry for remuneration is an independent contractor only if

- the individual has a written contract to perform such services,
- the individual is free from control or direction over performance of such services both under the contract of service and in fact, and
- the individual is customarily engaged in an independently established trade, occupation, profession, or business rendering such services.

An employer, or an officer or agent, is in violation of the Construction Workplace Misclassification Act and will be subject to penalties, remedies, and other action if the employer, officer, or agent fails to properly classify individuals as employees for the purposes of the unemployment compensation law and fails to pay contributions, reimbursements or other amounts required to be paid under such law. Criminal penalties include a misdemeanor of the third degree for a first

offense and a misdemeanor of the second degree for any subsequent offense. Negligently failing to properly classify individuals is a summary offense and, upon conviction, a fine of not more than \$1,000 must be paid. The secretary of the Department of Labor and Industry may assess and collect civil penalties of not more than \$1,000 for the first violation and not more than \$2,500 for each subsequent violation for persons violating the act, which will be paid into the special administration fund of the unemployment compensation law.

Rhode Island

Financing. Lawmakers have removed the provision requiring that a surtax of 0.3 percent of taxable wages be levied during years when the amount in the employment security fund available for benefits, net of obligations owed to the Federal Government, is less than zero at the end of the second month of any calendar quarter.

The job development assessment increases from 0.21 percent to 0.51 percent beginning with the 2011 tax year.

Beginning January 1, 2011, 0.02 percent of the job development assessment will be used to support necessary core services in the unemployment insurance and employment services programs, and 0.3 percent of the job development assessment will be deposited into a restricted receipt account to be used solely to pay the principal and/or interest due on Title XII advances; however, if the Title XII advances are repaid through a State revenue bond or other financial mechanism, the funds in the account may be used to pay the principal and/or interest that has accrued on the debt.

Monetary entitlement. The minimum dependents' allowance increases from \$10 to \$15 per dependent, and the total dependents' allowance payable to any claimant is capped at \$50 or 25 percent of the individual's weekly benefit amount, whichever is greater. (Effective January 1, 2011.)

Nonmonetary eligibility. Effective January 1, 2011, no individuals will be disqualified from receiving benefits due to separation from employment if the individuals quit

- because of the need to accompany their spouse to a place from which it is impractical for them to commute (because of a

change in the location of their spouse's employment); or

- because of the need to care for a member of the individuals' immediate family because of illness or disability.

South Carolina

Administration. The Division of Employment Service and the Division of Unemployment Compensation are created within the Department of Employment and Workforce.

Appeals. A mandatory retirement age of 72 is established for members of the Employment and Workforce Appellate Panel, and limitations are placed on candidates seeking positions on the panel.

Financing. The employer experience rating system is changed from a reserve-ratio to a benefit-ratio system. For the period of January 1, 2011, through December 31, 2013, the benefit ratio is calculated annually to the sixth decimal place on July 1 by dividing the average of all benefits charged during the 40 calendar quarters (10 years) preceding the calculation date by the employer's average taxable payroll during the same period. Beginning with calendar year 2014, the benefit ratio will be determined by using 12 calendar quarters (3 years) of data or with any available data if the employer has fewer than 12 quarters of data. (Previously, all prior benefits and wages were used.)

The average required rate needed to pay benefits and achieve solvency targets is determined by dividing the income needed to pay benefits plus the income needed to reach the solvency target by the estimated taxable wages for the calendar year. This rate will be used in determining each employer's base rate.

For each calendar year the trust fund is in debt status, the Department of Employment and Workforce is required to estimate, with specified procedures, the amount of income needed to pay benefits for that year, the amount necessary to avoid automatic FUTA (Federal Unemployment Tax Act) credit reductions, and the amount necessary to repay all outstanding Federal loans within 5 years; interest costs are required to be determined concurrently. After the trust fund returns to solvency, the department is required to promulgate regulations regarding the income needed to pay benefits each year and to return the trust fund to an adequate target level. (An adequate target level for the fund means an average high-cost multiple of 1.)

