Monthly Labor Review
August 2015

Changes in federal and state unemployment insurance legislation in 2014

New federal legislation makes all unemployment compensation taxable income, allows some professional employer organizations to take a Federal Unemployment Tax Act credit and precludes other such organizations from doing so, and gives the states funds for certain job search and placement services rendered to unemployment insurance claimants. State enactments focus on the widespread establishment and regulation of work-sharing programs and implement changes in a number of areas, including nonmonetary eligibility for, administration of, and financing of unemployment compensation.

Loryn Lancaster
lancaster.loryn@dol.gov

Loryn Lancaster is an unemployment insurance program specialist in the Division of Legislation, Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor

Two federal laws enacted in 2014 affected the federal–state Unemployment Compensation Program. Together, the two laws provide that all of a person's unemployment compensation is to be included in gross income; certain professional employer organizations are subject to Federal Unemployment Tax Act (FUTA) taxes, and only employers may claim a FUTA tax credit with respect to an employee; and funds are allocated to states in order to provide certain services to unemployment insurance claimants.

The Tax Increase Prevention Act (Pub. L.113-295) (1) eliminates the Internal Revenue Code special rule for 2009 that excluded from gross income the first $2,400 of unemployment compensation received; (2) provides that a certified professional employer organization (PEO) shall be considered a successor employer and shall be liable for FUTA taxes for services performed on or after January 1, 2016; (3) requires that the customer of the PEO, which is an employer, be treated as a predecessor employer; and (4) amends FUTA to permit a certified PEO that collects contributions from an employer for a worksite employee and remits them to the employee to take the FUTA credit.

The Workforce Innovation and Opportunity Act (Pub. L. 113-128) amends Section 7 of the Wagner–Peyser Act of 1933 by allocating funds to the states to use for certain job search and placement services for unemployment insurance claimants. Among the services funded are counseling, testing, and furnishing occupational and labor market information, assessment, and referral to employers; making eligibility assessments; and providing unemployment insurance claimants with referrals to, and assistance with their applications for, training and

education resources and programs. The latter resources and programs include federal Pell Grants; educational assistance, student assistance, state student higher education assistance; and training and education programs provided under titles I and II of the Workforce Innovation and Opportunity Act and title I of the Rehabilitation Act.

Modified or new provisions in state unemployment laws, 2014

Alabama

Financing. The following has been added to the definition of “employer”: (i) any employing unit (whether or not an employing unit at the time of acquisition) that has acquired at least 65 percent of the organization, trade, employees, or business located in Alabama, or substantially all the assets thereof, of another employing unit that, at the time of such acquisition, was an employer subject to the unemployment compensation law; and (ii) any employing unit that acquires at least 65 percent of the organization, trade, employees, or business located in Alabama, or substantially all of the assets thereof, of another employing unit that is not an employer subject to the unemployment compensation law such that the employment record of the acquiring employing unit subsequent to such acquisition, together with the employment record of the acquired unit prior to such acquisition, both within the same calendar year, would be sufficient to constitute [i.e., deem] an employing unit an employer subject to the unemployment compensation law.

Alaska

Administration. The definition of “interested party” is clarified to mean (among other things) “an employing unit if the determination or the appeal relates to a claimant’s separation from that employing unit or to the liability of the employing unit for contributions or reimbursements.” (Previously, the definition did not include “or reimbursements.”)

The method of electronically registering with the Department of Labor and Workforce Development is the preferred and primary method to be used by an employing unit for filing contribution reports.

The introductory language of Regulation 8 AAC 85.020(d) is amended to read, “An employer shall use the Internet to submit a quarterly contribution report if the report lists 50 or more individuals in covered employment in any calendar quarter during the calendar year. If an agent reporting on behalf of an employer submits such reports, that agent shall use the Internet to submit the reports.” (Previously, the language provided that an employer or the employer’s agent shall use the Internet to submit a quarterly contribution report if the report lists 100 or more individuals in covered employment in a calendar quarter or $1,000,000 or more in taxable wages in the current or preceding calendar year. If an agent reporting on behalf of multiple employers submits such reports, and the reports list a cumulative total of 100 or more individuals in covered employment in a calendar quarter, that agent shall use the Internet to submit the reports.)

Upon request, an employer shall make available for inspection by the Department of Labor and Workforce Development all accounting, cash, payroll, and tax records of the employer, including personal tax records of any member of a limited-liability company.

All covered wages paid by an employer to an employee during a calendar year must be reported on the quarterly contribution report and wage schedule, and any covered wages paid in excess of the tax base during 1 calendar year must be segregated from the total wages reported for contribution payment purposes each quarter.

(Previously, the language said, “After wages up to and including the tax base have been paid in any calendar year by an employer to an employee and have been reported, any additional wages paid by the employer to [that] employee in the calendar year must be reported on the quarterly contribution report and wage schedule; however, the amount of any wages exceeding the tax base during 1 calendar year must be segregated from the total wages paid for contribution payment purposes.”)

An employer subject to the Alaska Employment Security Act shall (1) file the regular quarterly contribution report even if contributions have not accrued with respect to a particular quarter and (2) indicate on the report that wages were not paid during that quarter. (Previously, the language said, “An employer subject to the Alaska Employment Security Act shall file the regular quarterly contribution report *and wage schedule* [italics added] even if contributions have not accrued with respect to a particular quarter and [shall] file a report indicating that wages were not paid during the quarter in employment as defined in the act.”)

The Department of Labor and Workforce Development will accept a surety bond from reimbursing employers only under each of the following conditions:

1. The bond must remain enforceable and in effect for 3 years after any reimbursing employer ceases to be an employer or terminates its reimbursable status;
2. Cancellation of the bond may not go into effect until 90 days after the department receives notification from the surety company of its intention to cancel the surety bond; and
3. A cancellation of the bond does not affect any liability of the surety or the employer that is incurred or that has accrued on benefits paid during the period that is effective under condition 1.

(Previously, a bond was accepted from reimbursing employers if (1) the bond remained in effect until canceled only by action of the surety, the principal, or the department and (2) an action was not allowed to be commenced upon the bond more than 3 years after its cancellation.)

Coverage. Language concerning the determination of an employing unit as an employer provides that, in determining whether service by an individual constitutes employment by a particular employing unit, the individual will be considered an employee of that employing unit if (1) the employing unit is the direct beneficiary of services performed by one or more individuals receiving remuneration, (2) remunerated services performed by one or more individuals are within the usual course and places of the employing unit’s business, or (3) the employing unit exercises or has the right to exercise direction and control over the day-to-day duties of one or more individuals performing services for which they receive remuneration.

If an employing unit fails to report wages and pay contributions as required, the Department of Labor and Workforce Development may terminate a voluntary election of coverage. The termination shall be effective retroactively to the quarter in which a report and full payment (previously, effective retroactively to the date that the report and payment) were last received by the department from the employing unit.

Financing. Except as provided in Regulation 8 AAC 85.295(c), an employer is not eligible for a rate determination for a calendar year (but will get the penalty rate instead) if, on quarters before July 1 (previously, September 1) of the preceding calendar year, (1) the employer is delinquent by $100 or more in paying contributions, penalties, or interest due or (2) the employer has not filed a required report.

Language concerning the adjustment of quarterly decline quotients is amended as follows:

- The director of the Department of Labor and Workforce Development may (among other things) adjust an employer's quarterly payroll if the employer reported wages for services excluded from the definition of "employment" under Alaska Statute (AS) 23.20.526 and for which an election has not been approved under AS 23.20.325.
- The employer's payroll may (among other things) be adjusted as follows:
  - At the employer's option, annual bonuses and lump-sum wage payments may be deleted from the payroll or apportioned equally among the quarters in the calendar year in which the artificial peaks or declines in quarterly payrolls occur (previously, equally among the calendar quarters in which the services were performed);
  - Excluded employment reported by the employer and for which an election has not been approved under Section 23.20.325 of the Employment Security Act may be deleted from the payroll in the calendar quarter in which the payment was reported; and
  - A decline in payroll caused by a change in an employer's accounting practices may (previously, will) be adjusted by adding wages that would have been reported in the quarter if an accounting change affecting the employer's payroll had not occurred; a change in wages in other quarters must have an offsetting amount as a correction to another quarter.
- The term "annual bonus" means something that is given or paid once a year and that is an amount over or in addition to what is due or expected, unlike a commission or an incentive payment.

Nonmonetary eligibility. A claimant is responsible for providing information on eligibility when moving to a new location.

Registration for work may be deferred for a claimant who is temporarily unemployed with a definite date to return to full-time work within 45 (previously, 90) days after the date the claimant files the initial claim.

A claimant who is required to register for work must actively seek suitable work by making at least one valid work search during each week that the claimant files for unemployment insurance benefits.

On the basis of the demand for workers in an occupation suitable for a claimant within the area in which the claimant is filing claims for unemployment insurance benefits, the Alaska Employment Security Division may require the claimant to make more than one valid work search during a week that the claimant files for the benefits. The division will notify a claimant of his or her work search requirement for a given benefit week by using a method specified by the director.

A work search is considered valid if (1) the claimant contacts an employer regarding work, (2) the work sought is suitable to the claimant's skills and capabilities, and (3) the method of contact is appropriate on the basis of how prospective employers in that occupation are usually contacted for work.

Using a method specified by the director, a claimant who is required to seek work shall report any contact with employers that the claimant makes during each week that he or she files a claim for unemployment insurance benefits. For each employer contact, the report must include (1) the date of the contact; (2) the name of the employer contacted; and (3) the telephone number, address, electronic mail address, or website used to make contact. (The previous language stated that the division may require a claimant to seek work by contacting

prospective employers in person if (1) there is a demand for workers in an occupation suitable for the claimant within the area in which the claimant is filing claims for benefits, (2) a substantial amount of the work in that occupation is normally obtained by contacting prospective employers in person, and (3) the claimant has been allowed a reasonable length of time, not exceeding 13 consecutive weeks of filing for benefits, to obtain work in that occupation through an employment office or other job-hunting agency. A claimant directed to seek work shall report the contacts he or she has made with employers during any week for which a work search is required. The report must include (1) the dates of the contacts; (2) the name and address of each employer contacted; and (3) the results of the contacts.)

Arizona

Nonmonetary eligibility. Severance pay includes all payments made due to a resignation or termination, or as part of an exit incentive program or reduction in force, or in consideration of actual or potential claims for termination. Severance pay does not include payments for health benefits or for any employee benefit plan.

California

Administration. All standard informational employee pamphlets concerning unemployment and disability insurance programs must be printed in English and the seven other most commonly used languages among participants in each program. The state Employment Development Department must make available, in the seven languages, other than English, most commonly used by unemployment insurance applicants and claimants, pages on its Internet website that provide information regarding applying for and receiving unemployment insurance benefits. (Previously, the law required the pamphlets to be printed separately in English and Spanish, or in both languages on the same pamphlet.)

The director of the Employment Development Department must periodically review policies and practices used to determine eligibility for, and the amount of benefits to be received from, the unemployment insurance program to identify those policies and practices which either (1) result in delayed eligibility determinations or delayed benefit payments, (2) increase the department's workload, or (3) provide little or no value in identifying or preventing fraud or abuse in the program.

The director must report to the legislature the results of the first review on or before July 1, 2015; the director may submit subsequent reports thereafter. The reports shall be submitted in compliance with Section 9795 of the Government Code.

The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes and may require reimbursement for all direct costs incurred in providing any and all information specified:

- Until January 1, 2020, to enable the Department of Finance to prepare and submit the report required by Section 13084 of the Government Code that identifies all employers in California which employ 50 or more employees who receive benefits from the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code). The information used for this purpose shall be limited to information obtained pursuant to Section 11026.5 of the Welfare and Institutions Code and from the administration of personal income tax wage withholding pursuant to Division 6 (commencing with Section 13000) and the disability insurance program. Such information may be disclosed to the Department of Finance only for the purpose of preparing and submitting the report and only to the extent not prohibited by federal law.
- To provide, to the extent permitted by federal law and regulations, the Student Aid Commission with wage information to verify the employment status of an individual applying for a Cal Grant C award pursuant to subdivision (c) of Section 69439 of the Education Code.

- To enable the Department of Corrections and Rehabilitation to obtain quarterly wage data of former inmates who have been incarcerated within the prison system, in order to assess the impact of rehabilitation services or the lack of these services on the employment and earnings of these former inmates. Quarterly data for a former inmate's employment status and wage history shall be provided for a period of 1 year, 3 years, and 5 years following the inmate's release from prison. The data shall be used only for the purpose of tracking outcomes of former inmates in order to assess the effectiveness of rehabilitation strategies on the wages and employment histories of those formerly incarcerated. The information shall be provided to the department to the extent not prohibited by federal law.

Appeals. An appeal may be filed with an administrative law judge within 30 (previously, 20) days after mailing or personal service of the notice of the ruling or reconsidered ruling. The 30-day (previously, 20-day) period may be extended for good cause. The Employment Development Department may for good cause reconsider a ruling or reconsidered ruling either within 5 days after the date an appeal is filed or, if an appeal is not filed, within 30 (previously, 20) days after mailing or personal service of notice of the ruling or reconsidered ruling.

A further appeal may be filed to the appeals board within 30 (previously, 20) days after mailing or personal service of the notice of the ruling or reconsidered ruling. The 30-day (previously, 20-day) period may be extended for good cause.

The previous language concerning the number of days for filing appeals shall become inoperative on July 1, 2015, and is repealed as of January 1, 2016; the new language shall become operative on July 1, 2015.

Nonmonetary eligibility. An unemployed individual who is meeting all of the eligibility requirements, including the requirements under Section 1253.9, and is certifying for continued unemployment compensation benefits shall not be scheduled for a determination of eligibility during any week in which the individual has commenced or is participating in a training or education program and has notified the department that he or she is in the training or education program.

If the department determines that the individual's commencement of, or ongoing participation in, a training or education program conflicts with the eligibility requirements for unemployment compensation, the department may schedule and conduct a determination of eligibility.

To maintain his or her eligibility to file continued claims during a continuous period of unemployment, an individual shall submit a continued claim not more than 14 days from the end of the last week's ending date showing on the continued claim or not more than 14 days from the date the department issued the continued claim, whichever is later, unless the department finds good cause for the individual's delay in submitting the continued claim. An unemployed individual may not be disqualified for unemployment compensation benefits solely on the basis that the continued claim was submitted 15 to 21 days, inclusive, from the end of the last week's ending date showing on the continued claim or 15 to 21 days, inclusive, from the date the department issued the continued claim, whichever is later.

Colorado

Nonmonetary eligibility. The term "domestic violence" means an act or threatened act of violence, or any other act of aggression, abuse, coercion, or intimidation, committed against a worker or a member of the worker's immediate family by a person with whom the worker or immediate family member is or has been involved in an

intimate relationship and that would cause a reasonable worker to believe that his or her continued employment would jeopardize the safety of the worker or an immediate family member.

The term “intimate relationship” means a relationship between past or present spouses, past or present unmarried couples, past or present household members, or parents of the same child, regardless of whether they have been married or have lived together.

Overpayments. In determining whether requiring a claimant to repay an overpaid amount is inequitable, the following factors, which are not exclusive, and any other relevant factors shall be considered: the claimant was at fault in causing the overpayment through his or her negligence, carelessness, or acceptance of a payment that the individual either knew, should have known, or reasonably could have been expected to know was incorrect.

Connecticut

Extensions and special programs. The following changes were made to the shared-work plan program provisions:

- The definition of “contributing employer” meaning an employer who is assigned a percentage rate of contributions under the provisions of Section 31-225a of the General Statutes of Connecticut is removed.
- The definition of “full-time employment” meaning services required of the employee of not less than 35 nor more than 40 hours per week is removed.
- The phrase “normal weekly hours of work” is redefined to mean the usual hours of work for full-time or part-time employees in the affected unit when that unit is operating on its regular basis, not to exceed 40 hours and not including hours of overtime work. (Previously, the phrase was defined as the lesser of 40 hours or the average obtained by dividing the total number of hours worked per week during the preceding 12-week period by the number 12.)
- The phrase “shared work benefit” is redefined to mean an unemployment compensation benefit that is payable by the administrator of the Connecticut Department of Labor to an individual in an affected unit because the individual works a reduced number of hours under an approved shared-work plan, as distinguished from the unemployment benefits otherwise payable under the unemployment compensation provisions of Chapter 567 of the General Statutes of Connecticut. (Previously, the phrase was defined as an unemployment compensation benefit that is payable by the administrator under Special Act 91-17 to an individual in an affected unit because the individual works a reduced number of hours under an approved shared-work plan.
- The phrase “shared-work plan” is redefined to mean a plan submitted by an employer, for approval by the administrator, under which the employer requests the payment of short-time compensation to workers in an affected unit of the employer in order to avert layoffs. “Shared-work plan” includes a short-time compensation plan. (Previously, the phrase was defined as a program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work.)
- The administrator may approve a shared-work plan based upon compliance with the following, among other conditions:

  - For shared-work plans effective prior to July 1, 2014, the plan reduces the normal weekly hours of work for participating employees in the affected unit by not less than 20 percent nor more than 40 percent. For shared-work plans effective on or after July 1, 2014, the plan reduces the normal weekly hours of work for participating employees in the affected unit by not less than 10 percent nor more than 60 percent.
  - The participating employer certifies that the implementation of a shared-work plan and the resulting reduction in work hours are in lieu of layoffs (previously, temporary layoffs) that would affect at least 10 percent of all employees in the affected unit and would otherwise result in an equivalent reduction in work hours.
  - The participating employer has filed all reports required to be submitted pursuant to Sections 31-250-8 to 31-250-12, inclusive, of the Regulations of Connecticut State Agencies and either (1) has paid all contributions due for all past and current contribution periods or (2) has made all payments in lieu of contributions due for all past and current payments in lieu of contributions periods as required under Sections 31-225 and 31-225a of the General Statutes of Connecticut. (Previously, number (2) was not a condition for approval of the plan.)
  - The participating employer certifies that participation in the shared-work plan and its implementation are consistent with the employer's obligations under applicable federal and state laws.
  - A shared-work plan applies to full-time and part-time (previously, to only full-time) permanent employees and is not implemented to subsidize seasonal employers during any off-season period. (Previously, the plan also applied to subsidized employers who traditionally used part-time employees.)
- Among other eligibility conditions, the following must be met for an employee to receive shared-work compensation:
  - For shared-work plans effective prior to July 1, 2014, the employee's normal weekly hours of work have been reduced by at least 20 percent, but not more than 40 percent, with a corresponding reduction in wages. For shared-work plans effective on or after July 1, 2014, the employee's normal weekly hours of work have been reduced by at least 10 percent, but not more than 60 percent, with a corresponding reduction in wages; and
  - Notwithstanding any other provisions of the regulations relating to availability for work and actively seeking work, the employee is available for the his or her normal hours of work with the participating employer, including hours spent participating in training to enhance job skills, such as employer-sponsored training or training funded under the federal Workforce Investment Act of 1998, where such hours are approved by the administrator.
- Effective prior to the week ending July 5, 2014, an individual who is eligible for shared-work benefits shall not be eligible to receive a dependency allowance. For certified weekly claims effective on or after the week ending July 5, 2014, an individual who is eligible for shared-work benefits shall be eligible to receive a dependency allowance.

- An employer's chargeability under a shared-work plan will be subject to the provisions of Section 31-225a of the General Statutes of Connecticut. Employers liable for payments in lieu of contributions in accordance with Section 31-225 of the statutes shall have shared-work benefits attributed to service in their employ in the same manner as unemployment compensation is attributed.

Florida

Administration. Initial and continued claims for benefits must be made by approved electronic or alternative means and in accordance with rules adopted by the Department of Economic Opportunity. The department shall provide alternative means, such as telephone access, for filing initial and continued claims if it determines that access to the approved electronic means is or will be unavailable. The department also must provide public notice of such unavailability.

The definition of "initial skills review" as an online education or training program that is approved by the Department of Economic Opportunity and is designed to measure an individual's mastery of workplace skills is deleted. All language referring to the term "initial skills review" in the state unemployment compensation law is also deleted.

The department must offer an online assessment that serves to identify an individual's skills, abilities, and career aptitude. The skills assessment must be voluntary, and the department must allow a claimant to choose whether to take the assessment. The online assessment shall be made available to any person seeking services from a regional workforce board or a one-stop career center. The department, workforce board, or one-stop career center shall use the assessment to develop a plan for referring individuals to training and employment opportunities. Individuals shall be informed of, and offered services through, the one-stop delivery system. Services offered include career counseling, matching skills with job market information, upgrading skills, and other training opportunities. Individuals shall be encouraged to participate in such services at no cost.

Extensions and special programs. The short-time compensation program provisions are amended as follows:

- The term "employer-sponsored training" means a training component sponsored by an employer to improve the skills of the employer's workers.
- For approval of a short-time compensation plan, the plan must include a certified statement by the employer that the aggregate reduction in work hours is in lieu of layoffs (previously, temporary layoffs) that would affect at least 10 percent of the employees in the affected unit and that would have resulted in an equivalent reduction in work hours.
- The plan certifies that, if the employer provides fringe benefits to any employee whose workweek is reduced under the short-time compensation program, the fringe benefits will continue to be provided to that employee under the same terms and conditions as though the workweek of the employee had not been reduced or to the same extent as is provided to other employees not participating in the program. The term "fringe benefits" includes contributions under a defined contribution plan as defined in Section 414(i) of the Internal Revenue Code.
- The plan describes the manner in which the requirements of the program will be implemented, including a plan for giving notice, if feasible, to an employee whose workweek is to be reduced, together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation.

- The terms of the employer's written plan and its implementation are consistent with employer obligations under applicable federal laws and laws of this state.
- The department may not deny short-time compensation benefits to an individual who is otherwise eligible for these benefits for any week on the grounds that such individual is participating in employer-sponsored training or training under the federal Workforce Investment Act to improve his or her job skills, as long as such training is approved by the department.

Financing. To receive a reduced contribution rate, an employer is required to produce, for inspection and copying, all work records to the Department of Economic Opportunity or its tax collection service provider. Failure to produce the records within at least 60 days will result in the assignment of a standard rate.

Beginning January 1, 2015, the interest rate for unpaid contributions may not exceed 1.0 percent per month.

Nonmonetary eligibility. The requirement that, unless exempted or when special assistance or accommodation is required, the claimant must complete the initial skills review prior to completing his or her first continued claim is removed.

The requirement that, to be eligible to receive benefits, an individual must participate in an initial skills review, as directed by the department, is deleted.

Georgia

Administration. The term "agency" does not include the state Department of Labor when the department is conducting hearings related to unemployment benefits or overpayments of unemployment benefits.

