

DIVISION OF RESEARCH AND STATISTICS

# A History of UI Legislation in the United States and NYS *1935 - 2014*



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On the cover: President Franklin D. Roosevelt signs the landmark Social Security Act of 1935 which establishes the national unemployment insurance program (with U.S. Secretary of Labor, Francis C. Perkins, standing to his left).

# TABLE OF CONTENTS

<b>PREFACE</b> .....	<b>vi</b>
<b>I. THE SOCIAL SECURITY ACT</b> .....	<b>I-1</b>
UNEMPLOYMENT INSURANCE IN OTHER COUNTRIES .....	I-1
EARLY DEVELOPMENTS IN THE UNITED STATES .....	I-2
<i>Proposals for State Legislation</i> .....	I-2
<i>The Wisconsin Law</i> .....	I-2
<i>The Ohio Pooled Fund</i> .....	I-3
<i>Other State Laws</i> .....	I-3
<i>Proposals for Federal Legislation</i> .....	I-3
FRAMEWORK OF THE FEDERAL-STATE SYSTEM .....	I-3
<b>II. DEVELOPMENTS IN FEDERAL UNEMPLOYMENT INSURANCE COVERAGE, ADMINISTRATION FINANCING AND RELATED REGULATIONS</b> .....	<b>II-1</b>
EARLY COVERAGE LIMITATIONS .....	II-1
AMENDMENTS TO THE FEDERAL DEFINITION OF EMPLOYMENT .....	II-1
EXTENSION OF COVERAGE UNDER THE FEDERAL LAW .....	II-2
EXTENSION OF BENEFIT DURATION UNDER FEDERAL-STATE LAWS .....	II-5
<i>Extended Benefits</i> .....	II-5
<i>Temporary Emergency Benefits Programs</i> .....	II-6
SUPPLEMENTAL BENEFITS UNDER FEDERAL-STATE LAWS .....	II-10
<i>Disaster Unemployment Assistance (DUA)</i> .....	II-10
<i>Trade Adjustment Assistance (TAA)</i> .....	II-11
<i>Self Employment Assistance Program (SEAP)</i> .....	II-12
<i>Shared Work Program</i> .....	II-13
<i>Federal Additional Compensation (FAC)</i> .....	II-13
FEDERAL TAX RATES AND RELATED REGULATIONS .....	II-13
<i>Tax Rates</i> .....	II-13
<i>Taxable Wages</i> .....	II-14
<i>Collection of Unemployment Compensation Debts</i> .....	II-15
<i>Appropriations</i> .....	II-15
<i>Federal Loans to State Unemployment Programs</i> .....	II-17
<i>Sequestration of UI Programs</i> .....	II-19
<b>III. UNEMPLOYMENT INSURANCE DEVELOPMENTS IN NEW YORK STATE</b> .....	<b>III-1</b>
THE 1935 NEW YORK LAW .....	III-2
UNEMPLOYMENT INSURANCE COVERAGE.....	III-3
<i>The 1930s</i> .....	III-3
<i>The 1940s</i> .....	III-3
<i>The 1950s</i> .....	III-4
<i>The 1960s</i> .....	III-4
<i>The 1970s</i> .....	III-5
<i>The 1980s</i> .....	III-7
<i>The 1990s</i> .....	III-7
<i>The 2000s</i> .....	III-8
<i>The 2010s</i> .....	III-8
WEEKLY BENEFIT RATES.....	III-8
<i>1935 to 1948</i> .....	III-8
<i>The 1951 Amendments</i> .....	III-8
<i>Changes in Maximum and Minimum Weekly Benefit Amounts, 1951-2000</i> .....	III-10
<i>Changes in Maximum and Minimum Weekly Benefit Amounts, After 2000</i> .....	III-11