A system is established to group employers into a 20-class array on the basis of their benefit ratios. The department must list all employers by order of benefit ratio, from the lowest benefit ratio to the highest benefit ratio. The employers must be grouped into classes ranked 1 through 20. Each class must contain approximately 5 percent of the total taxable wages (excluding reimbursable wages) that were paid in covered employment during the four completed calendar quarters immediately preceding the computation date. The rate for class 1 must be zero and that for class 20 must be at least 5.4 percent. If the benefit rate for class 20 exceeds 5.4 percent, the rate for each preceding class shall be equal to 90 percent of the rate calculated for the succeeding class, except that class 12 shall be set at 25 percent of the rate calculated for class 20. If the computed rate for class 20 is less than 5.4 percent, the rate for class 20 shall be 5.4 percent and

- the contribution rate for class 12 must be calculated by multiplying by 20 the average required rate needed to pay benefits and to achieve solvency, subtracting 5.4 percent, and then dividing by 19;
- the contribution rate for classes 11 through 1 must be equal to 90 percent of the rate for the succeeding class, provided the rate for class 1 shall be 0;
- the contribution rate for class 13 must be equal to 120 percent of the rate calculated for class 12; and
- the contribution rate for class 19 must be set at an amount that allows for average contributions, beginning at class 18 and ending with class 14, that are equal to 90 percent of the preceding class.

If an employer qualifies for two classes, the employer will be afforded the lower rate. Employers with identical ratios will be assigned to the same class. Employers with less than 12 consecutive months of coverage must have a base rate of at least class 13.

In any calendar year in which the trust fund is insolvent, the State shall impose additional surcharges on all employers to pay interest on the outstanding debt. The surcharge is calculated by dividing the estimated interest by the taxable payroll rounded up to the next one-hundredth of one percent.

The taxable wage base changes from \$7,000 to \$10,000 for calendar year 2011. For calendar years 2012–14, the wage base will be \$12,000. Beginning with calendar year 2015, the wage base will be \$14,000.

Monetary entitlement. The requirement for qualifying monetarily (see the definition of “insured worker”) changes to \$4,455 in the base period and \$1,092 in the high quarter (from \$900 in the base period and \$540 in the high quarter).

The minimum weekly benefit amount increases from \$20 to \$42.

Effective June 1, 2010, if individuals would not be eligible for benefits because of the use of a base period consisting of the first four of the last five completed calendar quarters, then their eligibility shall be determined by use of a base period that includes the last four completed calendar quarters.

Nonmonetary eligibility. Individuals shall not be denied from receiving benefits under provisions relating to availability for work, active search for work, or refusal to accept work solely because they are seeking only part-time work if a majority of the weeks of work in their base period include part-time work.

Individuals shall not be disqualified from receiving benefits due to separation from employment if that separation is for a “compelling family reason.” “Compelling family reason” means

- domestic violence, verified by documentation, that causes the individuals to reasonably believe that continued employment would jeopardize their safety or any immediate family member’s safety;
- the illness or disability of a member of the individuals’ immediate family; or
- the need for the individuals to accompany their spouse—because of a change in location of the spouse’s employment—to a place from which it is impractical for them to commute.

South Dakota

Extensions and special programs. Claimants who have exhausted all rights to regular unemployment benefits and are unemployed, and who are enrolled in and making satisfactory progress in a State-approved training program or 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, less any deductible earnings. Such training program must prepare claimants for entry into a high-demand occupation who have been separated from a declining occupation or have been involuntarily and indefinitely

separated from employment because of a permanent reduction of operations at the claimants’ place of employment.

Financing. The taxable wage base increases from \$9,500 to \$10,000 for calendar year 2010. It is \$11,000 for calendar year 2011, \$12,000 for calendar year 2012, \$13,000 for calendar year 2013, \$14,000 for calendar year 2014, and \$15,000 for calendar year 2015 and thereafter.

For calendar year 2010 and thereafter, the maximum contribution rate increases from 8.50 percent to 9.50 percent. The minimum contribution rate remains at 0.00 percent. The increased contribution rates apply to and are retroactive to taxable wages paid on and after January 1, 2010.

Employer’s rates will incrementally increase if on the last day of any calendar quarter the amount in the unemployment compensation fund, including amounts receivable as Federal reimbursements that are due to the State for shareable benefit payments, is less than \$11 million. The rate increases range from 0.1 percent when the balance is greater than or equal to \$10.5 million but less than \$11 million, to 1.5 percent when the balance is less than \$5.5 million.

When tax rates increase because of a reduction in the unemployment compensation fund, the maximum contribution rate payable by any employer, including the adjustment percentage, is 12 percent (previously, 10.5 percent). The increased contribution rates may not exceed 1.0 percent for taxable wages paid for calendar year 2010 and may not exceed 0.75 percent for taxable wages for calendar year 2011. Effective January 1, 2012, any rate increase based on the reduction of the unemployment compensation fund will remain in effect for four consecutive calendar quarters. The rate for the second, third, and fourth quarters may increase on the basis of the fund balance on the last day of the immediately prior quarter, but may not decrease from the prior quarter during the aforementioned four consecutive quarters. The contribution rates apply to and are retroactive to taxable wages paid on and after January 1, 2010.