Appeals. Any decision of the state Board of Review shall become final 15 days from the date the decision is mailed to the parties.

At its discretion and on its own motion, the Board of Review may reconsider its decision at any time within 15 days from the date the decision is mailed to the parties. (Previously, within 15 days of the release of the final decision of the board.)

A petition for judicial review against the commissioner of the Department of Labor, which need not be verified but which shall state specifically the grounds upon which a review is sought, shall be served upon the commissioner or upon his or her designee within 30 days from the date of filing. Such service upon the commissioner shall be made by certified mail or statutory overnight delivery, return receipt requested; by hand delivery; or in a manner prescribed by the law of the state for service of process to the Georgia Department of Labor, Unemployment Insurance Legal Section, Suite 826, 148 Andrew Young International Boulevard, N.E., Atlanta, GA 30303-1751. Such service shall be deemed completed service on all parties, but as many copies of the petition as there are respondents shall be so served upon the commissioner or his or her designee.

Extensions and special programs. In addition to, and subsequent to, payment of the maximum benefits payable and otherwise allowed in a benefit year, whenever the average rate of total unemployment in the state, seasonally adjusted, as determined by the U.S. secretary of labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of such week equals or exceeds 11 percent, weekly unemployment compensation shall be payable to any individual who is unemployed, has exhausted all of his or her rights to regular unemployment compensation, and is enrolled and making satisfactory progress, as determined by

the commissioner, in a training program approved by the department or in a job training program authorized under the Workforce Investment Act of 1998, Public Law 105-220, provided that such individual is not receiving similar stipends or other training allowances for nontraining costs. Each such training program shall prepare individuals who have been separated from a declining occupation, as designated by the department from time to time, or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation, as designated by the department from time to time. The amount of unemployment compensation payable to an individual for a week of unemployment shall be equal to the individual's weekly benefit amount for the individual's most recent benefit year, less deductible earnings if any. The total amount of unemployment compensation payable to any individual shall be equal to 14 times the individual's weekly benefit amount for the individual's most recent benefit year if the average unemployment rate in the state is at or below 6.5 percent, with an additional weekly amount added for each 0.5-percent increment in the state's average unemployment rate above 6.5 percent, up to a maximum of 20 times the weekly benefit amount if the average unemployment rate in the state equals or exceeds 9 percent. The provisions of subsection (d) of Georgia Code Section 34-8-195 shall apply to eligibility for benefits. Except when the result would be inconsistent with other provisions, all other provisions of the unemployment compensation law shall apply to the administration of these provisions.

Financing. The amounts collected from the 15-percent penalty assessed on fraudulent overpayments shall be deposited into the state unemployment compensation fund and shall be used exclusively for the purposes of the unemployment compensation law as required by federal law.

An employer is required to respond in a timely and adequate manner to a notice of a filing of a claim or to a written request by the department for information relating to a claim for benefits. Any violation of this requirement by an employer or by an officer or agent of an employer, absent good cause, may result in the employer's account being charged for overpayment of benefits paid due to such violation, even if the determination is later reversed; upon the finding of three violations within a calendar year resulting in an overpayment of benefits, an employer's account shall be charged for any additional overpayment and shall not be relieved of such charges unless good cause is shown.

Nonmonetary eligibility. Benefits based on service in employment as defined in subsections (h) and (i) of Georgia Code Section 34-8-35 shall be payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other services, except for benefits based on service in educational institutions.

The term "educational institution" means any voluntary prekindergarten program, elementary or secondary school, postsecondary institution, or other provider of educational services, irrespective of whether such program, school, institution, or other provider is public or private, or nonprofit or operated for profit, provided that it

(i) is approved, licensed, or issued a permit, grant, or other authority to operate as a program, school, institution, or other provider of educational services by a federal, state, or local government or any of the instrumentalities, divisions, or agencies thereof with the authority to do so; and

(ii) offers, by or under the guidance of teachers or instructors, an organized course of study or training in a facility or through distance learning that is academic, technical, trade related, or preparation for gainful employment in a recognized occupation.

The commissioner is authorized to establish, by rules or regulations, such exceptions or exemptions from the term “educational institution” as are deemed appropriate, consistent with any federal program requirements.

The term “educational service contractor” means any public or private employer or other person or entity holding a contractual relationship with any educational institution or other person or entity to provide services to, for, with, or on behalf of any educational institution.

The term “educational service worker” means any person who performs services to, for, with, or on behalf of any educational institution, regardless of whether such person is engaged to perform such services by the educational institution or through an educational service contractor.

With respect to services performed by an educational service worker in an instructional, research, or principal administrative capacity to, for, with, or on behalf of any educational institution, including any operated by the U.S. government or any of its instrumentalities, divisions, or agencies, benefits shall not be paid during periods of unemployment if services in such educational service worker capacity were performed in the previous year, term, or vacation period and there is a contract or a reasonable assurance of returning to work for any such educational institution or any educational service contractor immediately following the period of unemployment. Such periods of unemployment include those occurring

(a) between two successive academic terms or years;

(b) during an established and customary vacation period or holiday recess;

(c) during the period covered by an agreement that provides instead for a similar period between two regular, but not successive, terms; or

(d) during a period of paid sabbatical leave provided for in the individual’s contract.

With respect to services performed by an educational service worker in any other capacity to, for, with, or on behalf of any educational institution, including those operated by the U.S. government or any of its instrumentalities, divisions, or agencies, benefits shall not be paid during periods of unemployment if services in such educational service worker capacity were performed in the previous year, term, or vacation period and there is a reasonable assurance of returning to work for any such educational institution or any educational service contractor immediately following the period of unemployment. If, however, compensation is denied to an individual pursuant to this paragraph, and such individual is not offered an opportunity to perform services for any educational institution or to provide services to, for, with, or on behalf of any educational institution for any educational service contractor following the period of unemployment, such individual shall be entitled to retroactive payment for each

week during that period of unemployment in which a timely claim was filed and benefits were denied solely by reason of this paragraph. Such periods of unemployment include those occurring

(a) between two successive academic years or terms; or

(b) during an established and customary vacation period or holiday recess.

Benefits shall not be paid as specified in the preceding paragraphs to any individual for any week of unemployment if the individual performs the services in an educational institution while in the employ of an educational service agency. For the purposes of this paragraph, the term “educational service agency” means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing such services to one or more educational institutions. (All the foregoing provisions relating to educational institutions become effective January 1, 2015.)

Overpayments. The commissioner may waive the repayment of an overpayment of benefits if he or she determines such repayment to be inequitable, except that, if any person receives benefits resulting in such overpayment because of false representations or willful failure to disclose a material fact by such person, then the payment’s being inequitable shall not be a consideration and the person shall be required to repay the entire overpayment plus all applicable penalty and interest amounts. Such penalty amounts shall not be waived. Interest accrued on the overpayment is subject to waiver if the commissioner determines such waiver to be in the best interest of the state. (Previously, the entire penalty itself was subject to waiver if the commissioner determined such waiver to be in the best interest of the state.)

A penalty of 15 percent shall be added to any overpayment caused by any person who knowingly makes a false statement or misrepresentation as to a material fact or who knowingly fails to disclose a material fact in order to obtain or increase benefits. The 15-percent penalty shall become part of the overpayment. (Previously, the penalty was permissive and was 10 percent.)

Illinois

Administration. With regard to an employer required to report monthly, in addition to each employee’s name, Social Security number, and wages for insured work paid during the period, the director of the Illinois Department of Employment Security may, by rule, require a report to provide the employee’s occupation, hours worked during the period, hourly wage if applicable, and work location if the employer has more than one physical location. Notwithstanding any other provision of any other law to the contrary, the information obtained shall not be disclosed to any other public official or agency of Illinois or any other state to the extent that it relates to a specifically identified individual or entity or to the extent that the identity of a specific individual or entity may be discerned from such information.

Coverage. The term “employment” does not include the services of individuals engaged in the delivery or distribution of newspapers or shopping news if at least one of the following four elements is present:

(1) The individual performing the services gains the profits and bears the losses of the services.

(2) The person or firm for whom the services are performed does not represent the individual as an employee to its customers.

(3) The individual hires his or her own helpers or employees, without the need for approval from the person or firm for whom the services are performed, and pays them without reimbursement from that person or firm.

(4) Once the individual leaves the premises of the person or firm for whom the services are performed or the printing plant, the individual operates free from the direction and control of the person or firm, except as is necessary for the person or firm to ensure quality control of the newspapers or shopping news, including, but not limited to, the condition of the newspapers or shopping news upon delivery and the location and timing of delivery of the newspapers or shopping news.

Notwithstanding the exemption from employment just described, the term “employment” does not include the delivery or distribution of newspapers or shopping news to the ultimate consumer if certain conditions established in the law are met.

The exemptions from coverage just described shall not apply in the case of any individual who provides delivery or distribution services for a newspaper pursuant to the terms of a collective-bargaining agreement and shall not be construed to alter or amend the application or interpretation of any existing collective-bargaining agreement. Further, the employment exemptions shall not be construed as evidence of the existence or nonexistence of an employment relationship under any other sections of the law or other existing laws and shall not apply to services that are required to be covered as a condition of approval by the U.S. secretary of labor under Section 3304(a)(6)(A) of FUTA.

Extensions and special programs. The framework is provided for a short-time compensation program, to be established by the director through the rulemaking process.

Following are a number of definitions adopted into the law:

- “Affected unit” means a specified plant, department, shift, or other definable unit that includes two or more workers to which an approved short-time compensation plan applies.
- “Health and retirement benefits” means employer-provided health benefits and retirement benefits under a defined benefit pension plan (as defined in Section 414(j) of the Internal Revenue Code), or contributions under a defined contribution plan (as defined in Section 414(i) of the Internal Revenue Code), that are incidents of employment in addition to the cash remuneration earned.
- “Short-time compensation” means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan, as distinguished from the unemployment benefits otherwise payable.
- “Short-time compensation plan” means a plan submitted by an employer, for approval by the director, under which the employer requests the payment of short-time compensation to workers in an affected unit of the employer in order to avert layoffs.
- “Usual weekly hours of work” means the usual hours of work for full-time or part-time employees in an affected unit when that unit is operating on its regular basis, not to exceed 40 hours and not including hours of overtime work.
- “Unemployment insurance” means the unemployment benefits payable other than short-time compensation and includes any amount payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

The program must require an employer to submit a plan for approval to participate; the plan must

- include the employer's unemployment insurance account number, the name of the affected unit covered by the plan, the number of full-time or part-time workers affected, the percentage of workers in the affected unit covered by the plan, the name and Social Security number of each individual in the affected unit, and any other information required by the director to identify plan participants.
- include a description of how workers in the affected unit will be notified of the employer's participation in the short-time compensation plan if their applications are approved.
- include the employer's certification that it has the approval of the plan from all collective-bargaining representatives of employees in the affected unit and that it has notified all employees in the affected unit who are not in a collective-bargaining unit of the plan.
- include the employer's certification that it will not hire additional part-time or full-time employees for, or transfer employees to, the affected unit while the program is in operation.
- identify the usual weekly hours of work for participating employees and the specific percentage (not less than 10 percent or more than 60 percent) by which the hours will be reduced during all weeks covered by the plan, as well as identify any week that there will be no work because of a holiday or a plant closing.
- include a certification by the employer that, if the employer provides health and retirement benefits to employees, those benefits will not be cut because the employee is participating in the plan.
- include a certification by the employer that participation in the plan is in lieu of layoffs, as well as an estimate of the number of workers who would have been laid off without the plan.
- include an agreement to (1) furnish reports to the director or other authorized representative, (2) allow access to all records necessary to approve, monitor, and evaluate the plan, and (3) follow any directives the director deems necessary to implement the plan.
- include certification that participation in, and implementation of, the plan are consistent with the employer's obligations under both federal and Illinois laws.
- include a specific date at which the plan becomes effective and a specific duration, not to exceed 12 months after the effective date, that the plan will last.
- include any other provision added by the director that the U.S. secretary of labor determines to be appropriate.

The director must approve or disapprove a short-time compensation plan within 45 days of receipt. In the event of disapproval, the reasons for disapproval must be included in the director's response. The employer may submit another plan beginning 30 days after the disapproval date.

The plan shall expire at the end of 12 calendar months after the effective date or on some other date agreed upon in the plan.

The plan may be terminated by the director or the employer, without consent of the other, as follows:

- The director must show good cause and provide an effective date of the termination.
- The employer must provide written notice of termination of the plan and an effective date of the termination.
- If the plan is terminated by the employer, the director must contact all the affected employees.

The employer may request modification of the plan, with specific modifications and reasons listed in writing; the director then has 30 days to approve or disapprove of the modified plan. Modifications may not be used to extend a plan beyond the 12-month limit.

An individual is eligible for short-time compensation if he or she is

- eligible for unemployment insurance;
- not otherwise disqualified for unemployment insurance;
- a member of the affected unit of an organization with an effective short-time compensation program; and
- available for his or her usual work hours with the employer (including hours of participation in training approved by the director).

Individuals are deemed unemployed if they are members of an affected unit with an active short-time compensation program and their remuneration for that week was reduced pursuant to the approved short-time compensation plan.

The short-time compensation weekly benefit amount shall be the product of the percentage of the reduction in the individual's usual weekly hours of work multiplied by the sum of the regular weekly benefit amount for a week of total unemployment plus any applicable dependent allowances. Any short-time compensation payments shall be deducted from an individual's maximum benefit amount established for that individual's benefit year.

An individual who receives short-time compensation shall not exceed the maximum benefit amount in any benefit year and shall not receive such compensation for longer than 52 weeks under a singular short-time compensation plan.

Following are some regulations pertaining to employees of an employer with a short-time compensation plan who are also employed by an employer without a short-time compensation plan:

- If the employee's combined hours of work in a week for both employers do not result in a reduction equal to or greater than 20 percent of the usual hours of work for the employer with the short-time compensation plan, then the employee is not entitled to benefits.
- If the employee's combined hours of work for both employers do result in a reduction equal to or greater than 20 percent of the usual weekly hours of work for the employer with the short-time compensation plan, then the short-time compensation benefit amount payable to the employee is reduced for that week. The reduction is determined by multiplying the percentage by which the combination hours of work have been reduced by the sum of the weekly benefit amount for a week of total unemployment plus any dependent allowances. This benefit payment must be reported as a week of short-time compensation.
- If an employee worked the reduced hours for the employer with the short-time compensation plan and did not work any hours for the other employer, then the employee is eligible for short-time compensation for that week.
- If an employee is not provided any work in a week by the employer with the short-time compensation plan or any other employer and is otherwise eligible for short-time compensation, then the employee is eligible for the amount of regular unemployment insurance.

- If an employee is not provided any work from the employer with the short-time compensation plan, but works for another employer and is otherwise eligible, then the employee may be paid unemployment insurance subject to income disqualifications.

Employers must be charged for short-time compensation in the same manner as regular unemployment insurance compensation is charged under the state law.

No short-time compensation plan shall be approved for any employer that is delinquent in

- filing required reports.
- payment of contributions.
- payments in lieu of contributions.
- payments of interest.
- payment of penalties.

Overpayments for other benefits under the state unemployment law can be recovered from individuals receiving short-time compensation, and overpayments of short-time compensation can be recovered from individuals receiving other benefits under the state unemployment law.

Individuals who have exhausted all regular compensation and short-time compensation are eligible to receive extended benefits.

Financing. The balance of funds in the special administrative account that is in excess of $100,000 on the first day of each calendar quarter and not transferred to the state's account in the unemployment trust fund, minus the amount reasonably anticipated to be needed to make payments from the special administrative account, shall be transferred to the Title III Social Security and Employment Fund in the state treasury within 30 days of the first day of the calendar quarter. The transfer of such funds to the Title III Social Security and Employment Fund shall be on a more frequent basis than is currently the case.

Indiana

Administration. Unemployment benefits are paid from state funds and are not considered paid from any special insurance plan or by an employer. An application for unemployment benefits is not considered a claim against an employer, but is considered a request for unemployment benefits from the unemployment insurance benefit trust fund.

The commissioner of the Department of Workforce Development is responsible for the proper payment of unemployment benefits without regard to the level of interest or participation in any determination or appeal by an applicant or an employer.

An applicant's entitlement to unemployment benefits is determined on the basis of the information that is available, without regard to burden of proof. An agreement between an applicant and an employer is not binding on the commissioner in determining the applicant's entitlement to unemployment benefits.

There is no presumption of entitlement or nonentitlement to unemployment benefits. There is no equitable or common-law allowance for or denial of unemployment benefits.

Appeals. In the absence of appeal as provided in this section, any decision of the state unemployment insurance review board shall become final 30 days (previously, 15 days) after the date the decision is mailed to the interested parties. The review board shall mail, together with the decision, a notice informing the interested parties of their right to appeal the decision to the state court of appeals. The notice shall inform the parties that they have 30 days (previously, 15 days) from the date of mailing within which to file a notice of intent to appeal and that, to perfect the appeal, they must request the preparation of a transcript in accordance with the state unemployment insurance law.

Coverage. The definition of "employer" changes after December 31, 2014, to mean either of the following: (1) an employing unit that has incurred liability for wages payable to one or more individuals; (2) an employing unit that, in any calendar quarter during the current or preceding calendar year, paid for service in employment wages of $1 or more, except as provided in Sections 2(e), 2(h), and 2(i) of Chapter 7 of the state unemployment insurance law. (Up to December 31, 2014, "employer" means either of the following: (1) any employing unit which, for some portion of a day, but not necessarily simultaneously, in each of 20 different weeks, whether or not such weeks are or were consecutive within either the current or the preceding year, has or had in employment, and/or has incurred liability for wages payable to, one or more individuals (irrespective of whether the same individual or individuals are or were employed in each such day); (2) any employing unit that, in any calendar quarter in either the current or preceding calendar year, paid for service in employment wages of $1,500 or more, except as provided in Sections 2(e), 2(h), and 2(i) of Chapter 7 of the state unemployment insurance law.)

Financing. Money in the special employment and training services fund shall be continuously available for the prevention, detection, and recovery of delinquent contributions, penalties, and improper benefit payments, and shall not lapse at any time or be transferred to any other fund, except as otherwise provided.

Nonmonetary eligibility. The following drug test provisions are repealed: "Drug test" means a test that contains at least a five-drug panel that tests for amphetamines, cocaine, opiates (2,000 ng/ml), phencyclidine (PCP), or tetrahydrocannabinol (THC, the primary ingredient in marijuana). A drug test must be performed at a laboratory certified by the U.S. Department of Health and Human Services, with specimen collection performed by a collector certified by the U.S. Department of Transportation and the cost of the test paid by the employer.

The following drug test provisions are deleted: A drug test is not found to be positive unless (1) a second test (a) using gas chromatography mass spectrometry for the purpose of confirming or refuting the first screen test has been performed by a laboratory certified by the state Substance Abuse and Mental Health Services Administration (SAMHSA, as defined in Indiana Code (IC) 22-10-15-3) on the same sample used for the first screen test and renders a positive result, and (b) has been reviewed by a licensed physician and (i) the laboratory results described in clause (a), (ii) the individual's medical history, and (iii) other relevant biomedical information confirm a positive result of the drug tests or (2) the individual who has submitted to the drug test has no valid medical reason for testing positive for the substance found in the test.

Payments in lieu of a vacation awarded to an employee by an employing unit shall be considered as deductible income in and with respect to the week in which the vacation occurs (previously, the week in which same is actually paid).

Holiday pay shall be deemed to constitute deductible income with respect to the week in which the holiday occurs. (Previously, the law provided that holiday pay which is paid not later than the normal payday for the pay period in which the holiday occurred for which such payments are made, and holiday pay which is paid after the normal payday for the pay period in which the holiday occurred, shall be considered as deductible income in and with respect to the week in which the same is actually paid.)

Payment of vacation pay shall be deemed deductible income with respect to the week or weeks falling within such vacation period for which vacation payment is made. (Previously, the law provided that payment of vacation pay, if made prior to the vacation period or not later than the normal payday for the pay period in which the vacation was taken, shall be deemed deductible income with respect to the week or weeks falling within such vacation period for which vacation payment is made, and payment of vacation pay made subsequent to the normal payday for the pay period in which the vacation was taken shall be deemed deductible income with respect to the week in which such payment is made.)

Notwithstanding any other provisions, if an individual knowingly (1) fails to disclose amounts earned during any week in the individual's waiting period, benefit period, or extended benefit period or (2) fails to disclose or has falsified any fact that would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits, then the individual forfeits any wage credits earned or any benefits or extended benefits that might otherwise be payable to him or her for any week (previously, for the period) in which the failure to disclose the fact in question or the falsification of that fact caused benefits to be paid improperly (previously, in which the failure to disclose or falsification occurs).

Regarding an individual's most recent separation from employment before filing an initial or additional claim for benefits, an individual who voluntarily left the employment without good cause in connection with the work or who was discharged from the employment for just cause is ineligible for waiting-period or benefit rights for the week in which the disqualifying separation occurred and until (1) the individual has earned remuneration in employment for at least 8 weeks and (2) the remuneration earned equals or exceeds the product of the weekly benefit amount multiplied by 8. (Previously, the law provided that, with respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left his or her most recent employment without good cause in connection with the work or who was discharged from the most recent employment for just cause is ineligible for waiting-period or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of 8 weeks.)

The following language concerning misconduct is deleted: "An employer (1) has the burden of proving by a preponderance of the evidence that a discharged employee's conduct was gross misconduct; and (2) may present evidence that the employer filled or maintained the position or job held by the discharged employee after the employee's discharge. Evidence that a discharged employee's conduct did not result in (1) a prosecution for an offense; or (2) a conviction of an offense may be presented."

A payment of private unemployment benefits that is conditional upon the signing of a release of employment-related claims against the claimant's employer is severance pay and is deductible income as prescribed by Indiana Code (IC) 22-4-5-2.