Benefits paid under the provision for part-time workers and the provision for additional benefits for “exhaustees” are excluded from being charged.

Nonmonetary eligibility. A claimant shall not be denied regular unemployment benefits relating to availability for work, active search for work, or refusal to accept work, solely be-

cause of seeking only part-time work, if it is determined that a majority of the weeks of work in his/her base period were for less than full-time work. The term “seeking only part-time work” is defined to mean seeking work that has hours comparable to the individual’s part-time work experience in the base period.

Tennessee

Administration. A refund of State taxes claimed by a taxpayer in the amount of \$200 or more may be used to offset the taxpayer’s debts of an overpayment of unemployment compensation benefits or amounts owed to the unemployment compensation fund (applies to any claim for a refund filed with the Department of Revenue on or after July 1, 2009, that has not been finally determined).

Nonmonetary eligibility. Benefits will not be reduced for or denied to any otherwise eligible claimant because of such claimant’s enrollment in an institution of higher education.

Utah

Administration. The Utah Department of Workforce Services must submit an annual report to the Workforce Employment Advisory Council and to the legislature’s Workforce Services and Community and Economic Development Interim Committee by November 30, 2010, and annually thereafter. The report must address the impact of the amendment regarding the use of the base period consisting of the last four completed calendar quarters and the amendment regarding the unemployment insurance trust fund. The Interim Committee must make recommendations to the legislature from the annual report that may include modifications or the repeal of those amendments.

Some of the penalties for persons and officers or agents of an employing unit who are guilty of unemployment insurance fraud are as follows:

- class B misdemeanor when the value of the money is less than \$500 (previously \$300),
- class A misdemeanor when the value of the money is or exceeds \$500 (previously \$300) but is less than \$1,500 (previously \$1,000), and
- third-degree felony when the value of the money is or exceeds \$1,500 (previously \$1,000) but is less than \$5,000.

Monetary entitlement. If individuals would not be eligible for benefits because of the use of a base period consisting of the first four of the last five completed calendar quarters, then their eligibility will be determined by use of a base period consisting of the last four completed calendar quarters (applicable for benefit years effective on or after January 2, 2011).

Wages from the base period used to establish eligibility cannot be used to qualify a person for benefits in any subsequent benefit year.

The formula calculating the weekly benefit amount changed *from* one-twenty-sixth, disregarding any fraction of \$1, of insured wages paid in the quarter of the base period with the highest wages *to* one-twenty-sixth minus \$5, disregarding any fraction of \$1 of insured wages paid in the quarter of the base period with the highest wages (applicable to benefit years beginning on or after December 12, 2010).

The formula calculating the maximum weekly benefit amount payable changed *from* 62.5 percent of the insured average fiscal year weekly wage during the preceding fiscal year, disregarding any fraction of \$1, *to* 62.5 percent of the insured average fiscal year weekly wage during the preceding fiscal year minus \$5, disregarding any fraction of \$1 (applicable to benefit years beginning on or after December 12, 2010).

Nonmonetary eligibility. The offset for receipt of Social Security benefits against unemployment compensation changed from 50 percent to 0.0 percent (applicable to benefit years beginning on or after December 12, 2010). (Previously, the 50-percent offset applied to benefit years ending on or before July 1, 2011.)

Vermont

Administration. The Vermont Department of Labor is required to implement reemployment services and a policy that prioritizes claimants for such services, effective July 1, 2010.

Extensions and special programs. An individual who has exhausted all rights to regular unemployment compensation, and who is enrolled in and making satisfactory progress in a State-approved training program or a job training program authorized under the Workforce Investment Act of 1998, shall be entitled to an additional amount of benefits equal to 26 times his or her average weekly benefit amount for the most recent benefit year. Such

training programs shall prepare individuals for entry into a high-demand occupation who have been separated from a declining occupation or who have been involuntarily separated from employment because of a permanent reduction in operations at their place of employment.