Iowa

Extensions and special programs. The voluntary shared-work program provisions (applicable to all voluntary shared-work plans approved by the Department of Workforce Development on or after July 1, 2014) are modified as follows:

- The plan certifies that the aggregate reduction in work hours is in lieu of layoffs (previously, temporary layoffs) that would have affected at least 10 percent of the employees in the affected unit or units to which the plan applies and that would have resulted in an equivalent reduction in work hours. The plan requires the employer to provide an estimate of the number of layoffs that would occur absent participation in the program.
- The following sentence is deleted: “Only full-time employees who normally work between 35 and 40 hours per week are eligible to participate.”
- The reduction in hours and corresponding reduction in wages must be applied equally to all employees (previously, to all of the full-time employees) in the affected unit.
- The plan provides that fringe benefits will continue to be provided to employees in affected units as though their workweeks had not been reduced or to the same extent as fringe benefits are provided to employees not participating in the program. “Fringe benefits” means employer-provided health benefits and retirement benefits under a defined benefit plan or a defined contribution plan pursuant to the Internal Revenue Code.
- The plan is approved in writing by the collective-bargaining representative for each employee organization or union that has members in the affected unit, and the plan provides for notification to employees in advance of participation.
- Participation by the employer shall be consistent with applicable federal and state laws.
- An employee shall be eligible for shared-work benefits for any week in which he or she performs paid work for the participating employer for a number of hours equal to not less than 20 percent and not more than 50 percent of the normal weekly hours of work for the employee. (Previously, the law provided that the employee shall be ineligible for shared-work benefits for any week in which he or she performs paid work for the participating employer in excess of the reduced hours established under the shared-work plan.)
- All benefits paid under a shared-work plan shall be charged in the manner provided for the charging of regular benefits. (Previously, provided that, notwithstanding any other provisions of law, all benefits paid under a shared-work plan that are chargeable to the participating employer or any other base-period employer of a participating employee shall be charged to the account of the participating employer under the plan.)
- A training program, as part of the plan, may include a training program funded under the federal Workforce Investment Act of 1998, Pub. L. No. 105-220.

Kansas

Administration. The secretary of the state Department of Labor is allowed to publish or otherwise disclose records and decisions relating to appeals, as well as precedential determinations on coverage of employers, employment, and wages, provided that all Social Security numbers have been removed.

The disclosure of any information obtained under the employment security law, including transcripts of hearings, for use as evidence in a criminal investigation, in open court in a criminal prosecution, or at an appeal hearing under the employment security law is allowed.

The disclosure of any information obtained under the employment security law, including transcripts of hearings, to an agent or a contractor of a public official to whom disclosure is permissible under the employment security law is allowed, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed and to the penalties imposed for violations of such duty of confidentiality.

Extensions and special programs. The shared-work unemployment compensation program is amended by providing that the secretary may approve, among other things, a shared work plan if

- the plan reduces the normal weekly hours of work for employees, including regular part-time employees, in the affected unit by not less than 20 percent and not more than 40 percent;
- the 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, if the employer provides health benefits and retirement benefits under a defined benefit plan, as defined in 26 U.S.C. Section 414(j), or contributions under a defined contribution plan, as defined in 26 U.S.C. Section 414(i), to any employee whose workweek is reduced under the program, then such benefits will continue to be provided to employees participating in the shared-work compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as is provided to employees not participating in the shared-work program;
- the employer certifies that the implementation of a shared-work plan and the resulting reduction in work hours is in lieu of layoffs (previously, temporary layoffs) that would affect at least 10 percent of the employees in the affected unit and that would result in an equivalent reduction in work hours;
- the plan provides that eligible employees may participate, as appropriate, in training, including, without limitation, employer-sponsored training or worker training funded under the federal Workforce Investment Act of 1998, to enhance the employees' job skills if such program has been approved by the state;
- the employer includes a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced, together with an estimate of the number of layoffs that would have occurred absent the ability to participate in shared-work compensation and such other information as the secretary of labor determines is appropriate; and
- the terms of the employer's written plan and its implementation are consistent with employer obligations under applicable federal and state laws.

The provision that a shared-work plan may not be implemented to subsidize employers who have traditionally used part-time employees is deleted.

The provision that the secretary may not pay an individual shared-work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared-work plan is deleted.

Financing. The additional penalty equal to 25 percent of the amount of benefits unlawfully received by an individual who knowingly made a false statement or representation or who knowingly failed to disclose a material fact to obtain or increase benefits shall be deposited into the state's employment security trust fund.

Louisiana

Appeals. An employer may apply for a review of any liability determination and any tax rate resulting from that determination within 30 days after the mailing of the notice to the employer. (Previously, an employer had to file for a review no later than 180 days following the date of issuance of such liability determination or tax rate, unless an administrative error resulted in an incorrect determination or tax rate.)

The following language is deleted: "The Administrator of the Louisiana Workforce Commission shall, not later than October 1 of each year, render a statement to each employer of benefits paid each individual and charged to his experience-rating record for the12-month period ending the previous June 30. However, the administrator shall, effective with the quarter ending September 30, 1954, and subsequent calendar quarters, render a statement to each employer of benefits paid each individual and charged to his experience-rating record."

The option of allowing employers to file applications to review notices of benefit charges, in the absence of mailing, within 25 days of the delivery of the notice is deleted.

No employer who was a party to a separation determination, reconsidered determination, or decision or who was issued a notice of chargeability shall have standing to contest the quarterly charge statement. (Previously, the law provided that, in any proceeding involving the chargeability of benefits to an employer's experience-rating record, no employer shall have standing to contest the chargeability to his or her record of any benefits paid in accordance with a determination, reconsidered determination, or decision of which the employer was given notice and an opportunity to be heard, or to contest the chargeability to his or her record of any benefits on the grounds of potential disqualification because of circumstances surrounding an employee's separation from employment if the employer was not entitled to notice of the determination, reconsidered determination, or decision under which such benefits were paid.)

If an employer who was not a party to a separation determination, reconsidered determination, or decision, or who was not issued a determination of chargeability, alleges in an application for review of the quarterly charge statement that benefits were not properly charged to his or her experience-rating record, then the administrator shall affirm, modify, or reverse such charges by issuing a determination of chargeability. (Previously, the law provided that, subject to certain limitations, if an employer's application for review alleges an error in the determination, reconsidered determination, or decision under which any benefits charged to the employer's experience-rating record were paid, then such determination, reconsidered determination, or decision shall be deemed and held to be of no force and effect as against such employer, notwithstanding anything to the contrary. The administrator shall affirm, modify, or reverse such determination, reconsidered determination, or decision, acting in accordance with certain procedures insofar as applicable. Notice of the administrator's action shall be given, and appeal therefrom may be taken, provided that, in any such proceedings, the employer shall be entitled to notice and shall otherwise have the same rights as a party entitled to notice thereunder. The administrator shall adjust the experience-rating record of an employer in accordance with any reconsidered determination or decision

modifying or reversing the determination, reconsidered determination, or decision alleged to be in error by the employer and shall affirm or modify any contribution rate based upon such experience-rating record.)

The following language is deleted: “Subject to certain limitations, if an employer alleges that certain benefits are not properly chargeable to his experience-rating record on grounds other than error in the determination, reconsidered determination, or decision under which the benefits were paid, the administrator shall give him an opportunity for a fair hearing, and on the basis of the Administrator’s findings and conclusion shall make such adjustments in the employer’s experience-rating record and contribution rate as may thereunder be required. The employer shall be promptly notified of the administrator’s action which shall become final unless within 20 days after the mailing of notice thereof to his last known address or in the absence of mailing within 15 days of delivery of such notice a petition for judicial review is filed in the district court of the employer’s domicile. In all proceedings, the findings of the administrator as to facts shall be presumed to be prima facie correct if supported by substantial and competent evidence. These proceedings shall be heard in summary manner and shall be given precedence over all other civil cases except in certain cases. An appeal may be taken from the decision of the district court in the same manner, but not inconsistent with the provisions of the law, as is provided for in other civil cases.”

The determination of an employer’s rate of contribution shall be conclusive and binding, unless the employer files an application for review and redetermination within 30 (previously, 20) days after the mailing of the notice of the determination. If such review is granted, the employer shall be promptly notified and granted an opportunity for a fair hearing. The employer shall be promptly notified of the administrator’s action from the hearing, which action shall become final unless a petition for judicial review is filed within 30 (previously, 20) days after the mailing of the notice.

The determination of chargeability of benefits to base-period employers shall be conclusive and binding upon any such employers unless an appeal (previously, an application for initial review) is filed within 30 (previously, 20) days after the date of mailing of any such determination. If the determination is appealed, then, upon being given the opportunity to be heard, the employer shall be promptly notified of the administrative law judge’s (previously, administrator’s) action, which shall be final unless the employer files a petition for judicial review within 30 (previously, 20) days of the date of mailing such action. In any court proceeding, the findings of the administrative law judge (previously, administrator) as to facts shall be presumed to be prima facie correct if supported by substantial and competent evidence. (Previously, the law provided that, upon initial review, the administrator shall affirm, modify, or reverse such determination of chargeability. The employer shall be promptly notified in writing of the administrator’s initial review, which shall become final unless, within 20 days after the date of mailing of the decision made in the review, the employer requests a hearing to appear before the administrator.)

No determination on the misclassification of employees as independent contractors shall be final or effective, and no resulting administrative penalty shall be assessed, unless the administrator first provides the employer with written notification by certified mail of the determination, including the amount of the proposed contributions, interest, and penalties determined to be due, and of the opportunity to request a fair hearing, of which a record shall be made within 30 (previously, 10) days of the mailing of such notice. If the employer does not request a hearing within the 30-day (previously, 10-day) period, the determination shall become final and effective, and the contributions, interest, and penalties due shall be assessed.

If an employer fails to make and file any report required or fails to pay any contributions, interest, penalty, or other payments due, or if a report made and filed does not correctly compute the liability of the employer, then the administrator shall cause an audit, investigation, or examination to be made to determine the liability, contributions, interest, and penalty due by the employer, or if no report has been filed, the administrator shall determine the liability, contributions, interest, and penalty by estimate or otherwise and send a notice to the employer setting out the determination of liability, contributions, interest, and penalty due and informing the employer of the administrator's intent to assess the amount of the determination against the employer after 30 (previously, 10) calendar days from the date of the notice. Unless the employer appeals (previously, protests) the determination within the 30-day (previously, 10-day) period, the assessment shall become final. At the expiration of the 30-day (previously, 10-day) period or at the expiration of such time as may be necessary for the administrator to consider any appeal (previously, protest) filed to such notice, the administrator may proceed to assess the contributions, interest, and penalty that he or she determines to be due under the law.

When an employer is dissatisfied with the final assessment, he or she may, within 30 (previously, 10) days of the date of the notice of assessment, file a petition for judicial review of the assessment.

If the administrator furnishes a written notice rejecting or revoking an application for registration because it is incomplete, lacks the required supplements, or is due to misrepresentation, the applicant may request a hearing before the administrator within 30 days of mailing (previously, receipt) of the written statement.

If the administrator furnishes a professional employer organization with a written notice of the right to an administrative hearing prior to revoking a registration or rejecting an application, the applicant may request a hearing before the administrator within 30 days of mailing (previously, receipt) of the written statement.

Extensions and special programs. The shared-work plan statutes are repealed.

Financing. Notwithstanding other provisions of the unemployment compensation law, no contributing employer's reserve account or reimbursable employer's account shall be relieved of any charges for benefits relating to an improper benefit payment to a claimant established after October 21, 2013, if the improper benefit payment was made because the employer or an agent of the employer was at fault for failing to respond adequately or in a timely manner to the request for information relating to a claim for benefits. Any determination shall be transmitted to the last known physical or electronic address provided by the employer and may be appealed. (This ruling is effective retroactively to October 21, 2013.)

In making determinations of claims, the administrator of the Office of Employment Security shall require that information necessary for the prompt determination of claims be sought from each employer. Employers shall provide wage, employment, and separation information adequately and in a timely manner and shall complete all forms and reports needed by the administrator or his or her designee to make a proper determination. (This ruling is effective retroactively to October 21, 2013.)

A response to requests for information relating to a claim for benefits shall be timely if it is received within the time specified in the notice (previously, within 10 days from the date of mailing). A response shall be adequate if it provides sufficient facts to enable the agency to make the correct determination. A response shall not be considered inadequate if the agency failed to ask for all necessary information. (This ruling is effective retroactively to October 21, 2013.)

If an employer fails to provide information in an adequate or timely manner without good cause, the employer shall be deemed to have abandoned its appeal rights and a determination to that effect shall be issued. Any appeal filed by such an employer, other than with regard to the timeliness or adequacy of fulfilling its obligations, shall be dismissed, and such employer shall be liable for any resulting benefits paid, except as otherwise provided. If the employer's failure to respond adequately or in a timely manner results in an improper benefit payment, the employer shall not be relieved of any charges for benefits. (This ruling is effective retroactively to October 21, 2013.)

Maine

*Extensions and special programs.*The work-sharing program provisions are amended as follows:

- The term "work-sharing plan" means a plan submitted to the commissioner of the state Department of Labor by an eligible employer under which there is a reduction in the number of hours worked by the eligible employees in the affected unit in lieu of layoffs (previously, temporary layoffs) of some of the employees.
- The commissioner shall approve a work-sharing plan if the terms of the employer's written work-sharing plan and implementation plan attest that they are consistent with employer obligations under applicable federal and state laws and, among other things, the following requirements are met:
    - The work-sharing plan certifies that the reduction in the usual weekly hours of work is in lieu of layoffs (previously, temporary layoffs) that would have affected at least 10 percent of the eligible employees in the affected unit or units and that would have resulted in an equivalent reduction in work hours;
    - The work-sharing plan specifies the manner in which the fringe benefits of the eligible employees will be affected. If the employer provides health benefits or retirement benefits under a defined benefit plan, the employer must continue to provide the benefits to employees participating in the work-sharing program as if the workweeks of these employees had not been reduced or to the same extent that the benefits are provided to other employees not participating in the work-sharing program;
    - The work-sharing plan specifies the manner in which the requirements will be implemented, including a plan for giving notice, when feasible, to an employee whose workweek is to be reduced, together with an estimate of the number of layoffs that would have occurred absent the ability of employees to participate in the work-sharing plan and such other information as the U.S. secretary of labor determines is appropriate; and
    - The eligible employer allows eligible employees to participate, as appropriate, in training, including employer-sponsored training or worker training funded under the federal Workforce Investment Act of 1998, to enhance job skills if such training has been approved by the commissioner.

Nonmonetary eligibility. Approved training is training approved by the deputy—that is, a representative from the Bureau of Unemployment Compensation who is designated by the commissioner. (Previously, the training had to be approved by the state Unemployment Insurance Commission). No otherwise eligible individual may be denied benefits for any week because that individual is in training approved by the deputy.

Maryland

Extensions and special programs. The work-sharing unemployment insurance program is modified as follows:

- The term “affected employee” means an individual to whom an approved work-sharing plan applies, who is hired on a full-time basis or as a permanent part-time worker, and who has been continuously on the payroll of an affected unit for at least 3 months immediately before the employing unit submits a work-sharing plan. (Previously, only the last condition applied.)
- The term “health and retirement benefits” means employer-provided health benefits and retirement benefits under a defined benefit pension plan as defined in Section 414(j) of the Internal Revenue Code, or contributions under a defined contribution plan as defined in Section 414(i) of the Internal Revenue Code, that are incidents of employment in addition to the cash remuneration earned.
- The term “intermittent employment” means employment that is not continuous, but may consist of periodic intervals of weekly work and intervals of no weekly work.
- The term “normal weekly work hours” means the usual hours of work for a full-time or regular part-time worker in the affected unit when that unit is operating on its regular basis, not to exceed 40 hours and not including overtime work. (Previously, “normal weekly work hours” was defined as the lesser of the number of hours in a week that an employee usually works for the regular employing unit or 40 hours.)
- The term “temporary employment” means employment in which an employee is expected to remain in a position for only a limited time or is hired by a temporary agency or other entity to fill a gap in the employer’s workforce.
- The term “work-sharing plan” means a plan of an employing unit or employer association under which normal weekly work hours of affected employees are reduced in order to avoid layoffs and affected employees share the work that remains after the reduction.
- The work-sharing unemployment insurance program is not intended to subsidize normal or expected fluctuations in economic activity that are an inherent part of an industry, an occupation, or an employer’s usual operation on a long-term basis.
- A decision by the secretary of the state Department of Labor, Licensing, and Regulation to disapprove a work-sharing plan shall identify the reasons for the disapproval.
- The language providing that the work-sharing plan shall apply to (i) at least 10 percent of the employees in the affected unit or (ii) at least 20 employees in an affected unit in which the plan applies equally to all affected employees is deleted. The requirement that the normal weekly work hours of affected employees in the affected unit shall be reduced by at least 10 percent but not more than 50 percent, unless waived by the secretary, is deleted. The language providing that the plan shall specify the effect that work sharing will have on the fringe benefits of each employee in the affected unit, including health insurance for hospital, medical, dental, and similar services, and retirement benefits under benefit pension plans as defined in Section 3(35) of the federal Employee Retirement Income Security Act of 1974, is deleted. The language providing that a work-sharing plan may not subsidize an employing unit that traditionally has used employees who work less than 30 hours a week is deleted.

- Except as otherwise provided, the secretary shall approve a work-sharing plan that will meet, among other things, the following requirements:
  - Identify each employee in the affected unit by name, Social Security number, normal weekly work hours, and any other information that the secretary requires;
  - Specify the requested starting date of the work-sharing plan that, unless waived by the secretary for good cause, shall begin on a Sunday no earlier than 7 days after the plan is submitted, and specify an expiration date that is not more than 6 months after the effective date of the plan;
  - Provide for a reduction in normal weekly work hours of affected employees in each affected unit. The reduction shall be (1) applied equally to all employees in the affected unit for all weeks of the plan, unless waived for good cause by the secretary, and (2) at least 20 percent, but not more than 50 percent, of the normal weekly work hours of each employee;
  - Identify any week during the term of the plan for which the employer regularly provides no work for its employees;
  - Include an estimate of the number of employees who would be laid off in the absence of the plan and of the aggregate normal weekly work hours for those employees. The latter must be equivalent to the aggregate hours reduced under the work-sharing plan;
  - Include a brief description of the circumstances requiring the use of work sharing to avoid layoffs;
  - Contain the employer's certification that
    - the total reduction in normal weekly work hours under the work-sharing plan is instead of temporary or permanent layoffs, or both, that would have affected at least one employee and that would have resulted in an equivalent reduction in work hours;
    - participation in the plan and in its implementation is consistent with the employer's obligations under applicable federal and state laws;
    - the employer will not hire new employees into, or transfer employees to, the affected unit while the plan is in effect;
    - the work-sharing plan will not serve as a subsidy for temporary or intermittent employment; and
    - health benefits and retirement benefits, if any, provided to any employee whose usual weekly work hours are reduced under the work-sharing plan will continue to be provided to each employee participating in the plan under the same terms and conditions as though the usual weekly work hours of the employee had not been reduced or to the same extent as other employees not participating in the program; and
  - Contain the written approval of the collective-bargaining agent for each collective-bargaining agreement that covers any affected employee in the affected unit and, for any affected employee not covered by a collective-bargaining agreement, describe how notice of the plan will be provided to employees who will be subject to the plan, or, if advance notice to employees subject to the plan is not feasible, provide a detailed explanation as to why such notice is not feasible.
- An employer is deemed to have satisfied its obligation to provide the certificate if the employer certifies that a reduction in health benefits and retirement benefits that is scheduled to occur while the plan is in effect applies to employees who are participating in work sharing in the same manner as it applies to employees who are not participating in work sharing.

- The work-sharing employer shall, among other things, agree to allow the department to have access to all records necessary to comply with any other requirement the secretary deems necessary that is consistent with both the state's unemployment insurance law and federal unemployment insurance law.
- The secretary may not approve a work-sharing plan that
  - is submitted by a new employer, as defined in Section 8-609 of the unemployment insurance law;
  - is submitted by an employer that has failed to file quarterly wage reports or other required reports or that has failed to pay all contributions, assessments, reimbursements in lieu of contributions, interest, and penalties due through the date of the employer's application; or
  - is inconsistent with the state's unemployment insurance law and the purpose of work sharing.
- An affected employee is eligible to receive work-sharing benefits for each week in which the secretary determines that the employee is able to work and is available for the employee's normal weekly work hours (previously, is available for more hours of work or full-time work) for the work-sharing employer.
- An affected employee is able and available to work for the work-sharing employer for all hours in which the employee participates in training, including employer-sponsored training or worker training funded under the federal Workforce Investment Act of 1998, to enhance the employee's job skills if the program has been approved by the secretary and the training has been authorized by the employer.
- To compute work-sharing benefits, the hours for which an affected employee receives paid leave (previously, receives holiday or vacation pay) shall be counted as hours worked if the affected employee performed some work during the workweek.
- If the affected employee was absent from work without the approval of the employer or if the affected employee used unpaid leave, then the affected employee will not be considered to have worked all the hours offered by the work-sharing employer in a workweek and the employee shall be denied work-sharing benefits for that week.
- An affected employee is eligible to receive not more than 52 (previously, 26) weeks of work-sharing benefits in each benefit year.
- During a week in which an individual performs work under an approved work-sharing plan and performs work for another employer, the individual's work-sharing benefit shall be computed in the same manner as if the individual worked solely for the work-sharing employer. (Previously, the law provided that, during a week in which an employee earns both wages under an approved work-sharing plan and other wages, the work-sharing benefit shall be reduced by the same percentage that the combined wages are of wages for normal weekly work hours if the other wages (i) exceed the wages earned under the approved work-sharing plan and (ii) do not exceed 90 percent of the wages the individual earns for normal weekly work hours.)
- An individual who is not provided any work by the work-sharing employer during a week in which a work-sharing plan is in effect, but who works for another employer and is otherwise eligible for unemployment benefits, may be paid regular benefits for that week, subject to the disqualifying income requirements and other provisions applicable to claims for regular compensation.
- An individual who is provided less than 50 percent of his or her normal weekly work hours with the work-sharing employer during a week in which a work-sharing plan is in effect and who is otherwise eligible for unemployment benefits may be paid regular benefits for that week, subject to the disqualifying income requirements and other provisions applicable to claims for regular compensation.
- The decision of the secretary to revoke approval of a work-sharing plan is final and is not subject to appeal.

- An affected employee who has received all of the work-sharing benefits or combined unemployment benefits and work-sharing benefits available in a benefit year shall be considered an exhaustee for purposes of extended benefits and, if otherwise eligible, shall be eligible to receive extended benefits.

Financing. The work-sharing unemployment insurance program is modified as follows:

- Except as provided in the next bulleted item, the secretary shall charge, pro rata against the earned rating record of each base-period employer, all regular benefits and the share of extended benefits in the same proportion as the wages paid by the base-period employer is to the total wages of the claimant during the base period, rounded to the nearest dollar.
- The secretary shall charge all regular and extended benefits paid to a claimant against the earned rating record of an employing unit that caused the claimant's unemployment during any period in which the unemployment is caused by a shutdown of the employing unit (1) in order to have employees take their vacations at the same time, (2) for inventory, (3) for retooling, or (4) for any other purpose that is primarily other than a lack of work and that causes unemployment for a definite period.
- The secretary may not charge the earned rating record of an employing unit that has employed a claimant on a continuous part-time basis and that continues to do so while the claimant is separated from other employment and is eligible for benefits because of that separation.

Massachusetts

Administration. An agency or instrumentality of the commonwealth shall neither enter into, renew, or extend a contract or agreement with any employer to provide goods, services, or physical space that has a maximum obligation or value greater than $5,000 to the agency or instrumentality nor authorize any tax credit in excess of $5,000, unless the employer has submitted a certificate of compliance issued by the state Department of Labor and Workforce Development showing that it is current in all its obligations relating to contributions, payments in lieu of contributions, and the employer medical assistance contribution.

The following language regarding "penalties for committing fraud or by misrepresentation" is added to the law: "The receipt of any notice of termination of employment or of any substantial alteration in the terms of employment within 6 months after an employee has provided evidence in connection with a claim for benefits, or has testified at any hearing conducted, shall create a rebuttable presumption that such notice or other action is a reprisal against the employee for providing evidence. Such presumption shall be rebutted only by clear and convincing evidence that such employer's action was not a reprisal against the employee, and that the employer had sufficient independent justification for taking such action, and would have in fact taken such action, in the same manner and at the same time the action was taken, regardless of the employee's providing evidence in connection with a claim for benefits. An employing unit found to have threatened, coerced, or taken reprisal against any employee shall rescind any adverse alteration in the terms of employment for such employee, and shall offer reinstatement to any terminated employee, and shall also be liable for damages and costs of the suit, including a reasonable attorney's fee."

The state Department of Unemployment Assistance shall investigate the feasibility of, and design, a pilot program to provide skills training internships with employers in the commonwealth for residents who are unemployed and are receiving unemployment insurance benefits.

The following language regarding “in-person assistance” is added to the law: “The Department shall conduct at least one public hearing each year to seek the input of employers in the Commonwealth. A notice of the time and location shall be posted at least 20 days prior to a public hearing on the Department’s web site and sent electronically or otherwise to: members of the general court, every employer with an account with the Department, the Massachusetts Chamber of Commerce, Inc., the Greater Boston Chamber of Commerce, the Massachusetts Taxpayers Association, Associated Industries of Massachusetts, Inc., and the National Federation of Independent Business.”

Coverage. Services performed as an election official or election worker are excluded from “governmental coverage” if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000.

If the entire organization, trade, or business of an employer, or substantially all the assets thereof, are transferred to another employer or employing unit and the transferee continues such organization, trade, or business, the transferee shall be considered a successor of the employer.

Extensions and special programs. The previous work-sharing program provisions are eliminated, and the following work-sharing program provisions are added:

- The term “affected unit” means a specified plant, department, shift, or other definable unit that includes two or more workers (previously, a unit consisting of not less than two employees) to which an approved work-sharing plan applies.
- The term “director” means the director of the department or the director’s authorized representative.
- The phrase “health and retirement benefits” means health benefits, and retirement benefits provided by an employer under a defined benefit pension plan as defined in 26 U.S.C. Section 414(j), or contributions under a defined contribution plan as defined in Section 26 U.S.C. 414(i), that are incidents of employment in addition to the cash remuneration earned.
- The term “unemployment compensation” means the unemployment benefits payable, other than work-sharing benefits, including any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.
- The phrase “usual weekly hours of work” means the usual hours of work, not to exceed 40 hours and not including hours of overtime work, for full-time or regular part-time employees in an affected unit when that unit is operating on its regular basis. (Previously, the phrase was “normal weekly hours of work,” which meant the normal number of hours each week, not to exceed 40 hours and not including overtime, for an employee in an affected unit when that unit is operating on a full-time basis.)
- The term “work-sharing benefits” means the unemployment benefits payable to employees in an affected unit under an approved work-sharing plan, as distinguished from the unemployment benefits otherwise payable under the unemployment compensation provisions. (Previously, “work-sharing benefits” meant the benefits payable to employees in an approved work-sharing plan.)
- The term “work-sharing plan” means a plan submitted by an employer, for approval by the director, under which the employer requests the payment of work-sharing benefits to workers in an affected unit of the employer in order to avert layoffs.
- The phrase “work-sharing employer,” defined as an employer with an approved work-sharing plan in effect, is deleted.

- An employer may participate in a work-sharing program by submitting a signed written work-sharing plan and application form (developed by the director) to the director for approval. An employer with a negative account reserve percentage as of the most recent computation shall not be eligible to participate. Any application, whether for initial approval, for approval following one or more disapprovals, for modification, or for participation in another work-sharing plan after the expiration or termination of an approved plan, shall include

  (1) the name(s) of the affected unit(s) covered by the plan, the number of full-time or part-time workers in the unit(s), the percentage of workers in the affected unit(s) covered by the plan, the names and Social Security numbers of all of the employees in the affected unit(s), the employer's unemployment tax account number, and any other information required by the director to identify the plan's participants;

  (2) a description of how workers in the affected unit will be notified of the employer's participation in the work-sharing program if the application is approved and how the employer will notify both those of its workers who are in a collective-bargaining unit and those of its workers who are not in a collective-bargaining unit. If the employer will not provide advance notice to workers in the affected unit, the employer shall explain in a statement in the application why it is not feasible to provide such notice;

  (3) a requirement that the employer identify the usual weekly hours of work for employees in the affected unit and the specific percentage by which their hours will be reduced during all weeks covered by the plan. An application shall specify the percentage of reduction for which a work-sharing application may be approved, which shall be not less than 10 percent and not more than 60 percent. If the plan includes any week for which the employer regularly provides no work because of a holiday or other plant closing, then such week shall be identified in the application;

  (4) certification by the employer that, if the employer provides health and retirement benefits to any employee whose usual weekly hours of work are reduced under the program, such benefits will continue to be provided to employees participating in the work-sharing program under the same terms and conditions as though the usual weekly hours of work of such employee had not been reduced or to the same extent as other employees not participating in the work-sharing program. For defined benefit retirement plans, the hours that are reduced under the work-sharing plan shall be credited for purposes of participation, vesting, and accrual of benefits as though the usual weekly hours of work had not been reduced. The dollar amount of employer contributions to a defined contribution plan that are based on a percentage of compensation may be less because of the reduction in the employee's compensation. Notwithstanding the preceding, an application may contain the required certification when a reduction in health and retirement benefits scheduled to occur during the duration of the plan will be applicable equally to employees who are not participating, as well as employees who are participating, in the work-sharing program;

  (5) certification by the employer that the aggregate reduction in work hours is in lieu of temporary or permanent layoffs or both. The application shall include an estimate of the number of workers who would have been laid off in the absence of the work-sharing plan. The plan shall not serve as a subsidy of seasonal employment during the off-season, nor as a subsidy of temporary part-time or intermittent employment;

(6) an agreement by the employer to (i) furnish to the director reports relating to the proper conduct of the plan; (ii) allow the director or the director's authorized representatives access to all records necessary to approve or disapprove the application for the plan and, after approval of a plan, to monitor and evaluate the plan; and (iii) follow any other directives that the director deems necessary for the agency to implement the plan and that are consistent with the requirements for applications for plans;

(7) certification by the employer that participation in the work-sharing plan and its implementation are consistent with the employer's obligations under applicable federal and state laws;

(8) the effective date and duration of the plan, which shall expire not later than the end of the 12th full calendar month after the effective date;

(9) the written approval by the collective-bargaining agent, for each collective-bargaining agreement, for each affected unit included in the plan; and

(10) any other provision added to the application by the director that the U.S. secretary of labor determines to be appropriate for purposes of a work-sharing program.

- The director shall approve or disapprove a work-sharing plan in writing within 15 days of its receipt and promptly communicate the decision to the employer. A disapproval shall be final, but the employer may submit another work-sharing plan for approval not earlier than 7 days from the date of the disapproval.
- A work-sharing plan shall be effective on the date that is mutually agreed upon by the employer and the director. The date shall be specified in the notice of approval to the employer. The plan shall expire on the date specified in the notice of approval, which shall be either the date at the end of the 12th full calendar month after its effective date or an earlier date mutually agreed upon by the employer and the director, provided, however, that if a work-sharing plan is revoked by the director, the plan shall terminate on the date specified in the director's written order of revocation. An employer may terminate a work-sharing plan at any time upon written notice to the director. Upon receipt of such notice from the employer, the director shall promptly notify each employee of the affected unit of the termination date. An employer may submit a new application to participate in another work-sharing plan at any time after the expiration or termination date.
- The director may revoke approval of a work-sharing plan for good cause at any time, including upon the request of any of the affected unit's employees. The revocation order shall be in writing and shall specify the reasons for the revocation and the date the revocation is effective.
- The director may periodically review the operation of each employer's work-sharing plan to ensure that no good cause exists for revocation of the approval of the plan. Good cause shall include, but not be limited to, failure to comply with the assurances given in the plan, unreasonable revision of productivity standards for the affected unit, conduct or occurrences tending to defeat the intent and effective operation of the work-sharing plan, and violation of any criteria on which approval of the plan was based.

- An employer may request a modification of an approved work-sharing plan by filing a written request identifying the specific provisions proposed to be modified and providing an explanation of why the proposed modification is appropriate for the plan. The director shall approve or disapprove the proposed modification in writing within 15 days of receipt and promptly communicate the decision to the employer. The director may approve a request for modification of the plan on the basis of conditions that have changed since the plan was approved, provided that the modification is consistent with and supports the purposes for which the plan was initially approved. A modification shall not extend the expiration date of the original plan, and the director shall promptly notify the employer of whether the modification has been approved and, if approved, the effective date of the modification. No employer shall be required to request approval of a plan modification from the director if the change is not substantial, but the employer shall report every change to the plan to the director promptly and in writing. The director may terminate an employer's plan if the employer fails to meet this reporting requirement. If the director determines that the reported change is substantial, he or she shall require the employer to request a modification to the plan.

- An individual may receive work-sharing benefits for any week, provided that the individual is monetarily eligible for unemployment compensation, that the individual is not otherwise disqualified for unemployment compensation, and that,

  (1) during the week, the individual is employed as a member of an affected unit under an approved work-sharing plan that was approved prior to that week and the plan is in effect during the week for which work-sharing benefits are claimed;

  (2) notwithstanding any provision related to the individual's availability for work and actively seeking work, the individual is available for his or her usual hours of work with the work-sharing employer, including hours spent participating in training to enhance job skills that is approved by the director, such as employer-sponsored training or training funded under the federal Workforce Investment Act of 1998, Public Law 105-220; and

  (3) notwithstanding any general or special law to the contrary, the individual, covered by a work-sharing plan, shall be considered unemployed in any week during the duration of such plan if his or her remuneration as an employee in an affected unit is reduced on the basis of a reduction in the individual's usual weekly hours of work under an approved work-sharing plan.

- Eligibility provisions for work-sharing benefits include the following:

  (1) The work-sharing weekly benefit amount shall be the product of the regular weekly unemployment compensation amount for a week of total unemployment multiplied by the percentage of reduction in the individual's usual weekly hours of work.

  (2) An individual may be eligible for work-sharing benefits or unemployment compensation, as appropriate, except that no individual shall be eligible for combined benefits in any benefit year in an amount more than the maximum entitlement established for regular unemployment compensation nor shall an individual be paid work-sharing benefits for more than 52 weeks under a work-sharing plan.

  (3) The work-sharing benefits paid to an individual shall be deducted from the maximum entitlement amount of regular unemployment compensation established for that individual's benefit year.

  (4) Provisions applicable to unemployment compensation claimants shall apply to work-sharing claimants to the extent that they are not inconsistent with work-sharing provisions. An individual who files an initial claim for work-sharing benefits shall receive a monetary determination.

  (5) The following shall apply to individuals who work for both a work-sharing employer and another employer during weeks covered by the approved work-sharing plan:

    (i) If the combined hours of work in a week for both employers do not result in a reduction of at least 10 percent of the usual weekly hours of work with the work-sharing employer or, if higher, the minimum percentage of reduction required to be eligible for a work-sharing benefit, then the individual shall not be entitled to benefits.

(ii) If the combined hours of work for both employers results in a reduction equal to or greater than 10 percent of the usual weekly hours of work for the work-sharing employer or, if higher, the minimum percentage reduction required to be eligible for a work-sharing benefit, then the work-sharing benefit amount payable to the individual shall be reduced for that week and shall be determined by multiplying the weekly unemployment benefit amount for a week of total unemployment by the percentage by which the combined hours of work have been reduced by 10 percent or, if higher, the minimum percentage reduction required to be eligible for a work-sharing benefit, or more of the individual's usual weekly hours of work. A week for which benefits are paid under this clause shall be reported as a week of work sharing.

(iii) If an individual worked the reduced percentage of the usual weekly hours of work for the work-sharing employer and is available for all of the individual's usual hours of work with the work-sharing employer, and the individual did not work any hours for the other employer, either because of the lack of work with that employer or because the individual is excused from work with the other employer, then the individual shall be eligible for work-sharing benefits for that week. The benefit amount for such week shall be calculated as provided in subsection (i).

(6) An individual who is not provided any work during a week by the work-sharing employer or any other employer and who is otherwise eligible for unemployment compensation shall be eligible for the amount of regular unemployment compensation to which the individual would otherwise be eligible.

(7) An individual who is not provided any work by the work-sharing employer during a week, but who works for another employer and is otherwise eligible for unemployment compensation, may be paid unemployment compensation for that week, subject to the disqualifying income and other provisions applicable to claims for regular compensation.

- Work-sharing benefits shall be charged to employers' experience rating accounts in the same manner as unemployment compensation is charged. Employers liable for payments in lieu of contributions shall have work-sharing benefits attributed to service in their employ in the same manner as unemployment compensation is attributed.
- An individual who has received all of the work-sharing benefits, or all of the combined unemployment compensation and work-sharing benefits, that are available in a benefit year shall be considered an exhaustee for purposes of extended benefits and, if otherwise eligible, shall be eligible to receive extended benefits.
- The director may utilize any remedies provided to recover work-sharing benefits that were improperly paid as a result of information that was substantially misleading or that contained a material misrepresentation of fact and was submitted to the director in connection with the approval, modification, or implementation of a work-sharing plan.

Financing. For calendar year 2014, column E of the experience rate table will be used to assign unemployment insurance contribution rates. Under column E, the fund balance must be 0.8 or more, but less than 1.1 percent, of taxable payrolls. For employers with a negative balance, the minimum rate is 7.24 percent and the maximum rate is 12.27 percent. For employers with a positive balance, the minimum rate is 1.26 percent and the maximum rate is 6.14 percent.

The phrase “unemployment compensation debt” shall have the same meaning as “covered unemployment compensation debt” in 26 U.S.C. Section 6402(f)(4).

In relation to an employer’s account, the definition of “reserve percentage” is modified to mean the net balance of such account on a computation date, stated as a percentage of the average of the employer’s total taxable payroll for the 3 years prior to (previously, stated as a percentage of the employer’s total taxable payroll for the 12 consecutive months ending on) the computation date, except that if an employer has no taxable wages but has a balance, such employer’s reserve percentage shall be deemed to be zero positive if the account balance is positive or 14 percent negative if the account balance is negative. The reserve percentage of an employer that has no taxable wages and has a zero account balance shall be deemed to be zero positive. In relation to the solvency account, “reserve percentage” shall mean the annual balance of the account on a computation date, stated as a percentage and rounded up to four decimal places, of the average of the total taxable payrolls reported by all employers whose experience rate is determined for the 3 years preceding (previously, of the total taxable payrolls reported by all employers whose experience rate is determined for the period of 12 consecutive months ending on) the computation date. In relation to the unemployment compensation fund, “reserve percentage” shall mean the balance of the fund, excluding the accounts established on a computation date, stated as a percentage of the average of the total payrolls reported by all employers liable for contributions for the 3 years (previously, of the total payrolls reported by all employers liable for contributions for the calendar year) immediately preceding the computation date. (Effective for unemployment insurance rates calculated for the calendar year beginning January 1, 2018.)

The taxable wage base increases from $14,000 to $15,000, effective on or after January 1, 2015.

The commissioner of the Department of Labor and Workforce Development shall determine each employer’s total taxable wages for the 3-year period (previously, 12 months’ period) immediately preceding the applicable computation date for the purpose of determining the employer’s experience rate for the next succeeding calendar year. (Effective for unemployment insurance rates calculated for the calendar year beginning January 1, 2018.)

For the purpose of determining the “reserve percentage” in the solvency account, the commissioner shall determine the total taxable wages of all employers in the commonwealth whose experience rate is determined for the 3-year period (previously, during the calendar year) previous to the applicable computation date and shall prescribe the procedure and methods by which such total taxable wages shall be determined. (Effective for unemployment insurance rates calculated for the calendar year beginning January 1, 2018.)

A revised experience rate table with seven schedules (A–G) is provided effective January 1, 2015. The range of rates for the most and least favorable schedules is as follows:

- Employers with a positive percentage:
  - Most favorable: 0.56 percent to 3.14 percent
  - Least favorable: 1.21 percent to 6.77 percent
- Employers with a negative percentage:
  - Most favorable: 4.22 percent to 8.62 percent
  - Least favorable: 9.08 percent to 18.55 percent

Schedule C is in effect for calendar year 2015, and the rates range from 0.73 percent to 4.06 percent for employers with a positive percentage and from 5.45 percent to 11.13 percent for employers with a negative percentage.

New employers shall pay contributions at the rate that appears on the line with an employer account reserve percentage of 10.05 (previously, of 10.05, but less than 11.0). The new employer rate is 1.87 percent (effective January 1, 2015).

For calendar years 2015, 2016, and 2017, any employer's experience rate that is less than 5.4 percent shall be the rate which appears in Schedule C of the experience rate table. Rates less than 5.4 percent in Schedule C range from 0.73 percent to 4.06 percent (effective January 1, 2015).

The Department of Unemployment Assistance shall notify all employers of their experience rate not later than January 31 of each calendar year.

Any nonprofit organization terminating its election to become a nonprofit organization shall pay contributions from the effective date of such election at the rate that appears on the line with an employer account reserve percentage of 0.00 (previously, of 0.0, but less than 0.5) positive or 5.4 percent, whichever is less, until it has been an employer for 12 consecutive months. (Effective on January 1, 2015.)

The workforce training contribution rate decreases from 0.075 percent to 0.056 percent of the taxable wage base. Consistent with federal law, the rate of the contribution shall be adjusted so that the total amount of contributions in a year substantially equals $22,000,000 (previously, $18,000,000) (effective January 1, 2015).

If, upon review, an assessment or administrative decision has become final and the contributions, payments in lieu of contributions, or interest or penalties assessed remain unpaid, the unpaid and overdue amount may be referred to the secretary of the U.S. Department of the Treasury for collection pursuant to the federal Treasury Offset Program (TOP), provided that all procedures for notice and opportunity to present evidence as required by federal regulation have been followed.

The money credited to the commonwealth's account in the Unemployment Trust Fund may be withdrawn for payment of fees authorized under the federal TOP and paid to the Financial Management Service, a bureau of the U.S. Department of the Treasury.

Nonmonetary eligibility. The definition of "seasonal employer" is modified to mean an employer that, because of climatic conditions or the nature of the product or service, customarily operates all of its business or a functionally distinct occupation within its business only during one or more regularly recurring periods of less than 20 (previously, less than 16) weeks for all seasonal periods during a calendar year. Also, the employer must voluntarily submit a written application to the commissioner of the state Department of Labor and Workforce Development. The application shall be submitted at least 60 days prior to the beginning of the season.

The definition of "seasonal employee" is modified to mean an individual who has been employed by a seasonal employer in seasonal employment during one or more regularly recurring periods of less than 20 (previously, less than 16) weeks in a calendar year for all seasonal periods, as determined by the commissioner.

If, after the date of its determination as a seasonal employer, such employer operates its business or its seasonal operation during one or more periods of 20 or more weeks (previously, 16 or more weeks) in a calendar year, the employer shall be redetermined to have lost its seasonal status with respect to that business or operation, effective at the end of the then current calendar quarter.

No waiting-week period shall be allowed, and no benefits shall be paid, to an individual for the next period of unemployment until the individual has had at least 8 weeks of work and (previously, in each of said weeks) has earned an amount equivalent to or in excess of 8 times the individual's weekly benefit amount (previously, earned an amount equivalent to or in excess of the individual's weekly benefit amount) after the individual has left work (1) voluntarily, (2) by discharge for deliberate misconduct, or (3) because of conviction of a felony or misdemeanor.

The following sentence is added to the provision regarding "benefits for partial unemployment": "Nothing in this subsection shall cause a full denial of benefits solely because an individual left a part-time job, which supplemented primary full-time employment, during the individual's base period prior to being deemed in partial unemployment."

Overpayments. "Fault," as used in the phrase "without fault," applies only to the fault of the overpaid claimant. Fault on the part of the Department of Labor and Workforce Development in making the overpayment does not relieve the overpaid claimant of liability for repayment. In determining whether an individual is at fault, the director of the Department of Labor and Workforce Development, or the director's authorized representative, will consider the nature and cause of the overpayment and the capacity of the particular claimant to recognize the error resulting in the overpayment, such as the claimant's age and intelligence, as well as any physical, mental, educational, or linguistic limitation, including lack of facility with the English language. A good-faith mistake of fact by the claimant in the filing of a claim for benefits that results in an overpayment of benefits does not constitute fault. A claimant shall be at fault if the overpayment resulted from the claimant's (a) furnishing information that the claimant knew or reasonably should have known to be incorrect; (b) failing to furnish information that the claimant knew or reasonably should have known to be material; or (c) accepting a payment that the claimant knew or reasonably should have known was incorrect. (Previously, the definition did not provide examples of the nature and cause of the overpayment and the capacity of the particular claimant to recognize the error resulting in the overpayment. Nor did the definition mention that the claimant "reasonably" should have known the information cited.)

If an employee who is a corporate officer, a partner, or an owner of an employing unit, or is a person who has more than a 5-percent equitable or debt interest in an employing unit or is an immediate family member of such a person, receives an unemployment benefit and, during the same benefit year, resumes or returns to work for the same employing unit, then the Department of Labor and Workforce Development may determine that the employee's unemployment was due to circumstances within the employee's control and may seek repayment of any overpaid benefits.

The provisions regarding the "offset of an overpayment against certain refunds" is amended by adding the following language: "In addition to any other remedy provided, the Commissioner may request that the amount payable to the Department by an individual resulting from an overpayment of unemployment benefits which has become final be set off against any Federal tax refund payment owed such individual by the U.S. Department of Treasury, in accordance with the requirements of the Federal treasury offset program."

Michigan

Coverage. The definition of “employment” excludes service performed by an individual holding a visa described in Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 USC 1101 (H-2B visa holders).