Financing. The taxable wage base increased from \$10,000 to \$13,000 for calendar year 2011 and increases to \$16,000 for calendar year 2012. After January 1, 2012, whenever the unemployment compensation fund has a positive balance and all Title XII advances to the State unemployment compensation fund have been repaid as of June 1, the taxable wage base shall be adjusted on January 1 of the following year by the same percentage as any increase in the State annual average wage. When contribution rate schedule I or III is in effect, the taxable wage base shall be reduced by \$2,000 the following January 1 and shall be adjusted annually thereafter on January 1 of the following year by the same percentage as any increase in the State annual average wage. (Effective July 1, 2010.)

An employing unit failing to submit separation information is not relieved of charges for benefits before the week following the receipt of such information, effective July 1, 2010. Previous law provided that, if an employing unit fails to submit separation information, an employer's experience-rating record shall not be relieved of charges unless within 30 days after notice the employer files an appeal from the determination and the determination is ultimately reversed.

Monetary entitlement. The \$425 maximum weekly benefit amount adjusts on the first day of the first calendar week of July by a percentage equal to the percentage change during the preceding calendar year in the State average weekly wage when the State unemployment compensation fund has a positive balance and all Title XII advances to such fund have been repaid as of December 31 of the last completed calendar year. When contribution rate schedule III is in effect, the maximum weekly benefit amount shall be adjusted on the first day of the first calendar week of July to an amount equal to 57 percent of the State annual average weekly wage. The maximum weekly benefit amount shall not increase in any year that Title XII advances remain unpaid. (Effective July 1, 2011.)

Individuals who elect to have Federal income tax deducted and withheld from unemployment insurance benefits shall have State

income tax withheld at 24 percent of the Federal rate.

The maximum total amount of benefits payable (benefit entitlement) changes from 26 times an individual's weekly benefit amount to 26 times an individual's weekly benefit amount or 46 percent of the total base-period wages paid, whichever is lesser. When an individual is discharged by the last employing unit for misconduct connected with work, the benefit entitlement is limited to the amount computed in the previous sentence or 23 times the individual's weekly benefit amount, whichever is lesser, provided that the individual has not already received more than 23 weeks of benefits in the benefit year. (Effective July 1, 2011.)

To be eligible to receive benefits (including short-time compensation benefits) a totally or partially unemployed individual must serve a 1-week waiting period during the benefit year and any extended eligibility period, effective July 1, 2012. The 1-week waiting period is repealed effective July 1, 2017, or when the unemployment compensation fund has a positive balance, whichever is later.

Nonmonetary eligibility. Those wages in the base period paid by an employing unit from which an individual was separated because of gross misconduct are cancelled (effective July 1, 2011).

In determining if one is available for work during any week, an individual may be required to participate in reemployment services.

When discharged for misconduct from their last employer, individuals are disqualified for 6–15 (previously 6–12) weeks immediately following the filing of a claim (in addition to the waiting period).

The term "gross misconduct" means conduct directly related to the employee's work performance that demonstrates a flagrant, wanton, and intentional disregard of the employer's business interest, and that has a direct and significant impact upon the employer's business interest, including but not limited to theft, fraud, intoxication, intentional serious damage to property, intentional infliction of personal injury, any conduct that constitutes a felony, or repeated incidents after written warning of either unprovoked insubordination or public use of profanity.

Virginia

Monetary entitlement. For claims effective on or after July 6, 2008, but before July 3,

2011 (previously July 4, 2010), the minimum weekly benefit amount remains at \$54 and the maximum weekly benefit amount remains at \$378; a total of \$2,700 in the two high quarters of the base period remains the amount needed to monetarily qualify, and \$18,900.01 remains the minimum amount required for the maximum weekly benefit amount.

For claims effective on or after July 3, 2011, the minimum weekly benefit amount increases from \$54 to \$60 and the maximum weekly benefit amount remains at \$378, a total of \$3,000 (previously \$2,700) in the two quarters of the base period with the highest wages is needed to monetarily qualify, and \$18,900.01 remains the minimum amount required for the maximum weekly benefit amount.

Overpayments. The commissioner of the Virginia Employment Commission is allowed to negotiate repayments of overpayments. The repayment terms may include

- deductions up to 50 percent of payable benefits (previously only 50 percent),
- the ability to forego the collection of the payable amount until the recipient has found employment, or
- the ability to determine and institute an individualized repayment plan.

Overpayments caused by administrative error will be collected only by an offset against future benefits or a negotiated repayment plan. However, if the individual fails to enter into or comply with the terms of the repayment plan, the commissioner of the Virginia Employment Commission may institute any other method of collection.

Wisconsin

Administration. Professional employer organizations must be registered with the Department of Regulation and Licensing (effective September 1, 2010).