An amendment was passed asserting that service performed before January 1, 1978, by an individual in the classified civil service of the state and service performed by an individual for a school district, a community college district, a school or educational facility owned or operated by the state other than an institution of higher education, or a political subdivision of the state is employment subject to the amended act. (Previously, service performed before January 1, 1978, by an individual in the classified civil service of the state and service performed by an individual for a school district, a community college district, a school or educational facility owned or operated by the state other than an institution of higher education, or a political subdivision of the state, except a political subdivision that had a local unemployment compensation system as provided in Section 13j of the Michigan Employment Security Act, was employment subject to the act.)

Except as otherwise provided in Section 42(6) of the Michigan Employment Security Act, the term “employment” does not include services (previously, agricultural service) performed by an individual who is an alien admitted to the United States to perform

- services described in Sections 214(c) and 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, 8 USC 1184 and 8 USC 1101(a)(15)(H)(ii)(a).
- Beginning January 1, 2014, services described in Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 USC 1101(a)(15)(H)(ii)(b), and services described in 22 CFR 62.28 to 62.32 that are performed by a holder of a J-1 exchange visitor program visa issued under Section 101(a)(15)(J) of the Immigration and Nationality Act, 8 USC 1101(a)(15)(J), and the Mutual Educational and Cultural Exchange Act of 1961, 22 USC 2451 to 2464. The employer claiming an exclusion under this subparagraph must be the petitioner of an H-2B visa holder, as documented on an approved I-129 petition for a nonimmigrant worker, or must be the sponsor of a J-1 exchange visitor program visa holder, as documented in the DS-2019 form. The employer shall maintain the documentation supporting the claim for 6 years and, upon request, provide the unemployment agency with that documentation for compliance and verification purposes. This subparagraph is intended to apply retroactively to include the full calendar year.

Employment does not include service performed by an individual as an oil, gas, or mineral landman under a contract with a private person or private entity, if substantially all remuneration, including payment at a daily rate paid in cash or otherwise for the performance of the service, is directly related to the individual’s completion of the specific tasks contracted for rather than the number of hours worked and if the contract provides that the individual is an independent contractor and not an employee with respect to the contracted service. An individual must be engaged in 1 or more of 6 specific tests to meet the meaning of “landman.”

Financing. Notwithstanding the exclusion from employment under section 43(a)(ii) of the Michigan Employment Security Act of services (by certain aliens admitted to the United States to perform services) performed for the employer, wages paid for performing those services shall be used to calculate the employer’s obligation assessment rate and obligation assessment.

Nonmonetary eligibility. The minimum wage increases incrementally from $7.40 to $9.25 by January 1, 2018, and establishes requirements for compensatory pay. A terminated employee's receipt of or eligibility to receive compensatory monetary compensation shall not be used either by the employer to oppose the employee's application for unemployment compensation or by the state to deny or diminish the employee's entitlement to unemployment compensation.

Minnesota

Nonmonetary eligibility. An applicant who quit employment is eligible for unemployment benefits if the applicant quit because domestic abuse, sexual assault, or stalking of the applicant or an immediate family member of the applicant necessitated the applicant's quitting the employment.

Employment misconduct is not conduct that was a consequence of the applicant or an immediate family member of the applicant being a victim of domestic abuse, sexual assault, or stalking.

"Domestic abuse" has the meaning given in Section 518B.01 of the Domestic Abuse Act; "sexual assault" means an act that would constitute a violation of Sections 609.342 to 609.3453 or 609.352; and "stalking" means an act that would constitute a violation of Section 609.749 of the Minnesota Statutes.

The following provisions of the Minnesota Economic Security law are deleted: Domestic abuse must be shown by one or more of the following: (i) a district court order for protection or some other documentation of equitable relief issued by a court; (ii) a police record documenting the domestic abuse; (iii) documentation that the perpetrator of the domestic abuse has been convicted of the offense of domestic abuse; (iv) medical documentation of domestic abuse; (v) a written statement that the applicant or an immediate family member of the applicant is a victim of domestic abuse, such statement provided by a social worker, a member of the clergy, a shelter worker, an attorney at law, or some other professional who has assisted the applicant in dealing with the domestic abuse. Domestic abuse for purposes of this clause is defined under Section 518B.01 of the Domestic Abuse Act.

(The domestic violence provisions apply to all determinations and appeal decisions issued on or after October 5, 2014.)

Social Security disability benefits affect payment of unemployment compensation as follows:

(a) An applicant who is receiving, has received, or has filed for primary Social Security disability benefits for any week is ineligible for unemployment benefits for that week, unless

(1) the Social Security Administration has approved the applicant's collecting primary Social Security disability benefits each month that the applicant was employed during the base period or

(2) the applicant provides a statement from an appropriate health care professional who is aware of the applicant's Social Security disability claim and the basis for that claim, certifying that the applicant is available for suitable employment.

(b) If an applicant meets the requirements of paragraph (a), clause (1), there is no deduction from the applicant's weekly benefit amount for any Social Security disability benefits.

(c) If an applicant meets the requirements of paragraph (a), clause (2), 50 percent of the weekly equivalent of the primary Social Security disability benefits the applicant is receiving, has received, or has filed for, with respect to that week must be deducted from the applicant's weekly unemployment benefit amount.

If the Social Security Administration determines that the applicant is not entitled to receive primary Social Security disability benefits for any week that the applicant has applied for those benefits, then this paragraph does not apply to that week.

(d) Information from the Social Security Administration is considered conclusive, absent specific evidence showing that the information was erroneous.

(e) The preceding Social Security disability provisions do not apply to Social Security survivor benefits.

Mississippi

Financing. Benefits paid to an eligible individual shall not be charged against the experience rating record of an employer if the employee voluntarily left the employ of the employer to accept other work.

Reed Act money in the amount of $38 million is appropriated to pay for the following expenses of administration:

(a) Payments of various One-Stop administration expenses that support the service delivery of employment and workforce information services. These payments include, but are not limited to, payments for the following activities:

(i) Staff delivery of reemployment services to unemployment insurance claimants, including group job search assistance and staff-assisted referrals to jobs.

(ii) Equipment and resources for resource rooms.

(iii) Rent, utilities, and maintenance of facilities, including common spaces such as resource rooms, reception areas, conference areas, etc.

(iv) Shared costs for operation of local One-Stop Career Centers, including payment for One-Stop operators.

(v) Purchase of computer equipment, network equipment, telecommunications equipment, application development, and other technology resources.

(vi) Training, technical assistance, and professional development of staff who deliver employment and workforce information services.

(vii) Access improvement costs for individuals with disabilities, including remodeling or retrofitting One-Stop Career Centers and purchasing appropriate software, hardware, furniture, and supplies.

(b) Payments for administration of the unemployment compensation law and its public employment service offices. These payments include, but are not limited to, the following uses:

(i) Employment services and the automation of unemployment insurance, including purchases, modifications, or automation of computer-related systems and related costs.

(ii) Unemployment insurance and employment service performance improvement costs.

(iii) Fraud and abuse reduction costs.

(iv) Unemployment insurance claims filing and payment methods improvement costs.

(v) Under the direction of the Bureau of Building, Grounds, and Real Property Management, acquiring lands and constructing buildings thereon or improving existing buildings to be used as offices.

The funds authorized shall be requisitioned by the state Department of Employment Security from the Unemployment Trust Fund maintained by the secretary of the U.S. Department of the Treasury as needed for the payment of obligations incurred under this appropriation, and such monies shall be deposited into the state Employment Security Administration Fund.

Except as otherwise provided, the unemployment contribution rate of all newly subject employers shall be reduced by 0.03 percent for calendar year 2014 only. (The reduction was 0.07 percent for calendar year 2013 only.)

No employer's unemployment contribution rate shall exceed 5.4 percent or be less than 0.2 percent.

The state Workforce Enhancement Training Fund shall be funded from Workforce Enhancement Training contributions.

The state Workforce Investment Board bank account shall be funded from Workforce Investment contributions.

Workforce Enhancement Training contributions and Workforce Investment contributions shall be collected at the following rates: (1) for calendar year 2014 only, 0.19 percent, based upon taxable wages; (2) for calendar years subsequent to calendar year 2014, 0.16 percent, based upon taxable wages.

Workforce Enhancement Training Fund contributions and Workforce Investment contributions shall be in addition to the general experience rate plus the individual experience rate of all employers, but shall not be charged to reimbursing or rate-paying political subdivisions, institutions of higher learning, or reimbursing nonprofit organizations.

The general experience rate for rate year 2014 shall be 0.2 percent, to which will be added the employer's individual experience rate, summing to the employer's total unemployment insurance rate.

Notwithstanding any other specific provisions, if the general experience rate for any tax year, as computed and adjusted on the basis of the size of the fund index, is a negative percentage, it shall be disregarded and the general experience rate for the year shall be 0.2 percent. In no year shall the general experience rate be less than 0.2 percent, and in all cases the employer's total rate for unemployment insurance contributions shall be the sum of the general experience rate plus the employer's individual tax rate. However, the total contribution rate (including the Workforce Enhancement Training and State Workforce Investment contribution rates) shall not exceed 5.4 percent for rate year 2014. To achieve the maximum tax rate of 5.4 percent for rate year 2014, the Workforce Enhancement Training and State Workforce Investment contribution rates shall be reduced in the amounts necessary to achieve the maximum rate of 5.4 percent. If the total rate still exceeds 5.4 percent, the individual experience rate is the component of the total tax rate that will then be reduced to achieve the maximum unemployment contribution rate of 5.4 percent. For rate years subsequent to 2014, the individual experience rate is the only component of the total unemployment tax rate that will be reduced to achieve the maximum unemployment contribution rate of 5.4 percent. Also for rate years subsequent to 2014, the Workforce Enhancement Training Fund contribution rate and the Workforce Investment contribution rate shall be added to the

unemployment contribution rate, regardless of whether the addition causes the total contribution rate for the employer to exceed 5.4 percent.

The cost of collecting and administering the Workforce Enhancement Training Fund contribution and the Workforce Investment contribution shall be allocated on the basis of a plan approved by the U.S. Department of Labor (USDOL) and shall be paid to the state Department of Employment Security semiannually by the state Community College Board and the state Workforce Investment Board, with the cost allocated to each in accordance with a USDOL-approved plan on a pro rata basis for periods ending in December and June of each year. Payment shall be made to the department no later than 60 days after the billing date. Cost shall be allocated to the Workforce Enhancement Training Fund and the Workforce Investment Board bank account on the same basis as the distribution of contributions collected, as described in the next paragraph.

The Workforce Enhancement Training contributions and the Workforce Investment contributions shall be distributed as follows:

> (i) For calendar year 2014, 94.75 percent shall be distributed to the Workforce Enhancement Training Fund and the remainder shall be distributed to the Workforce Investment Board bank account.
>
> (ii) For calendar years subsequent to calendar year 2014, 93.75 percent shall be distributed to the Workforce Enhancement Training Fund and the remainder shall be distributed to the Workforce Investment Board bank account.

A portion of the funds collected for the Workforce Enhancement Training Fund shall be used for the development of performance measures to measure the effectiveness of the use of the fund's dollars.

All funds deposited into the Workforce Investment Board bank account shall be used for administration of Mississippi Workforce Investment Board business, grants related to training, and other appropriate projects, and shall not expire.

The Department of Employment Security shall be the fiscal agent for the receipt and disbursement of all funds in the Workforce Investment Board bank account. In managing the account, the department shall ensure that any funds expended for contractual services rendered to the board be paid only to service providers who have been selected on a competitive basis. Any commodities procured for the board shall be procured in accordance with the law. In addition to making other expenditures, the department shall expend from the board bank account, for the use and benefit of the board, such funds as are necessary to prepare and develop a study of workforce development needs.

Missouri

Extensions and special programs. The shared-work compensation program provisions are amended as follows:

- The term "fringe benefit" means health insurance, a retirement benefit received under a defined benefit pension plan as defined in section 414(j) of the Internal Revenue Code, contributions under a defined contribution plan as defined in section 414(i) of the Internal Revenue Code, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer.
- A shared-work plan may be approved if

  - the employer certifies that, if it provides fringe benefits, as defined in the previous bulleted item, to any employee in the affected unit, such benefits shall continue to be provided to employees participating in the shared-work unemployment compensation program under the same terms and conditions as though the normal weekly hours of work had not been reduced or to the same extent as other employees not participating in the program;
  - the employer certifies that the implementation of the plan and the resulting reduction in work hours is in lieu of layoffs (previously, temporary layoffs) that would affect at least 10 percent of the employees in the affected unit and that would result in an equivalent reduction in work hours;
  - the plan includes an estimate of the number of employees who would be laid off if the employer does not participate in the shared-work unemployment compensation program;
  - the plan describes the manner in which employees in the affected unit will be notified of the employer's participation in the shared-work unemployment compensation program. If the employer will not provide advance notice to the employees in the affected unit, the plan must contain a statement explaining why it is not feasible to provide such notice;
  - the employer certifies that participation in the plan and in its implementation is consistent with the employer's obligation under applicable federal and state laws; and
  - the plan includes any other provision that the U.S. secretary of labor determines to be appropriate for the purpose of a shared-work unemployment compensation program.
- The provision asserting that no shared-work plan that will subsidize employers, at least 50 percent of whose employees have normal weekly hours of work equaling 32 hours or less, shall be approved is deleted.
- An individual who is otherwise entitled to receive regular unemployment insurance benefits shall be eligible to receive shared-work benefits with respect to any week in which, notwithstanding certain other provisions of the unemployment insurance law, the individual is able to work and is available for his or her normal hours of work with the participating employer (previously, the individual is able to work, is available for work, and works all available hours with the participating employer).
- The division shall not deny shared-work benefits for any week to an otherwise eligible individual by reason of the application of any provision that relates to training approved as provided in Section 288.055 of the Missouri Employment Security Law, such as employer-sponsored training or training funded under the federal Workforce Investment Act of 1998.
- The provision asserting that an individual shall be ineligible for shared-work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared-work plan is deleted.
- Notwithstanding any other provision of the unemployment insurance law, all benefits paid under a shared-work plan that are chargeable to the participating employer or to any other base-period employer shall be charged to employers in the same manner as regular unemployment benefits are chargeable. (Previously, notwithstanding any other provision of the unemployment insurance law, all benefits paid under a shared-work plan that are chargeable to the participating employer or to any other base-period employer of a participating employee shall be charged to the account of the participating employer under the plan.)

Financing. Reimbursable employers are required to reimburse the unemployment trust fund for all unemployment benefits paid to a claimant who was discharged by the employer for a reason set forth in Subsection 13 of Section 660.315 of the Missouri Revised Statutes (RSMo) (previously, to a claimant who was placed on a disqualification

list maintained by the state Department of Health & Senior Services) or to a claimant who was placed on a disqualification registry maintained by the state Department of Mental Health.

Nonmonetary eligibility. The term “misconduct” means conduct or failure to act in a manner that is connected with work, regardless of whether such conduct or failure to act occurs at the workplace or during work hours. Misconduct shall include

(a) conduct or failure to act that demonstrates a knowing disregard of the employer’s interest or a knowing violation of the standards the employer expects of his or her employees;

(b) conduct or failure to act that demonstrates carelessness or negligence in such degree or recurrence as to manifest culpability, wrongful intent, or a knowing disregard of the employer’s interest or of the employee’s duties and obligations to the employer;

(c) a violation of an employer’s no-call, no-show policy; chronic absenteeism or tardiness in violation of a known policy of the employer; or two or more unapproved absences following a written reprimand or warning relating to an unapproved absence, unless such absences are protected by law;

(d) a knowing violation of a state standard or regulation by an employee of an employer licensed or certified by the state, such that the violation would cause the employer to be sanctioned or have its license or certification suspended or revoked; or

(e) a violation of an employer’s rule, unless the employee can demonstrate that (a) he or she did not know, and could not reasonably know, of the rule’s requirements; (b) the rule is not lawful; or (c) the rule is not fairly or consistently enforced. (Previously, “misconduct” was defined to mean an act of wanton or willful disregard of the employer’s interest; a deliberate violation of the employer’s rules; a disregard of standards of behavior that the employer has the right to expect of his or her employees; or negligence in such degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the employer’s interest or of the employee’s duties and obligations to the employer.) (Deletes the provisions asserting that absenteeism or tardiness may constitute a rebuttable presumption of misconduct, regardless of whether the last incident alone constitutes the misconduct, if the discharge was the result of a violation of the employer’s attendance policy, provided that the employee had received knowledge of such policy prior to the occurrence of any absence or tardiness upon which the discharge is based.)

For the purpose of disqualifying an individual for leaving work voluntarily without good cause, “good cause” shall include only that cause which would compel a reasonable employee to cease working or which would require separation from work because of illness or disability.

Nebraska

Extensions and special programs. The previous short-time compensation program provisions are repealed, and the following short-time compensation program provisions under the state Employment Security Law, operative October 1, 2016 (or as noted), are created as follows:

- “Affected unit” means a specified plant, department, shift, or other definable unit that includes three or more employees to which an approved short-time compensation plan applies.

- “Commissioner” means the commissioner of labor or any delegate or subordinate responsible for approving applications for participation in a short-time compensation plan.
- “Health and retirement benefits” means employer-provided health benefits and retirement benefits under a defined benefit plan, as defined in section 414(j) of the Internal Revenue Code, or contributions under a defined contribution plan, as defined in section 414(i) of the Internal Revenue Code, that are incidents of employment in addition to the cash remuneration earned.
- “Short-time compensation” means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan, as distinguished from the unemployment benefits otherwise payable under the state Employment Security Law.
- “Short-time compensation plan” means a plan submitted by an employer, for written approval by the commissioner, under which the employer requests the payment of short-time compensation to workers in an affected unit of the employer in order to avert layoffs.
- “Unemployment compensation” means the unemployment benefits payable under the Employment Security Law, other than short-time compensation, and includes any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.
- “Usual weekly hours of work” means the usual hours of work for full-time or part-time employees in the affected unit when that unit is operating on its regular basis, not to exceed 40 hours and not including hours of overtime work.

- An employer wishing to participate in the short-time compensation program shall submit a signed, written short-time compensation plan to the commissioner for approval. The commissioner shall develop an application form to request approval of a short-time compensation plan and an approval process. The application shall include

  (1) the names of the affected unit(s) covered by the plan, including the number of full-time or part-time employees in such unit(s); the percentage of employees in the affected unit(s) covered by the plan; the identification of each individual employee in the affected unit(s) by name, Social Security number, and the employer's unemployment tax account number; and any other information required by the commissioner to identify participants in the plan;

  (2) a description of how employees in the affected unit(s) will be notified of the employer's participation in the short-time compensation plan if such application is approved, including how the employer will notify those employees in a collective-bargaining unit as well as any employees in the affected unit(s) who are not in a collective-bargaining unit. If the employer will not provide advance notice to employees in the affected unit(s), the employer shall explain, in a statement in the application, why it is not feasible to provide such notice;

  (3) a requirement that the employer identify the usual weekly hours of work for employees in the affected unit(s) and the specific percentage by which their hours will be reduced during all weeks covered by the plan. An application shall specify the percentage of reduction, which shall be not less than 10 percent and not more than 60 percent, for which a short-time compensation plan application may be approved. If the plan includes any week for which the employer regularly provides no work because of a holiday or other plant closing, then such week shall be identified in the application;

  (4)(a) certification by the employer that, if the employer provides health and retirement benefits to any employee whose usual weekly hours of work are reduced under the program, such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the usual weekly hours of work of such employees had not been reduced or to the same extent as other employees not participating in the short-time compensation program;

  (b) for defined benefit retirement plans, the hours that are reduced under the short-time compensation plan shall be credited for purposes of participation, vesting, and accrual of benefits as though the usual weekly hours of work had not been reduced. For defined contribution plans, the dollar amount of employer contributions that are based on a percentage of compensation may be less because of the reduction in the employee's compensation;

  (c) notwithstanding subdivisions (4)(a) and (b), an application may contain the required certification when a reduction in health and retirement benefits scheduled to occur during the duration of the plan will be applicable equally to employees who are not participating in the short-time compensation program and to employees who are participating;

  (5) certification by the employer that the aggregate reduction in work hours is in lieu of layoffs, temporary or permanent, or both. The application shall include an estimate of the number of employees who would have been laid off in the absence of the short-time compensation plan;

(6) certification by the employer that the short-time compensation program shall serve neither as a subsidy of seasonal employment during the off-season nor as a subsidy of temporary part-time or intermittent employment;

(7) agreement by the employer to furnish to the commissioner reports relating to the proper conduct of the plan; allow the commissioner access to all records necessary to approve or disapprove the application for the plan and, after approval of a plan, to monitor and evaluate the plan; and follow any other directives that the commissioner deems necessary for the agency to implement the plan and that are consistent with the requirements for short-time compensation plan applications;

(8) certification by the employer that participation in the short-time compensation plan and in its implementation is consistent with the employer's obligations under applicable federal and state laws;

(9) the effective date and duration of the plan, which shall expire not later than the end of the 12th full calendar month after the effective date;

(10) certification by the employer that it has obtained the written approval of any applicable collective-bargaining unit representative and has notified all affected employees who are not in a collective-bargaining unit about the proposed short-time compensation plan;

(11) certification by the employer that it will not hire additional part-time or full-time employees for the affected unit(s) while the short-time compensation plan is in effect; and

(12) any other provision added to the application by the commissioner that the U.S. secretary of labor determines to be appropriate for purposes of a short-time compensation program.

- The commissioner shall approve or disapprove a short-time compensation plan in writing within 30 days after its receipt and promptly communicate the decision to the employer. A decision disapproving the plan shall clearly identify the reasons for the disapproval, which shall be final, except that the employer shall be allowed to submit another short-time compensation plan for approval not earlier than 45 days after the date of the disapproval.
- A short-time compensation plan shall be effective on the date that is mutually agreed upon by the employer and the commissioner, which shall be specified in the notice of approval to the employer. The plan shall expire on the date specified in the notice of approval: either the date at the end of the 12th full calendar month after the plan's effective date or an earlier date mutually agreed upon by the employer and the commissioner.
- If a short-time compensation plan is revoked by the commissioner, the plan shall terminate on the date specified in the commissioner's written order of revocation.
- An employer may terminate a short-time compensation plan at any time upon written notice to the commissioner. Upon receipt of such notice from the employer, the commissioner shall promptly notify each member of the affected unit of the termination date.
- An employer may submit a new application to participate in another short-time compensation plan at any time after the expiration or termination date of the disapproved plan.

- The commissioner may revoke the approval of a short-time compensation plan for good cause at any time, including upon the request of any of the affected unit's employees. The revocation order shall be in writing and shall specify the reasons for the revocation and the date the revocation becomes effective.
- The commissioner may periodically review the operation of each employer's short-time compensation plan in order to ensure that no good cause exists for revocation of the approval of the plan. Good cause shall include, but not be limited to, failure to comply with the assurances given in the plan, unreasonable revision of productivity standards for the affected unit, conduct or occurrences tending to defeat the intent and effective operation of the plan, and violation of any criteria on which approval of the plan was based.
- An employer may request a modification of an approved short-time compensation plan by filing a written request with the commissioner. The request shall identify the specific provisions requested to be modified and shall provide an explanation of why the proposed modification is appropriate for the plan. The commissioner shall approve or disapprove the proposed modification in writing within 30 days after receipt and shall promptly communicate the decision to the employer.
- The commissioner may approve a request for modification of the plan on the basis of conditions that have changed since the plan was approved if the modification is consistent with, and supports, the purposes for which the plan was initially approved. A modification does not extend the expiration date of the original plan, and the commissioner shall promptly notify the employer whether the modification has been approved and, if approved, of the effective date of the modification.
- An employer is not required to request approval of a plan modification from the commissioner if the change is not substantial, but the employer must report every change to the plan to the commissioner promptly and in writing. The commissioner may terminate an employer's plan if the employer fails to meet this reporting requirement. If the commissioner determines that the reported change is substantial, the commissioner shall require the employer to request a modification to the plan.
- An individual is eligible to receive short-time compensation with respect to any week only if the individual is monetarily eligible for unemployment compensation, not otherwise disqualified for unemployment compensation, and, during the week, the individual is employed as a member of an affected unit under a short-time compensation plan that was approved prior to that week and the plan is in effect with respect to the week for which short-time compensation is claimed.
- Notwithstanding any other provisions of the Employment Security Law relating to one's availability for work and actively seeking work, the individual is available for his or her usual hours of work with an employer offering a short-time compensation plan if the individual is participating in training to enhance job skills that is approved by the commissioner, such as employer-sponsored training or training funded under the federal Workforce Investment Act of 1998, 29 U.S.C. 2801 et seq.
- Notwithstanding any other provision of law, an individual covered by a short-time compensation plan is deemed unemployed in any week during the duration of such plan if the individual's remuneration as an employee in an affected unit is reduced on the basis of a reduction of the individual's usual weekly hours of work under an approved short-time compensation plan.
- The short-time compensation weekly benefit amount shall be the product of the regular weekly unemployment compensation amount for a week of total unemployment multiplied by the percentage of reduction in the individual's usual weekly hours of work.

- An individual may be eligible for short-time compensation or unemployment compensation, as appropriate, except that no individual shall be eligible for combined benefits in any benefit year in an amount more than the maximum entitlement established for regular unemployment compensation, nor shall an individual be paid short-time compensation benefits for more than 52 weeks under a short-time compensation plan.
- The short-time compensation paid to an individual shall be deducted from the maximum entitlement amount of unemployment compensation established for that individual's benefit year.
- Provisions applicable to unemployment compensation claimants shall apply to short-time compensation claimants to the extent that they are not inconsistent with short-time compensation provisions. An individual who files an initial claim for short-time compensation benefits shall receive a monetary determination.
- The following provisions apply to individuals who work for both a short-time compensation employer and another employer during weeks covered by the approved short-time compensation plan:
    - If the combined hours of work in a week for both employers does not result in a reduction of at least 10 percent or, if higher, the minimum percentage of reduction required for the individual to be eligible for short-time compensation, of the usual weekly hours of work with the short-time employer, then the individual shall not be entitled to short-time compensation;
    - If the combined hours of work for both employers results in a reduction equal to or greater than 10 percent or, if higher, the minimum percentage reduction required for the individual to be eligible for short-time compensation, of the usual weekly hours of work for the short-time compensation employer, then the short-time compensation payable to the individual is reduced for that week and is determined by multiplying the weekly unemployment benefit amount for a week of total unemployment by the percentage by which the combined hours of work have been reduced by 10 percent, or, if higher, the minimum percentage reduction required for the individual to be eligible for short-time compensation, or more of the individual's usual weekly hours of work. A week for which benefits are paid shall be reported as a week of short-time compensation; and
    - If the individual worked the reduced percentage of the usual weekly hours of work for the short-time compensation employer and is available for all of his or her usual hours of work with the short-time compensation employer, and the individual did not work any hours for the other employer, either because of lack of work with that employer or because the individual is excused from work with the other employer, then the individual shall be eligible for short-time compensation for that week. The benefit amount for such week shall be calculated as stated in these provisions.
- An individual who is not provided any work during a week by the short-time compensation employer or any other employer and who is otherwise eligible for unemployment compensation shall be eligible for the amount of unemployment compensation to which he or she would otherwise be eligible.
- An individual who is not provided any work by the short-time compensation employer during a week, but who works for another employer and is otherwise eligible, may be paid unemployment compensation for that week, subject to the disqualifying income provision and other provisions applicable to claims for regular compensation.
- An individual who has received all of the short-time compensation or combined unemployment compensation and short-time compensation available in a benefit year shall be considered an exhaustee for purposes of extended benefits under section 48-628.02 and, if otherwise eligible under such section, shall be eligible to receive extended benefits.

- The state Department of Labor shall submit an annual report to the governor and, electronically, to the legislature on short-time compensation program trends, including the number of employers filing such plans, the number of layoffs averted through the use of the program, the amount of program benefits paid, and other information pertinent to the program.

- The commissioner of labor shall submit an annual report to the governor, the speaker of the legislature, and the chairpersons of the Appropriations Committee and the Business and Labor Committee of the legislature describing expenditures made pursuant to the preceding provisions. The report submitted to the committees and to the speaker shall be submitted electronically. (This provision becomes operative July 16, 2014.)

Financing. The following provisions also apply to the short-time compensation program:

- Short-time compensation shall be charged to the employer's experience account in the same manner as unemployment compensation is charged. Employers liable for payments in lieu of contributions shall have short-time compensation attributed to service in their employ in the same manner as unemployment compensation is attributed. (This provision becomes operative October 16, 2014.)
- A short-time compensation plan will be approved only for a contributory employer that (a) is eligible for an experience rating, (b) has a positive balance in its experience account, (c) has filed all quarterly reports and other reports required under the Employment Security Law, and (d) has paid all obligation assessments, contributions, interest, and penalties due through the date of its application. (This provision becomes operative October 16, 2014.)
- A short-time compensation plan will be approved only for an employer that (a) is liable for making payments in lieu of contributions, (b) has filed all quarterly reports and other reports required under the Employment Security Law, and (c) has paid all obligation assessments, payments in lieu of contributions, interest, and penalties due through the date of its application. (This provision becomes operative October 16, 2014.)
- The state Department of Labor shall not use general funds to implement the short-time compensation program. The department shall use any and all available federal funds to implement the program, including, but not limited to, federal funds distributed to the state under Sections 903(c), 903(d), 903(f), and 903(g) of the federal Social Security Act, as amended. (This provision becomes operative October 16, 2014.)
- Hereby appropriated are (1) $1,797,999 from federal funds for fiscal year 2014–2015 and (2) $1,576,853 from federal funds for fiscal year 2015–2016 to the Department of Labor, for Program 31, to aid in carrying out the provisions of the short-time compensation program. (This provision becomes operative July 16, 2014.)
- Included in the appropriation to Program 31 are $1,797,999 from federal funds for fiscal year 2014–2015 and $1,576,853 from federal funds for fiscal year 2015–2016, distributed to the state under Sections 903(c), 903(d), 903(f), and 903(g) of the federal Social Security Act, as amended. These funds shall be used only to implement the provisions of the short-time compensation program. (This provision becomes operative July 16, 2014.)
- The state Department of Labor shall submit a schedule of proposed expenditures of the appropriation of sections 903(c), 903(d), 903(f), and 903(g) funds made pursuant to this section for administrative purposes, for fiscal years beginning on or after July 1, 2007, to the legislature as part of the regular budget submission process.. All provisions of subsection (2) of section 48-621, except subdivision (2)(a)(i), shall apply to this appropriation of sections 903(c), 903(d), 903(f), and 903(g) funds. (This provision becomes operative July 16, 2014.)

New Hampshire

Financing. Whenever required by the state Department of Employment Security, a “Notice of Claim and Verification Request” form (formerly known as “Request to Employer for Separation Information”) shall be sent, either by email or by mail, by the certifying officer to the employer or employing unit for whom the claimant last performed services. Failure of the employer or employing unit to provide the information required by the department within the set timeframes shall be deemed an irrevocable waiver of its right to be heard before the determination is made. Benefits charged to the employer’s or employing unit’s account as a result of the determination shall remain so charged even though the claimant is held not to be entitled to unemployment compensation by reason of a later decision.

Monetary entitlement. An individual who has established a benefit year shall not be eligible to receive benefits in his or her next benefit year, unless the individual has earned at least $700 of wages during or subsequent to the established benefit year and the wages were earned (1) in employment as defined in RSA 282-A:9 of the unemployment compensation law; (2) for services in a state other than New Hampshire that, if such services had been performed in New Hampshire, would have been employment as defined in RSA 282-A:9 of the unemployment compensation law; or (3) for services as described at RSA 282-A:9, IV(f) of the unemployment compensation law, even though otherwise excluded from employment in RSA 282-A:9 of the unemployment compensation law.

New Jersey

Administration. Upon completion of the death record of an individual and issuance of a burial permit, the state registrar must facilitate the electronic notification of the decedent’s name, Social Security number, and last known address to the state Department of Labor and Workforce Development and the state Department of Human Services in order to safeguard public benefit programs and diminish the criminal use of a decedent’s name and other identifying information.

The Department of Labor and Workforce Development must arrange for the electronic receipt of death record notifications from the New Jersey Electronic Death Registration System and establish a verification system to confirm that benefits paid pursuant to the Temporary Disability Benefits Law and the unemployment compensation law are not being paid to deceased individuals.

As administrator and chief executive officer of the state Department of Corrections, the commissioner of the Department of Labor and Workforce Development is required to compile and provide to the Department of Labor and Workforce Development and the Department of Human Services identifying information on each inmate incarcerated in each state institution at the time of incarceration. The information shall be transmitted electronically in a timely manner and shall provide identifying characteristics, including name and Social Security number, to be used by the Department of Labor and Workforce Development and the Department of Human Services to verify individuals’ eligibility for benefit programs administered by each of those departments.

The Department of Labor and Workforce Development is required to arrange for the electronic receipt of identifying information from the Department of Corrections, the state Administrative Office of the Courts, and any county that does not provide county inmate incarceration information to the Administrative Office of the Courts. The Department of Labor and Workforce Development shall establish a verification system to confirm that benefits paid pursuant to the unemployment compensation law are not being paid to individuals who are incarcerated.

The Administrative Office of the Courts is required to compile and provide to the Department of Labor and Workforce Development and the Department of Human Services identifying information on each inmate incarcerated in each county, including local institutions in each county, that provides inmate incarceration information to the Administrative Office of the Courts. Any county which does not provide that information to the Administrative Office of the Courts shall provide the information to the Department of Labor and Workforce Development and the Department of Human Services. The information shall be transmitted electronically in a timely manner and shall provide identifying characteristics, including name and Social Security number, to be used by the Department of Labor and Workforce Development and the Department of Human Services to verify individuals' eligibility for benefit programs administered by each of those departments.

Extensions and special programs. The shared-work program is amended as follows:

- The term "affected unit" means a specified plant or other facility, department, shift, or other definable unit that includes two or more employees to which an approved short-time benefits program applies.
- The term "division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development, or any representative of the division who is responsible for approval or other division responsibilities regarding a shared-work program.
- The term "health insurance and pension coverage" means employer-provided health benefits, and retirement benefits under a defined benefit plan, as defined in Section 414(j) of the Internal Revenue Code (26 U.S.C. 414(j)), or employer contributions under a defined contribution plan, as defined in Section 414(i) of the Internal Revenue Code (26 U.S.C. 414(i)), that are incidents of employment in addition to the cash remuneration earned.
- The term "shared-work employer" means an employer who is providing a shared-work program approved by the division pursuant to the required criteria.
- The term "shared-work program" means a program submitted by an employer for approval by the division pursuant to section 2 of P.L.2011, c.154 (C. 43:21-20.4), and approved by the division, under which the employer requests short-time benefits to employees in an affected unit of the employer in order to avert layoffs.
- The term "short-time benefits" means unemployment benefits payable to employees of an affected unit under an approved shared-work program that are intended to be in lieu of layoffs (previously, temporary layoffs) and that are provided pursuant to the amended shared-work provisions, as distinguished from unemployment benefits otherwise payable under the New Jersey unemployment compensation law, R.S. 43:21-1 et seq.
- The term "usual weekly hours of work" means the usual hours of work for an employee in the affected unit when that unit is operating on its regular basis, not to exceed 40 hours and not including hours of overtime work.
- The definition of "full-time hours" meaning not less than 30 and not more than 40 hours per week is deleted.

- An employer who has not less than 10 employees (previously, not less than 10 employees who are each employed for not less than 1,500 hours per year) may apply to the division for approval to provide a shared-work program, the purpose of which is to stabilize the employer's workforce during a period of economic disruption by permitting the sharing of the work that remains after a reduction in total hours of work. Any subsidizing of seasonal employment during the off-season, or of temporary or intermittent employment (previously, or of employers who traditionally use part-time employees, or of temporary part-time employment) on an ongoing basis, is contrary to the purpose of a shared-work program approved pursuant to the shared-work amendments. The application for a shared-work program shall be made according to procedures of, and on forms specified by, the division and shall include whatever information the division requires. The division may approve the program for a period of not longer than 1 year and may, upon employer request, renew the approval of the program for additional periods, each period not to exceed 1 year (previously, may, upon employer request, renew the approval of the program annually). The division shall not approve an application unless the employer

  a. (1) certifies to the division that the aggregate reduction in work hours is in lieu of layoffs, (2) provides an estimate of the number of employees who would have been laid off in the absence of the program, and (3) certifies that the employer will not hire any additional (previously, any additional part-time or full-time) employees while short-time benefits are being paid;

  b. certifies to the division that health insurance or pension coverage, paid time off, or other benefits, including retirement benefits under a defined benefit plan, as defined in Section 414(j) of the Internal Revenue Code (26 U.S.C. 414(j)), or employer contributions under a defined contribution plan, as defined in Section 414(i) of the Internal Revenue Code (26 U.S.C. 414(i)), will continue to be provided to any employee (previously, to participating employees before the application was made, or to any employee) whose workweek is reduced under the program; certifies to the division that those benefits will continue to be provided to employees participating in the program under the same terms and conditions as though the workweek of the employee had not been reduced or to the same extent as other employees not participating in the program, except that employer contributions to a defined contribution plan, as defined in Section 414(i) of the Internal Revenue Code (26 U.S.C. 414(i)), may be reduced in proportion to the reduction of weekly hours; and certifies to the division that the employer will not make unreasonable revisions of workforce productivity standards;

  c. certifies to the division that any collective-bargaining agent representing the employees has entered into a written agreement with the employer regarding the terms of the program, including terms regarding attendance in training programs while receiving short-time benefits, and provides a copy of the agreement to the division;

  d. provides, on the application, the effective date and duration of the program; a description of the affected unit or units covered by the program, including the number of employees in each unit, the percentage of employees in the affected unit covered by the program, identification of each individual employee in the affected unit by name and Social Security number, and the employer's unemployment tax account number; and any other information required by the division to identify program participants;

e. provides, on the application, a description of how the employees in the affected units will be notified of the employer's participation in the shared-work program if the application is approved, including the means of notification for employees who are members of collective-bargaining units and employees who are not members of a collective-bargaining unit;

f. identifies the usual weekly hours of work for the employees of the affected unit and the specific percentage by which their hours will be reduced during all weeks covered by the program;

g. certifies that participation in the program and its implementation is consistent with the employer's obligations under all applicable federal and state laws; and

h. agrees to provide the division with any reports or other information, including access to employer records, that the division deems necessary to administer the shared-work program and to monitor compliance with all agreements and certifications required pursuant to the shared-work program amendments.

- The division shall approve or disapprove the program in writing not more than 60 days after receipt of the application and shall promptly communicate the decision to the employer. A decision disapproving the application shall clearly identify the reasons for the disapproval. The disapproval shall be final, but the employer shall be permitted to submit another application for approval of a plan not earlier than 60 days from the date of disapproval.
- On its own initiative or upon request of the affected unit's employees, the division may revoke the previously granted approval of an employer's application (previously, for good cause shown) for any failure to comply with any agreement or certification required pursuant to the shared-work program amendments or for any other conduct or occurrences that the division determines to defeat the purpose, intent, and effective operation of a shared-work program. The notice of revocation shall be in writing and shall specify the reasons for the revocation and the date on which the revocation becomes effective.
- An employer may request modifications of an approved shared-work program by filing with the division a written request identifying the specific proposed modifications and explaining the need for the modifications. The division shall approve or disapprove the modifications within 30 days and shall promptly communicate to the employer the division's decision and the date on which the modification will take effect. The employer is not required to obtain division approval to make a plan modification that is not substantial, but is required to provide prompt, written notice of the modification to the division, which shall require the employer to request division approval of the modification if the division finds the modification to be substantial. The division may terminate the program if the employer fails to provide the required notice.
- An individual who is employed by an employer with a shared-work program approved by the division shall be eligible for short-time benefits during a week if

a. the individual works for the employer at an affected unit less than the individual's usual weekly (previously, normal full-time) hours of work and the employer has reduced the individual's weekly hours of work pursuant to a shared-work program that is in effect during that week and that is approved by the division pursuant to section 2 of this act;

b. the percentage of the reduction in the individual's work hours below the individual's usual weekly (previously, normal full-time) hours of work is not less than 10 percent and not more than 60 percent, with a corresponding reduction in wages;

c. the individual would be eligible for unemployment benefits other than short-time benefits during the week if the individual was entirely unemployed during that week and applied for unemployment benefits other than short-time benefits; and

d. during that week, the individual is able to work and is available for his or her usual weekly (previously, normal full-time) hours of work with the shared-work employer or is participating in a training program approved by the division, including division-approved employer-sponsored training; division-approved training funded under the federal Workforce Investment Act of 1998, otherwise known as Pub.L.105-220 (29 U.S.C. s.2801 et seq.), or under the Workforce Development Partnership program established pursuant to section 4 of P.L.1992, c.43 (C.34:15D-4); or any other training approved by the division pursuant to subsection (c) of R.S.43:21-4.

- If the individual complies with the requirements of the amendments in the preceding paragraph, he or she shall not be subject to any other requirement of the "unemployment compensation law," R.S.43:21-1 et seq., under which the individual is to be available for work and to be actively seeking work.
- The provision which asserts that an individual who is employed by an employer with a shared-work program approved by the division shall be eligible for short-time benefits during a week if the individual was employed by the employer for not less than 1,500 hours during the individual's base year is deleted.
- The amount of short-time benefits paid to an eligible individual for any week shall be equal to the individual's weekly benefit rate multiplied by the percentage of reduction in his or her wages resulting from reduced hours of work. The weekly benefit amount shall be rounded off to the nearest dollar. An individual shall not be paid short-time benefits for more than 52 weeks (previously, in excess of 26 weeks during a benefit year) under a shared-work program. Weeks of short-time benefits may be nonconsecutive. During any benefit week in which an individual receives other unemployment benefits, the individual shall not receive short-time benefits through his or her employment with the shared-work employer.
- Total unemployment benefits paid to an individual during any benefit year, including short-time benefits and all other unemployment benefits, shall not exceed the maximum amount to which the individual is entitled for all unemployment benefits other than short-time benefits.
- The following shall apply to an individual who is employed by both a shared-work employer and another employer during weeks covered by a shared-work program:

a. If the combined hours of work in a week for both employers result in a reduction of less than 10 percent of the usual weekly hours of work with the shared-work employer, then the individual shall not be entitled to benefits under the shared-work program;

b. If the combined hours of work in a week for both employers result in a reduction of 10 percent or more of the usual weekly hours of work with the shared-work employer, then the short-time benefit payable to the individual shall be reduced for that week and shall be determined by multiplying the weekly unemployment

benefit amount for a week of total unemployment by the percentage by which the combined hours of work have been reduced by 10 percent or more of the individual's usual weekly hours of work; and

c. If the individual worked a reduced percentage of the usual weekly hours of work for the shared-work employer and is available for all of his or her usual hours of work with the shared-work employer, and the individual did not work any hours for the other employer, either because of a lack of work with that employer or because the individual is excused from work with the other employer, then the individual shall be eligible for short-time benefits for that week.

- An individual who is not provided any work during a week by a shared-work employer or any other employer and is otherwise eligible for unemployment benefits shall be eligible for the full amount of regular unemployment benefits to which the individual otherwise would be eligible. An individual who is not provided any work during a week by a shared-work employer, but who works for another employer and is otherwise eligible for unemployment benefits, shall be eligible for regular unemployment benefits for that week, subject to the disqualifying income and other provisions applicable to claims for regular unemployment benefits.
- An individual who has received all of the short-time benefits, or a combination of all of the short-time benefits and regular unemployment benefits, available in a benefit year shall be considered to be an exhaustee for the purposes of any extended benefits provided pursuant to the provisions of the "extended benefits law," sections 5 through 11 of P.L.1970, c.324 (C.43:21-24.11 et seq.), and, if otherwise eligible under those provisions, shall be eligible to receive extended benefits.
- A shared-work program and payment of short-time benefits to individuals under the program go into effect on the date mutually agreed upon by the employer and the division (previously, shall begin with the first week following the approval of an application by, or the first week specified by, the employer, whichever is later). A shared-work program shall expire on the date specified in the notice of approval, which shall be either the date at the end of the 12th full calendar month after the effective date of the program, or an earlier date mutually agreed upon by the employer and the division. The program shall also expire upon the date of any revocation of approval of the program by the division. An employer of an approved program may terminate the program at any time upon written notice to the division, and the division shall notify participating employees of the affected unit of the termination. If a shared-work program expires or the employer terminates the program, the employer may, at any time after the expiration or termination date, submit a new application for division approval of another shared-work program.
- Any short-time benefits paid to an individual shall be charged in the same manner as other unemployment benefits pursuant to the unemployment compensation law, R.S.43:21-1 et seq. (Previously, all short-time benefits paid to an individual shall be charged to the account of the shared-work employer by which the individual is employed while receiving the short-time benefits. If the shared-work employer is liable for payments of other unemployment benefits in lieu of contributions, that employer shall be liable for payments in lieu of contributions for the entire amount of the short-time benefits paid.)
- If the U.S. Department of Labor finds any provision of this amendment to be in violation of federal law, that provision of this amendment shall be inoperative.