The department must be named as a party in the complaint when an employing unit files for judicial review.

Fees and expenses assessed by the U.S. Secretary of the Treasury for use of the Treasury Offset Program may be withdrawn from the Unemployment Reserve Fund.

The maximum fine is increased from \$500 to \$1,000 for anyone who

- makes a deduction from the wages of an employee because of liability for contributions or payments in lieu of contributions;
- refuses or fails to furnish an employee any notice, report, or information required by the statute;
- promises to reemploy, threatens not to employ, or threatens to terminate an employee, or induces an employee to refrain from claiming benefits, from participating in an audit or investigation by the Department of Regulation and Licensing, or from testifying at a hearing; or
- discriminates or retaliates against an individual because the individual claims benefits, participates in an audit or investigation by the department, or testifies at a hearing.

Coverage. Neither members of an elective legislative body nor the judiciary of an Indian tribe will be considered employees.

Service by an individual to care for an ill or disabled family member is not considered employment. The term “family member” as defined in this provision means a spouse, parent/stepparent, child/stepchild, grandparent, grandchild (by birth or adoption), or domestic partner. (Effective December 31, 2010, with respect to contribution requirements, and effective for benefit years beginning on or after January 2, 2011, with respect to benefit eligibility.)

Full-time work is defined as 32 or more hours per week, and part-time work as less than 32 hours per week (effective with weeks of unemployment beginning on or after July 3, 2011).

Extensions and special programs. Claimants may receive an additional amount of benefits of not more than 26 times their weekly benefit amount for the most recent benefit year while enrolled in a training program. Such training programs will prepare individuals for entry into a high-demand occupation who have been separated from a declining occupation or who have been involuntarily separated from employment because of a permanent reduction in operations at their place of employment.

Financing. An employer that suffers physical damage to its business caused by a catastrophic event for which the employer is not primarily responsible, and that incurs benefit charges to its account for layoffs because of the damage, may make a voluntary contribu-

tion to increase the employer’s reserve percentage to no greater than it would have been had the damage not caused the employer to lay off its employees.

Any excess interest assessment will be credited to the balancing account. (Previously, the excess was retained in the administrative account.)

Nonmonetary eligibility. Training that is approved under the Trade Act of 1974 and the Federal Workforce Investment Act of 1998 has been added to the definition of approved training.

The department shall not deny benefits for any of the following reasons: (1) An individual voluntarily quits unsuitable work to enter training under the Trade Act of 1974. (2) The work being quit was engaged in on a temporary basis during a break in the training or a delay in the commencement of the training. (3) The individual left on-the-job training not later than 30 days after commencing the training because the individual did not meet the requirements of the Trade Act of 1974.

A bonus or profit-sharing payment is considered to be earned in the week the bonus or payment is made by the employer.

When a pension payment is actually or constructively received on other than a periodic basis, the department will allocate the payment to the week in which it was received.

Overpayments. Overpayments resulting from fraud may be offset by intercepting the individual’s Federal income tax refund.

Wyoming

Administration. The Wyoming Department of Employment is allowed to conduct and publish statistical analyses of payroll and employment in State agencies within the executive branch that may reveal the identity of State agency employing units.

Financing. The department is required to consolidate the separate accounts and benefit experience of an employer that acquires the trade, the business, the organization, or substantially all the assets of an employer. The new contribution rate will be effective the first day of the calendar quarter following the date of acquisition.

The penalty for failure to make required payments, pay assessments of interest, and pay penalties within 90 days of the receipt of a bill is expanded to all reimbursing employers. (Previously, it applied only to Indian tribes.)

The department is allowed to enter into an agreement for installment payments for delinquent tax and interest liabilities when repayment requirements are met and a lump-sum payment would cause severe inconvenience to the taxpayer.

Certain employers with a construction cost equal to or greater than the threshold construction cost defined by the industrial sitting council (previously, a construction cost

of \$100 million) are required to be assessed payments for an incremental bond.

Overpayments. The alternative start date for the 52-week disqualification period for fraud is changed *from* the date that notice of the overpayment determination or decision is mailed to the claimant *to* beginning the week following the date that notice of the overpayment is mailed to the claimant.

Individuals are allowed to repay overpaid benefits through a voluntary reimbursement agreement, and the department may accept repayment without civil action pursuant to an approved payment schedule.

The period for cancellation of overpayments or penalties is changed to 8 years from the effective date of the claim resulting in overpayment (previously, 5 years) when certain conditions are met. □