Financing. If an employee leasing agreement that used the Entity Level Reporting Method is dissolved as a result of the enactment of Senate Bill 3087, then the employee leasing company shall provide to the Department of

Labor and Workforce Development all data necessary to calculate the benefit experience of the client company and shall submit all required contributions and reports to the department.

- An employee leasing company must use the Entity Level Reporting Method, unless the company elects to use the Client Level Reporting Method. A company that elects to use the Client Level Reporting Method may change to the Entity Level Reporting Method once, upon department approval.
- The department shall transfer the employment experience and any past year's credit, contributions paid, annual payrolls, and benefit charges of the client company to the employee leasing company as a successor in interest on July 1 of the year following the effective date of the employee leasing agreement. The employee leasing company shall immediately receive credit for prior contributions paid by the client company or another employee leasing company against wages in the tax year in which the agreement begins, and shall be immediately subject to the existing rate of the employee leasing company on the effective date of the agreement. On or after the effective date of the agreement, the department is required to provide to the employee leasing company the client's prior unemployment insurance history within 15 days of request.
- All employment experience relating to the client must be transferred to the succeeding employee leasing company on July 1 following the termination of an employee leasing agreement. The succeeding employee leasing company shall immediately receive credit for prior contributions paid by the predecessor company against wages in the tax year in which the new employee leasing agreement begins, and the balance of the wages due in the tax year shall be immediately subject to the existing rate of the successor company. On or after the effective date of the employee leasing agreement, this provision requires the department to provide any data related to the client company's prior unemployment insurance history to either employee leasing company within 15 days of the request.
- The period for notifying the department of entry into an employee leasing agreement is 30 days (previously, 15 days) after the end of the quarter in which the agreement became effective. The period for notifying the department of the termination of an agreement or of an election to use the Client Level Reporting Method is also 30 days (previously, 15 days).
- An employee leasing company doing business in the state must make an election in writing to use the Client Level Reporting Method within 60 days after January 17, 2014, for calendar year 2014, or by September 30, 2014, for an election effective no later than July 1, 2015.
- An employee leasing company not doing business in the state can make the election to use the Client Level Reporting Method at the time of registration with the department.
- An employee leasing company that has been using the Entity Level Reporting Method, but that elects to use the Client Level Reporting Method instead, must provide any data the department deems necessary within 30 days of the effective date of the election.
- Either the employee leasing company or the client company can hold the short-term private or public disability insurance policy covering employees.

For claims effective on or after January 1, 2015, the taxable wage base is increased from $31,500 to $32,000 for calendar year 2015.

Monetary entitlement. For claims effective on or after January 1, 2015, in order to be considered monetarily eligible, a claimant must have earned at least $165 per week for 20 weeks in a given base period. The minimum weekly base-period wage was increased from $145 per week to the $165-per-week figure just mentioned.

For claims effective on or after January 1, 2015, if a claimant does not meet the weekly base-period wage requirement, then the claimant must have earned at least $8,300 in wages during the established base period. The minimum base-period wage was increased from $7,300 to the $8,300 figure just mentioned.

For claims effective on or after January 1, 2015, the maximum weekly benefit amount is increased from $636 per week to $646 per week.

Temporary disability insurance. For claims effective on or after January 1, 2015, the maximum weekly benefit amount for temporary disability insurance is increased from $595 per week to $604 per week.

North Carolina

Administration. The term “confidential information” means any unemployment compensation information in the records of the state Division of Employment Security that pertains to the administration of the state Employment Security Law and that is required to be kept confidential under 20 C.F.R. Part 603, including information on claims and any information that reveals the name or any identifying particular about any individual or any past or present employer or employing unit, or any information that could foreseeably be combined with other publicly available information to reveal any such particulars.

Confidential information is exempt from the requirements of Chapter 132 of the state General Statutes pertaining to the disclosure of public records. Confidential information may be disclosed only as permitted in the Employment Security Law. Any disclosure of confidential information must be consistent with 20 C.F.R. Part 603, with any written guidance consistent with this regulation, and with any successor regulation. Confidential information obtained, compiled, or maintained by the Division of Employment Security may not be disclosed, except as provided in the Employment Security Law.

The division may disclose final decisions and the records of the hearings that led to those decisions only after the expiration of the appeal rights.

The state Department of Commerce may contract with a North Carolina nonprofit corporation to assist the department with fostering and retaining jobs and with business development, international trade, marketing, and travel and tourism, except that the department may not contract with a North Carolina nonprofit corporation regarding the Division of Employment Security, including the administration of unemployment insurance.

Oklahoma

Administration. The certification statement made by an individual filing an initial claim, regarding the truthfulness and correctness of the information provided, is available through the Internet claims service or can be obtained by completing a form available at a local office.

The statute on confidentiality is amended to provide that all administrative subpoenas, court orders, or notarized waivers of confidentiality authorized shall be presented with a request for records within 90 days of the date the document is issued or signed, and the document can only be used one time to obtain records.

Appeals. The following provision regarding "certified questions by the appeals tribunal" is repealed: "provided, if in connection with any subsequent proceeding an appeal tribunal referee has serious doubt as to the correctness of any principle so declared he or she may certify his or her findings of fact in the case, together with the question of law involved, to the Board of Review, which, after giving notice and reasonable opportunity for briefing to all parties to the proceeding, shall return to the Oklahoma Employment Security Commission adjudicator, the appeal tribunal referee and the parties its answer to the question submitted by written decision. Any decision made by the Board of Review on a certified question shall be subject to judicial review."

Extensions and special programs. The shared-work compensation program is hereby repealed.

Financing. A registered professional employer organization (PEO) is a coemployer with its client, whose covered employees are under the direction and control of the client. Entities that are not registered under the state Professional Employer Organization and Registration Act shall be considered a third-party administrator and will be required to obtain a power of attorney in order to obtain information from the client's account.

A PEO is required to file quarterly reports and pay contributions for all clients under one account, unless the PEO elects in writing by January 1, 2015, to file quarterly reports and pay contributions by the client account number assigned by the commission. The PEO is required to assist the commission in the process of separation and identification of clients' contribution histories if this option is elected. After the initial election or assignment, a PEO may change its election in writing one time only; the election becomes effective the calendar year after the commission approves the change.

The PEO is required to file a list of all its clients' names, with employer identification numbers and contact information, and the currently issued PEO registration certificate within 30 days after the end of each quarter.

A good-cause exception is added to the provision prohibiting noncharging for benefits paid erroneously because of the employer's failure to object to the claim in a timely manner; however, an untimely objection to a claim is allowed should the employer show good cause for the failure to object in a timely manner.

Monetary entitlement. The commission can reconsider a determination if it finds that reimbursed pay or backpay was received by a claimant under circumstances that would reduce the amount of benefits drawn.

The following provision regarding reimbursed pay or backpay is added:

- Reimbursed pay or backpay received by a claimant shall be subtracted from the benefit amount drawn by the claimant in each week in which
  - the claimant is placed on furlough or work stoppage by his or her employer;
  - the claimant is not paid wages or salary during the pendency of the furlough or work stoppage;
  - the furlough or work stoppage is due to a lapse in appropriations, a lapse in funding, or a budget shortfall affecting the employer;
  - after the furlough or work stoppage concludes, the claimant is reimbursed his or her full pay for the period during which the furlough or work stoppage occurred; and
  - the employer considers the employee as having been in a pay status during the furlough or work stoppage.

Each week in which reimbursed pay or backpay is subtracted from a claim, an automatic redetermination of the eligibility for benefits is triggered. Automatic redeterminations are subject to the same appeal rights and overpayment provisions as apply to other unemployment insurance claims.

When, in any benefit year, under a combined wage claim, a claimant is paid benefits for his or her fifth compensable week of unemployment or is paid benefits as defined in paragraph (3) of Section 4-702 of the Oklahoma "unemployment compensation law," the claimant's taxable wages during his or her base period shall be treated as though they had been paid in the calendar quarter in which the fifth compensable week of unemployment benefits are paid (previously, in the calendar year in which such benefits are paid).

Nonmonetary eligibility. The definition of "misconduct" in the event of a discharge for misconduct is amended as follows:

- any intentional act or omission by an employee that constitutes a material or substantial breach of the employee's job duties, responsibilities, or obligations pursuant to his or her employment or contract of employment;
- unapproved or excessive absenteeism or tardiness;
- indifference to, breach of, or neglect of the duties required that results in a material or substantial breach of the employee's job duties or responsibilities;
- actions or omissions that place the health, life, or property of oneself or others in jeopardy;
- dishonesty;
- wrongdoing;
- violation of a law; or
- a violation of a policy or rule enacted to ensure orderly and proper job performance or for the safety of oneself or others. (Previously, a violation of a policy or rule adopted to ensure orderly work or the safety of oneself or others.)

The following provisions are added to the section on discharge for misconduct:

- Any misconduct violation, as just defined, shall not require a prior warning from the employer. As long as the employee knew, or should reasonably have known, that a rule or policy of the employer was violated, the employee shall not be eligible for benefits.
- Any finding by a state or federal agency of any failure by the employee to meet the applicable civil, criminal, or professional standards of the employee's profession shall create a rebuttable presumption of such misconduct, and benefits shall be denied, unless the employee can show, with clear and convincing evidence, that such misconduct did not occur, or unless the commission determines that such failure did not constitute misconduct as just defined.

The term "minor" is deleted and replaced with the term "dependent" in the definition of "immediate family member" in the context of a voluntary quit for compelling family circumstances.

The phrase "or confidential documentation" is deleted from the provision concerning voluntary quits for reasons of domestic violence, and the word "evidence" is added. The pertinent clause of the provision now reads as follows:

"if the claimant separated from employment due to domestic violence or abuse, verified by any reasonable evidence."

Oregon

Administration. The state Employment Department is permitted to make public all decisions of the state Employment Appeals Board.

Rhode Island

Appeals. In appeals from the Department of Employment and Training director's determination to an appeals body other than a court of law, if a claimant retains an attorney-at-law to represent him or her, the attorney shall be entitled to a counsel fee of 10 percent (previously, 15 percent) of the amount of the benefits at issue before the appeals body, but not less than $50, which the director shall pay out of the employment security administrative funds, provided, however, that the attorney-at-law submit his or her request for a counsel fee to the director not later than 2 years from a final adjudication of the case by the appeals body. The director will not allow any requests for counsel fees after the 2-year period ends.

Coverage. The definition of "employment" excludes services performed by (1) sole proprietors (owners), (2) partners in a partnership, (3) a single member of a limited-liability company who files as a sole proprietor with the Internal Revenue Service (IRS), or (4) members of a limited-liability company who file as a partnership with the IRS.

The definition of "employment" excludes (1) service performed by an individual in the employ of a sole proprietorship or limited liability company—single member filing as a sole proprietorship with the IRS for his or her son, daughter, or spouse, (2) service performed by a child under the age of 18 in the employ of his or her father or mother who is designated as a sole proprietorship or limited liability company—single member filing as a sole proprietorship with the IRS, and (3) service performed by an individual under the age of 18 in the employ of a partnership or limited liability company partnership consisting only of his or her parents or domestic partners.

Extensions and special programs. The following work-sharing program provisions are removed: Work-sharing benefits shall be charged to the account of the work-sharing employer. Employers liable for payments in lieu of contributions shall be responsible for reimbursing the employment security fund for the full amount of work-sharing benefits paid to their employees under an approved work-sharing plan. Notwithstanding the preceding, any work-sharing benefits paid on or after July 1, 2013, that are eligible for federal reimbursement shall not be chargeable to employer accounts, and employers liable for payments in lieu of contributions shall not be responsible for reimbursing the employment security fund for any benefits paid to their employees on or after July 1, 2013, that are reimbursed by the federal government.

Financing. With respect to the provisions regarding an employer transferring its trade or business, or any portion thereof, to another employer, in determining whether there is any common ownership, management, or control, the Rhode Island Department of Employment and Training may consider the following factors: familial relationships, principals, corporate officers, organizational structure, day-to-day operations, assets and liabilities, and stated business purposes. The department may consider other factors as well.

Whenever a person who is not an employer at the time that he or she acquires the trade or business, or a portion thereof, of an employer in insolvency proceedings, including those carried out in federal bankruptcy courts, through state receiverships, or through masterships, and other insolvency proceedings, the unemployment experience of the acquired business shall not be transferred to such person. Instead, such person shall be assigned the new employer rate, unless the director finds that, at the time of the acquisition, there is common ownership, management, or control of the two employers, in which case all of the experience will be transferred.

Whenever a person who is an eligible employer prior to the time that he or she acquires the trade or business, or a portion thereof, of an employer in insolvency proceedings, including those carried out in federal bankruptcy courts, through state receiverships, or through masterships, and other insolvency proceedings, the unemployment experience of the acquired business shall not be transferred to such person. Instead, such person shall continue to pay employer contributions at the rate applicable to it prior to the date it made the acquisition, unless the director finds that, at the time of the acquisition, there is common ownership, management, or control of the two employers, in which case all of the experience will be transferred and a new rate computed.

Each employer that is liable for payments in lieu of contributions shall make payments to the director of the state Department of Labor and Training. The payments shall include, but not be limited to, benefits paid but denied on appeal and benefits paid in error that cannot be properly charged against another employer, either reimbursable or contributory, provided that, if the benefits which were paid in error are subsequently repaid, those amounts shall be credited to the employer's account after repayment is actually received by the director.

If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is any common ownership, management, or control of the two employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. Furthermore, in the absence of common ownership, partial transfers may be made at the discretion of the director. The rates of both employers shall be recalculated.

Monetary entitlement. Effective July 6, 2014, the term "credit amount" is defined to mean earnings by the individual in an amount equal to at least 8 times the individual's weekly benefit rate.

For the period from July 1, 2012, through July 5, 2014, The term "credit week" is defined to mean any week within an individual's base period in which that individual earned wages amounting to at least his or her weekly benefit rate for performing services in the employ of one or more employers that are subject to Chapters 42–44 of the state Employment Security Act. (Prior to July 1, 2012, "credit week" was defined as any week within an individual's base period in which that individual earned wages amounting to at least 20 times the minimum hourly wage for performing services in the employ of one or more employers that are subject to Chapters 42–44 of the state Employment Security Act.)

Nonmonetary eligibility. The effective date of a new valid claim or an additional claim shall be established as the Sunday of the week in which the individual contacts and files the claim in accordance with procedures described by the director of the state Department of Labor and Training. Any individual who, without good cause, fails to contact the call center in accordance with these provisions shall not be eligible to receive benefits for the week(s) in which such failure occurs.

Such personal efforts to find suitable work as are customarily made by those in the same occupation or in any other occupation for which the claimant is reasonably suited, commensurate with current economic conditions, include, but are not limited to,

(1) registering for work with the state Employment Service,

(2) conducting an active, independent work search with at least three verifiable work search contacts each week that benefits are claimed, and maintaining a written record of the work search,

(3) submitting a weekly work search to the Department of Labor and Training as prescribed by the director and as indicated in the department's guidelines for an active and independent search for work. The following information about each contact must be included in the record:

- The name and address of the company contacted,
- The date the claimant applied for work,
- The manner by which the claimant applied for work (e.g., in person, by sending a résumé, via the Internet), and
- The specific position and shift for which the claimant applied,

(4) posting a resume on the Employment Service's online jobseeker toolkit and inquiring into any job opportunities presented by the department,

(5) completing a skills review or similar activity through the Employment Service as prescribed by the director, and

(6) registering on the virtual recruiter or similar tool through the Employment Service as prescribed by the director.

The director has discretion in determining whether to require one or all activities identified in the preceding paragraphs (4), (5), and (6). Furthermore, the department is an equal opportunity service provider. Accordingly, the director has discretion to afford claimants alternative means for satisfying the preceding requirements if the director finds that the claimants have limited proficiency in English or are qualified individuals with a disability as defined by federal and state law.

In addition to carrying out the preceding activities, all individuals will make themselves available for profiling services when offered, provided, however, that no claimant shall, in order to establish his or her availability, be required to perform any unreasonable act in seeking work (e.g., a search that has no reasonable expectation of resulting in reemployment).

The department shall provide every claimant with written guidelines for an active and independent search for work. Individuals who qualify for a work search waiver under Rule 35 of the state Employment Security Rules will also qualify for a waiver from the preceding additional activities.

An individual who fails to report to an office of the department when notified of an appointment, fails to provide any documentation requested by the department, or fails to comply with an instruction given by the director of the department or his or her designee shall be denied benefits for the week in which such failure occurs, unless the

reason for the failure to comply with the department's requirements is based upon good cause as determined by the director.

For benefit years beginning on or after July 6, 2014, an individual who leaves work voluntarily without good cause, an individual who has been discharged for proven misconduct connected with his or her work, or an otherwise eligible individual who fails, without good cause, either to apply for suitable work when notified by the employment office or to accept suitable work when offered to him or her shall become ineligible for waiting-period credit or benefits for the week in which the voluntary quit, discharge, or failure occurred, until the individual establishes, to the satisfaction of the director, that, subsequent to that leaving, discharge, or failure, the individual had earnings greater than or equal to 8 times his or her weekly benefit rate for performing services in the employ of one or more employers who are subject to Chapters 42–44 of the state Employment Security Act. (Prior to July 6, 2014, an individual was ineligible for waiting-period credit or benefits until he or she had at least 8 weeks of work and, in each of those 8 weeks, had earnings greater than or equal to his or her weekly benefit rate for performing services in the employ of one or more employers who are subject to Chapters 42–44 of the state Employment Security Act.)

South Carolina

Coverage. An individual or entity who owns or holds under a lease purchase agreement a tractor, trailer, or other vehicle, and who provides services as a driver to a motor carrier under an independent contractor agreement is exempt from coverage. Also, certain drivers performing services for an automobile dealer such that the services are related to the transport of individual vehicles to a seller or purchaser are exempt from coverage.

Service performed by an officer of a corporation is exempt from coverage. A corporation may elect, in writing, to cover its officers; if, however, it does not elect to provide coverage, it must notify its officers that they are ineligible for unemployment benefits. When a corporation elects to provide coverage, it must be provided for at least 2 calendar years and shall terminate on January 1 subsequent to the 2-year period if the employer files a written application before January 15 of that year. Services provided for a religious, charitable, educational, or other organization or for an Indian tribe are not subject to these provisions.

South Dakota

Financing. For taxable wages paid on and after January 1, 2010, through December 31, 2014, the minimum contribution rate is 0.0 percent when an employer's reserve ratio is 2.50 percent and over and the maximum contribution rate is 9.50 when an employer's reserve ratio is less than –6.60 percent.

For taxable wages paid on and after January 1, 2015, the minimum contribution rate is 0.00 percent when an employer's reserve ratio is 2.25 percent and over and the maximum contribution rate is 9.50 percent when an employer's reserve ratio is less than –7.00 percent.

The provision asserting that the former employer's experience-rating account may not be charged for additional training program benefits is repealed.

Extensions and special programs. The provision asserting that unemployed individuals who have exhausted their rights to regular unemployment compensation, but who are enrolled in an approved training program or in a job training program authorized under the federal 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 is repealed; such training programs would have prepared individuals for entry into a high-demand occupation who

had been separated from a declining occupation or who had been involuntarily separated from employment because of a permanent reduction in operations at their place of employment.

Nonmonetary eligibility. There is good cause for voluntarily leaving employment if the employee is an officer who exercises substantial control in decisions to take or not to take action on behalf of a corporation and has no other alternative than to leave employment with that corporation. This provision does not preclude a corporate officer who does not exercise substantial control in any decision to take or not to take action on behalf of a corporation from being found to have good cause to leave employment under the circumstances set out in the good-cause-for-leaving-employment provisions of the unemployment insurance law.

Tennessee

Financing. An employer relocating to Tennessee on or after July 1, 2014, may elect to use an interstate transfer of its experience rating. For the determination of its experience rating, the employer is required to provide an authenticated account history. The state Department of Labor and Workforce Development's use of the interstate transfer of experience may be suspended if the trust fund balance is lower than or equal to $700 million, in which case the employer's rate shall revert to the industry rate designated at the time of the suspension. The use of the interstate transfer of the employer's experience shall not apply if it violates federal law or causes the department a loss of federal funding.

Utah

Administration. Any out-of-state business that provides recovery services in the state which are related to a declared state disaster or emergency during the disaster period is considered not to have established a level of presence which would require that business to be subject to any state licensing or registration requirements, provided that such business is in substantial compliance with all applicable regulatory and licensing requirements, including having unemployment insurance, in its state of domicile.

Any out-of-state business or out-of-state employee that remains in the state after the disaster period will become subject to the state's normal standards for establishing presence or residency or for doing business in the state and shall complete state and local registration, licensing, and filing requirements that establish the requisite business presence or residency in the state.

Financing. The provision that benefit costs will not be charged to employers if they are attributable to wages used in a previous benefit year that are available for a second benefit year under Subsection 35A-4-401(2) of the Utah Employment Security Act because of a change in method of computing base periods, because of overlapping base periods, or for other reasons required by law is deleted.

Vermont

Administration. Notwithstanding any other specific provisions, and where practicable, the commissioner of employment and training may require of any employing unit (previously, units with 25 or more employees) that the reports required to be filed pursuant to certain subsections of the Vermont Unemployment Compensation Law be filed in an electronic media form.

Extensions and special programs. A self-employment assistance program is established effective June 4, 2014, as follows:

- "Full-time basis" means that the individual is devoting the necessary time, as determined by the commissioner, to establish a business that will serve as a full-time occupation for that individual.
- "Regular benefits" shall have the same meaning as in subdivision 1421(5) of the state unemployment compensation law.
- "Self-employment assistance activities" means activities approved by the commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed. Such activities include entrepreneurial training, business counseling, and technical assistance.
- "Self-employment assistance allowance" means an allowance payable in lieu of regular benefits from the unemployment compensation fund to an individual who meets the program requirements.
- "Self-employment assistance program" means a program under which an individual who meets the program requirements is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.
- The weekly amount of the self-employment assistance allowance payable to an individual shall be equal to the weekly benefit amount for regular benefits otherwise payable.
- The maximum amount of the self-employment assistance allowance paid shall not exceed the maximum amount of benefits established with respect to any benefit year.
- An individual may receive a self-employment assistance allowance if that individual
    - is eligible to receive regular benefits or would be eligible to receive regular benefits, except that the requirements relating to availability for work, efforts to secure work, and refusal to accept work are not applicable and the individual is not considered to be self-employed;
    - is identified by a worker profiling system as an individual likely to exhaust regular benefits;
    - has received the approval of the commissioner to participate in a program providing self-employment assistance activities;
    - is actively engaged on a full-time basis in activities, which may include training related to establishing a business and becoming self-employed; and
    - has filed a weekly claim for the self-employment assistance allowance and has provided the information the commissioner prescribes.
- A self-employment allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits are paid, except that
    - the requirements relating to availability for work, efforts to secure work, and refusal to accept work are not applicable to the individual;
    - the individual is not considered to be self-employed;
    - an individual who meets the program requirements shall be considered to be unemployed; and
    - an individual who fails to participate in self-employment assistance activities or who fails to actively engage on a full-time basis in activities, including training, relating to the establishment of a business and becoming self-employed, shall be disqualified from receiving an allowance for the week the failure occurs.
- The self-employment assistance allowance may be paid to up to 35 qualified individuals at any time.

- The commissioner shall approve any program that will provide self-employment assistance activities to qualified individuals.
- The commissioner shall adopt rules to implement the aforesaid program.
- The commissioner may suspend the self-employment assistance program with the approval of the secretary of administration and with notice to the state House Committee on Commerce and Economic Development and the state Senate Committee on Economic Development, Housing and General Affairs in the event that the program presents unintended adverse consequences to the unemployment trust fund.

- The self-employment assistance program shall be repealed on January 1, 2017.

Financing. The self-employment assistance allowance shall be charged to the unemployment trust fund. In the event that the self-employment assistance allowance cannot be charged to the unemployment trust fund, the allowance shall be charged in accordance with the experience-rating provisions.

Short-time compensation benefits paid to an employee shall be charged to his or her employer in the base period. (Previously, such benefits were charged to the employee's short-time compensation employer's experience-rating records.) Reimbursable employers participating in the short-time compensation program shall be assessed for the short-time compensation benefits paid their employees.

The experience-rating record of a base-period employer shall not be charged for benefits paid to an individual if the individual voluntarily separated from that employer to accompany a spouse who is on active duty with the U.S. Armed Forces or who holds a commission in the foreign service of the United States and is assigned overseas.

If an employing unit fails to comply with any request for records containing employment, wage, and separation information about a claimant within 10 days of the mailing or personal delivery of the request, the commissioner shall determine the benefit rights of the claimant upon whatever information is available. Prompt notice of the determination, in writing, shall be given to the employing unit. The determination shall be final with respect to a noncomplying employer as regards any charges against its experience-rating record for benefits paid to the claimant before the week following the receipt of the employing unit's reply. The employing unit's experience-rating record shall not be relieved of these charges, notwithstanding any other provisions, unless the commissioner determines that failure to comply was due to an unavoidable accident or mistake.

Monetary entitlement. The amount of a claimant's weekly earnings that are disregarded when the weekly benefit amount is computed changes from the greater of 30 percent of gross wages or $40 to 50 percent of gross wages.

Nonmonetary eligibility. An unemployed individual shall be eligible to receive benefits with respect to any week if the individual has given written notice of resignation to his or her employer and the employer subsequently made the termination of employment effective prior to the date of termination given in the notice. Provided that the claimant could not establish good cause for leaving work and was not discharged for misconduct or for gross misconduct, in no case shall the unemployment benefits awarded exceed 4 weeks or extend beyond the date of separation as provided in the employee's notice to the employer.

An individual shall not be disqualified for benefits if he or she left employment to accompany a spouse who

- is on active duty with the U.S. Armed Forces and is required to relocate because of permanent-change-of-station orders, activation orders, or unit deployment orders when relocation would make it impractical or impossible, as determined by the commissioner, for the individual to continue working for the employment unit in question; or
- holds a commission in the foreign service of the United States and is assigned overseas when relocation would make it impractical or impossible, as determined by the commissioner, for the individual to continue working for the employment unit in question.

Overpayments. The amount collected of the 15-percent additional penalty on the amount of overpaid benefits due because of a person's intentional misrepresentation or failure to disclose a material fact on the benefit claim shall be deposited in the state's unemployment compensation fund.

Virginia

Administration. Notwithstanding any provision of law to the contrary, the Virginia Economic Development Partnership (previously, the Department of Small Business and Supplier Diversity) may share certain data from within its databases solely to (i) provide workforce program evaluation and policy analysis and (ii) conduct education program evaluations that require employment outcomes data to meet state and federal reporting requirements.

The Virginia Jobs Investment Program is established to support private sector job creation by encouraging the expansion of existing businesses and the startup of new business operations in the state. The program consists of the following component programs: (1) the New Jobs Program, (2) the Workforce Retraining Program, and (3) the Small Business New Jobs and Retraining Programs.

Extensions and special programs. A short-time compensation program is established. An employer is ineligible to participate in the program if it has a negative unemployment experience, a maximum experience rate of 6.2 percent at the time of application or at any time during the preceding year, or an assigned new employer rate, or if it has reduced its workforce by 20 percent or more during the 6 months prior to application.

To participate in the short-time compensation program, an employer must submit a plan for approval and the plan must

- identify the affected unit(s), including the number of full- and part-time workers in the unit(s); the percentage of covered workers in each affected unit; the name and Social Security number of each participating employee; and the employer's account number and any other information needed to identify participants;
- provide a description of how workers, including workers in a collective-bargaining unit, will be notified if the plan is approved, or, alternatively, provide a statement explaining why it is not feasible to notify them;
- identify the usual weekly hours of work for participating employees and the specific percentage (must not be less than 10 percent or more than 60 percent) by which the hours will be reduced during all weeks covered by the plan, as well as identify any week that there is no work because of a holiday or plant closing;
- certify that health and retirement benefits shall continue to be provided on the same terms and conditions as though the usual weekly hours had not been reduced or to the same extent that they are provided for employees not participating in the plan; for defined benefit retirement plans, the reduced hours must be credited as though the usual weekly hours of work are not reduced (the dollar amount of employer contributions to a defined contribution plan that is based on a percentage of compensation may be less because of the reduction in the employee compensation); and any scheduled reductions will be applicable to all participating and nonparticipating employees;
- certify that the reduction in work hours is in lieu of layoffs and include an estimate of the number of workers who would have been laid off;
- agree to furnish reports to the state Employment Commission; to allow access to all records necessary to approve, monitor, and evaluate the plan; and to follow any directives the commission deems necessary to implement the plan;

- certify that participation in, and implementation of, the plan is consistent with the employer's obligations under federal and state laws;
- specify the effective date and duration of the plan (not to exceed 6 months);
- include any other provision that the commission adds to the plan that the U.S. secretary of labor determines to be appropriate; and

- provide information regarding whether the plan is a transition to permanent layoffs.

The commission must approve or disapprove the plan in writing within 30 days of receipt. The reasons for disapproval must be identified if the plan is not approved, and the employer may submit another plan after 90 days from the disapproval date.

The plan shall expire at the end of 6 full calendar months after the date specified in the approval notice, unless it is terminated by the commission.

The employer may terminate the plan upon written notice. The commission must notify employees in the affected unit of the termination date. An employer may submit a new plan any time after the expiration or termination date.

The commission may revoke approval of the plan at any time for good cause but must specify the reasons for revocation and the effective date in writing. Good cause includes failure to comply with assurances in the plan; unreasonable revision of productivity standards, conduct, or occurrences that defeat the intent of the plan; and the violation of any criteria on which approval of the plan was based.

An employer must submit a written request for substantial plan modifications that identifies the specific provisions to be modified and gives an explanation for why the modifications are appropriate. The commission must promptly notify the employer of the decision, and of the effective date if the modification is approved. Every plan modification must be reported in writing promptly to the commission.

An individual is eligible for short-time compensation if he or she is eligible for regular unemployment compensation, is employed as a member of an affected unit under an approved short-time compensation plan, and is available for the usual hours of work with the employer, including any participation in training sponsored by the employer or approved by the commission.

Benefits shall be reduced by the percentage of reduction in the individual's weekly hours of work, the individual shall be eligible for no more than the maximum benefit amount for a benefit year established under regular compensation, and short-time compensation is limited to 26 weeks under a plan.

Combined work for the short-time compensation employer and another employer must result in at least a 10-percent reduction in work hours or the minimum percentage reduction required for an individual to be eligible for short-time compensation, and the weekly benefit shall be reduced by same percentage reduction. The individual is eligible for regular compensation in any week that neither employer provides work. If a nonplan employer provides work during a week that the short-time compensation employer has no work, the individual is eligible for regular compensation, subject to the applicable disqualifying income provisions.

Employers shall be charged for short-time compensation in the same manner as they are charged for regular compensation.

Individuals who have exhausted all regular compensation and short-time compensation are eligible to receive extended benefits.

If any provision of the state unemployment insurance law is found to be in violation of federal law, such provision shall be inoperative and shall not invalidate other, related provisions.

Reports on the status of the implementation of the short-time compensation program must be sent to the governor and the state General Assembly on July 1, 2015, and July 1, 2016; the 2016 report shall include recommendations for alterations to the statutory authorization.

The short-time compensation provisions will become effective on January 1, 2015, and will expire on July 1, 2016. If the commission receives a federal grant to establish a short-time compensation program, then the provisions will expire January 1, 2020.

Financing. Under the benefit ratio provisions, the definition of "payroll" is changed from "the taxable payroll on which taxes have been paid on or before September 30 immediately following such June 30" to "the greater of (i) the taxable payroll on which taxes have been paid on or before September 30 immediately following such June 30, or (ii) $1."

No benefit charges shall be deemed the responsibility of an employer of an individual who leaves employment to accompany his spouse to the location of the spouse's new duty assignment if (i) the spouse is on active duty in the military or naval services of the United States, (ii) the spouse's relocation to a new military-related assignment is pursuant to a permanent-change-of-station order; (iii) the location of the spouse's new duty assignment is not readily accessible from the individual's place of employment; and (iv) the spouse's new duty assignment is located in a state that, pursuant to statute, does not deem a person accompanying a military spouse as a person leaving work voluntarily without good cause.

Nonmonetary eligibility. An individual shall be disqualified for benefits upon separation from the last employing unit for which he or she has worked 30 days or 240 hours, or from any subsequent employing unit, if the commission finds that such individual is unemployed because he or she left work voluntarily without good cause. "Good cause" shall not include voluntarily leaving work with an employer to accompany or to join one's spouse in a new locality, except where an individual leaves employment to accompany a spouse to the location of the spouse's new duty assignment if (1) the spouse is on active duty in the military or naval services of the United States; (2) the spouse's relocation to a new military-related assignment is pursuant to a permanent-change-of-station order; (3) the location of the spouse's new duty assignment is not readily accessible from the individual's place of employment; and (4) except for members of the state National Guard relocating to a new assignment within the commonwealth, the spouse's new duty assignment is located in a state that, pursuant to statute, does not deem a person accompanying a military spouse as a person leaving work voluntarily without good cause.

A rebuttable presumption of a graduate student's voluntary quit from employment that begins during the summer semester break is added to the law.

Washington

Extensions and special programs. To participate in the state's shared-work program and receive shared benefits, a claimant must work between 50 (previously, 10) percent and 90 (previously, 50) percent of his or her usual weekly hours. In any week that the claimant works less than or more than that amount, the claim will be processed as a regular unemployment claim.

Wisconsin

Administration. With regard to a business transfer, the state Department of Workforce Development (DWD) shall accept, from a transferee electing to become a successor, a late written application for successorship received no more than 90 days after its due date if the transferee satisfies the department that the application was late as a result of excusable neglect.

Mailing in a continued claim is no longer allowed; instead, computerized and telephonic claim filing is standard unless another method of filing is specifically allowed, on an individual basis, by the Department of Workforce Development (becomes effective May 1, 2014).

Appeals. A standard affidavit form, with rules prescribed for its use, is created for both claimants and employers to use during unemployment insurance appeals. Affidavit forms are available at the department's website or by requesting a copy from the hearing office. An affidavit based upon information and belief must state the source of the information and the grounds for the belief. A party may submit an affidavit as a potential exhibit by simultaneously delivering the affidavit to the hearing office and a copy to the other party at least 3 days prior to the hearing. At the hearing, the administrative law judge may accept the affidavit as evidence.

Financing. An application for certain certifications or registrations shall be denied, suspended, or restricted for an employer with delinquent unemployment compensation contributions.

An employer is eligible for a reduced tardy filing fee if the employer files its quarterly report within 30 days after the Department of Workforce Development assesses such a fee. (Previously, the employer was eligible for the reduced fee if the report was filed within 30 days of the due date.)

Regulation DWD 111.07, regarding delinquent contribution reports and delinquent quarterly wage reports, that asserted the following is repealed: a $15 tardy filing fee and interest charges is imposed on an employer who is tardy in filing the contribution portion of the reporting package, tardy in filing a separate contribution report, or tardy in payment; a separate fee is imposed for tardy filing or failing to file a wage report by the appropriate method, with the amount of the fee depending upon the number of employees on the wage report (fewer than 10 or more than 10 employees); fees are imposed that range from $15 for an employer with 1–100 employees in the quarter to $115 for an employer with 401 or more employees in the quarter; and language is given concerning the waiver of tardy filing fees. (The amended provisions that added new language with respect to the amount of a penalty and the process of assessing the penalty against an employer who files a tardy quarterly wage report are now set forth in Section 108.22, Statutes, as a result of Act 36.)

(1) Except as provided in Section DWD 113.02 or 113.03, the department may grant a waiver or decrease the interest owed by an employer if the employer satisfies all of the following conditions:

> (a) The employer pays the full payment of any taxes and assessments due within 30 days following the resolution of all issues. Until the employer pays all of the correct amount of taxes and assessments due, the department is not permitted to waive or decrease any of the interest owed by the employer.
>
> (b) The employer files, within 30 days following the resolution of all issues, any wage or tax report that is due. Until the employer files all of the wage or tax reports that are due, the department may not waive or decrease any of the interest owed by the employer.
>
> (c) The employer has no other outstanding reports, contributions, interest, penalty, or other fees due.

(d) Sometime within the last year, the employer was determined to be subject to the state unemployment insurance law, or else the employer has a history of filing required reports, including wage and tax reports, and of making payments, in a timely manner.

(e) The employer or a business for which the employer is a successor, pursuant to the requirements of Section 108.16 (8), Statutes, has never previously received a waiver or decrease in interest charged under Section 108.22 (1)(a) or 108.17 (2c) (c), Statutes.

(f) No hearing has been held before any administrative law judge on an appeal under Section 108.10, Statutes, regarding the tax liability associated with the interest.

(2) If all of the conditions of Subsection (1) are satisfied, the department may waive or decrease the interest charged under Section 108.22 (1)(a) or 108.17 (2c)(c), Statutes, if the interest charged resulted from any of the following circumstances:

(a) The employer failed to pay taxes or underpaid taxes by the required due date established by the department, and the failure to pay or the underpayment was a result of excusable neglect. An erroneous contention regarding the unemployment insurance law or a misunderstanding of the obligations under the law shall not constitute excusable neglect. Following are some examples of excusable neglect:

- Embezzlement by an accountant or an employee who is not related to the employer such that the embezzlement caused the interest to be due.
- Inaccurate written communication given to the employer by the state Division of Unemployment Insurance such that the communication affirmatively misled the employer as to its duties and obligations and caused the interest to be due.

(b) An inadvertent mathematical miscalculation by the employer of the amount of tax due such that the miscalculation resulted in a de minimis underpayment of taxes.

(3) A denial of a request for a waiver or decrease of interest under Subsection (2) and Section 108.22 (1)(cm), Statutes, is not an appealable decision.

The preceding rules concerning the waiver or decrease of interest charged to employers due to delinquent payment of unemployment insurance taxes apply first to any delinquent contributions existing on or after August 1, 2014.

Rules are created for the process of denying or revoking a license that are based on delinquent unemployment insurance taxes and that provide procedures for people whose license or credential is to be denied, not renewed, discontinued, suspended, or revoked on the basis that those people are being certified delinquent in paying unemployment insurance contributions. The department must send a certified notice of liability to the delinquent license holder or applicant which includes a statement that the department may issue a certificate of delinquency to a licensing department that may result in the license or credential being denied, not renewed, discontinued, suspended, or revoked. After receipt of a notice of liability of delinquent contributions, a license holder or an applicant for a license shall submit full payment or enter into an approved installment payment plan schedule. A nondelinquency certificate shall be issued to any person who has paid the full amount due, has entered into and complied with an installment payment plan schedule, or is otherwise not liable for delinquent contributions. Other

enforcement actions required or permitted by law are not prohibited in collecting contributions from the license holder or applicant.

A financial record-matching program between the department and financial institutions doing business in the state enabling them to participate in the exchange of data on a quarterly basis is provided. After the financial institution has signed an agreement, the department will review and sign it if all conditions have been met. Any change to the conditions of the agreement shall be submitted by the financial institution or the department at least 60 days prior to the effective date of the change.

The rules concerning license revocation and financial record matching apply first to any delinquent contributions existing on or after August 1, 2014.

Nonmonetary eligibility. An individual is ineligible for benefits any week that he or she fails to appear and answer questions relating to eligibility for benefits or fails to give certain demographic information. (This provision eliminates the claimant's possibility of showing good cause for not providing the information.)

Regulation DWD 132.03, regarding voluntary termination of part-time employment and which asserted the following, is repealed: part-time means work performed for no more than 30 hours per week; a claimant's employment qualifies as part-time work if, in at least 65 percent of the most recent 26 weeks of working with the part-time employer, the claimant worked only part time and the loss of the full-time work makes it economically unfeasible for the claimant to continue the part-time work; to determine whether the loss of the full-time work makes it economically unfeasible for the claimant to continue the part-time work, the amount of the claimant's gross wages from the part-time work for the week preceding the week in which the claimant terminates the part-time work is added to the amount of unemployment benefits payable for that week and the resulting sum is subtracted from the expenses incurred by the claimant in that week for the part-time work; if the remainder is less than the claimant's full weekly benefit rate for that week, it is considered economically unfeasible for the claimant to continue the part-time work; if the claimant meets the part-time work requirements and is otherwise eligible, the claimant shall be entitled to benefits; if the claimant does not meet the part-time work requirements, he or she shall be subject to a reduction in the benefits payable and shall be ineligible for benefits until reemployed, unless another exception applies.

The work search requirements for eligibility are revised as follows:

- A temporary-layoff exemption is added which asserts that an individual is exempt from the work search requirement if the employer verifies that the individual will be recalled to work within 8 weeks of being laid off; the exemption may be extended an additional 4 weeks, not to exceed 12 weeks.
- A work search exemption is added for an individual with a verified new employment start date within 4 weeks, not to exceed 4 weeks.
- A work search exemption is added for an individual participating in a work share program.
- A work search exemption is added for an individual participating in a self-employment assistance program.
- A work search exemption is added for an individual participating in a program that has been enacted by the state or federal legislature and which asserts that claimants who participate in the program shall be exempted from work search requirements.
- The required number of work search activities in suitable work is increased from at least two to at least four in a claim week (becomes effective May 1, 2014).

- A claimant is exempt from conducting four weekly work searches if he or she performs at least 20 hours of work for any employer in the given week. (Previously, the work search was waived if the claimant performed any work for his or her customary employer.)
- In addition to applying for work with employers who may reasonably be expected to have openings for suitable work, if a claimant has been unemployed for 7 or more consecutive weeks, the claimant may be required to conduct five weekly work searches when he or she is placing unreasonable limitations as to salary, hours, or conditions of work in accepting new work or is not engaging in work search efforts as would a prudent person who is out of work and seeking work (becomes effective May 1, 2014).
- The work search verification requirements are amended to include additional information as follows:
    - Upon request, a claimant must provide, by a computer-based program or other methods approved by the department, verification that he or she has conducted at least four work search actions. If good cause is shown for not using a computer-based program, the department shall approve alternative forms of verification (becomes effective May 1, 2014).
    - Applications for work verification must include the method of contacting a potential employer. The phrase “or other verifiable information of the application” was added (becomes effective May 1, 2014).
    - Work search verification that the claimant took a civil service exam must include the location of the exam and the position for which the individual applied (becomes effective May 1, 2014).
    - Registration with a union is expanded to include registration with a union or placement facility, as well as a requirement to include the name and address of the facility at which the individual registered (becomes effective May 1, 2014).
    - For any reemployment services used at a public employment office, information given must include the date of the visit; the name and address of the public employment office, training program, or similar reemployment office; and the name of the person with whom the claimant met (becomes effective May 1, 2014).
    - Information on any other type of work search activity reasonably expected to result in the claimant becoming employed should be included if such activity is approved by the department (becomes effective May 1, 2014).
- The requirement, in the work search verification provisions, that evidence of any other action the claimant took during a given week to seek work, including, but not limited to, any responses to advertisements for suitable work and submissions of personal resumes to prospective employers, be included is deleted (becomes effective May 1, 2014).

- As a new requirement for work search verification, the claims office is directed to provide reasonable accommodations to individuals who cannot give information on registering for work in the manner normally prescribed by the Department of Workforce Development.

The department may require a claimant to participate in, among other things, a training program, or similar reemployment services, that offers instruction in improving one's skills at finding and obtaining employment. If a claimant fails without good cause to participate in a training program or similar reemployment services for any given week, the claimant is ineligible for benefits for that week (becomes effective May 1, 2014).

The other provisions of Wisconsin Rule 22012 will take effect when the state secretary of labor determines that the department has the technological ability to implement them.

Wyoming

Coverage. The definition of "employment" excludes service performed by a person acting as a fiduciary and receiving reasonable compensation for fiduciary services pursuant to the Uniform Trust Code or the Wyoming Probate Code.

Nonmonetary eligibility. The term "misconduct connected with work" is defined to mean an act of an employee that indicates an intentional disregard of the employer's interests or of the commonly accepted duties, obligations, and responsibilities of an employee. Misconduct connected with work does not include (a) ordinary negligence in isolated instances, (b) good-faith errors in judgment or discretion, or (c) inefficiency or failure in good performance as the result of inability or incapacity.

SUGGESTED CITATION

Loryn Lancaster, "Changes in federal and state unemployment insurance legislation in 2014," *Monthly Labor Review,* U.S. Bureau of Labor Statistics, August 2015, https://doi.org/10.21916/mlr.2015.27.

RELATED CONTENT

Related Articles

Changes in federal and state unemployment insurance legislation in 2013, *Monthly Labor Review*, July 2014.

Changes in federal and state unemployment insurance legislation in 2012, *Monthly Labor Review*, March 2013.

Changes in federal and state unemployment insurance legislation in 2011, *Monthly Labor Review*, February 2012.

Related Subjects

Unemployment Insurance | Labor law | Labor law state government | Unemployment Insurance legislation