<i>Benefit Rate Provisions After 2000</i> .....	III-12
<i>Partial-week Benefits</i> .....	III-12
<i>Deductions and Withholdings</i> .....	III-13
<i>Shared Work Program</i> .....	III-13
<b>DURATION OF BENEFITS</b> .....	III-14
<i>Waiting Period</i> .....	III-14
<i>Maximum Durations to 1970</i> .....	III-14
<i>Maximum Durations After 1970</i> .....	III-15
<i>Extended Benefits Program (EB)</i> .....	III-15
<i>Federal Supplemental Benefits Program (FSB)</i> .....	III-16
<i>Trade Readjustment Allowances (TRA)</i> .....	III-17
<i>Federal Supplemental Compensation (FSC)</i> .....	III-17
<i>Emergency Unemployment Compensation Program (EUC)</i> .....	III-17
<i>Temporary Extended Unemployment Compensation Act of 2002 (TEUC)</i> .....	III-17
<i>Emergency Unemployment Compensation Program 2008 (EUC08)</i> .....	III-18
<i>Self-Employment Assistance Program (SEAP)</i> .....	III-19
<i>Shared Work Program</i> .....	III-19
<i>Section 599.2 Training Programs</i> .....	III-19
<i>Federal Additional Compensation (FAC)</i> .....	III-20
<b>ENTITLEMENT PROVISIONS</b> .....	III-20
<i>The Early Years</i> .....	III-20
<i>The Hughes-Brees Act of 1951</i> .....	III-21
<i>Changes in Entitlement Requirements After 1951</i> .....	III-21
<b>ELIGIBILITY AND INELIGIBILITY PROVISIONS</b> .....	III-23
<i>Availability and Total Unemployment</i> .....	III-23
<i>Disqualifications Under the 1935 Law</i> .....	III-23
<i>Changes in Job Refusal Provisions</i> .....	III-24
<i>Industrial Controversy Provisions</i> .....	III-25
<i>Voluntary Quit Provisions</i> .....	III-26
<i>Misconduct Provisions</i> .....	III-27
<i>Willful Misstatement Provisions</i> .....	III-28
<i>Overpayments and Recovery Provisions</i> .....	III-28
<i>Disqualifying Income and Benefit Reductions</i> .....	III-30
<i>Conditions for Disqualification in Certain Professions</i> .....	III-31
<b>REVENUE PROVISIONS</b> .....	III-32
<i>The First Decade</i> .....	III-32
<i>The Tax Credit Plan</i> .....	III-33
<i>Experience Rating</i> .....	III-34
<i>Changes in the 1950s and 1960s</i> .....	III-35
<i>Changes in the 1970s</i> .....	III-36
<i>Changes in the 1980s</i> .....	III-37
<i>Changes in the 1990s</i> .....	III-38
<i>Changes in the 2000s</i> .....	III-40
<i>Changes in the 2010s</i> .....	III-40
<b>SHARED WORK PROGRAM</b> .....	III-41
<b>WAGE REPORTING</b> .....	III-43

<b>APPENDIX A. CHRONOLOGY OF SIGNIFICANT CHANGES IN FEDERAL UNEMPLOYMENT INSURANCE LEGISLATION, 1935 – 2014</b> .....	<b>A-1</b>
<b>FEDERAL LEGISLATIVE PROVISIONS</b> .....	<b>A-3</b>

**APPENDIX B. CHRONOLOGY OF SIGNIFICANT CHANGES IN THE NEW YORK STATE  
UNEMPLOYMENT INSURANCE LAW, BY GENERAL SUBJECT CATEGORY AND  
EFFECTIVE DATE, 1935 - 2014.....B-1**

COVERAGE .....B-3  
BENEFIT RATES .....B-11  
WAITING PERIOD .....B-17  
DURATION OF BENEFITS .....B-18  
ENTITLEMENT PROVISIONS .....B-28  
BASE PERIOD.....B-31  
BENEFIT YEAR .....B-32  
ELIGIBILITY AND INELIGIBILITY PROVISIONS.....B-33  
DISQUALIFYING INCOME.....B-41  
OVERPAYMENTS AND RECOVERY .....B-43  
STATE FINANCING .....B-45  
SHARED WORK PROGRAM.....B-56  
WAGE REPORTING .....B-58  
OTHER.....B-59

**GLOSSARY..... C-1**

## **PREFACE**

The positive economic advantages of the Unemployment Insurance program are generally recognized by the public. Benefits paid under this program provide basic income support to millions of temporarily unemployed workers annually, helping them maintain their purchasing power, which in turn helps minimize the impact and duration of economic recessions.

At both the federal and state levels, Unemployment Insurance legislation has been amended frequently over the years. Some improvements have been necessary because of shortcomings in the original system while others have stemmed from changes in employment, unemployment and worker earnings. This report provides the background and highlights of federal and New York State laws relating to employment coverage, the amount and duration of benefits, benefit entitlement and disqualification provisions, and methods for financing the system. Thus, it serves as a ready reference on the development of Unemployment Insurance since the first federal legislation was enacted in 1935.

# I. THE SOCIAL SECURITY ACT

When unemployment insurance benefits were first being considered as part of the Social Security Act in 1934 and 1935, the total number of unemployed workers in the United States was estimated at between 11 million and 15 million. Existing state relief programs had broken down and were being supplemented by a series of federal programs.

A presidentially appointed Committee on Economic Security and the congressional committees considering the legislation faced the problem of devising an unemployment insurance program that would fit into the federal-state political system. Supporters of a workers' compensation approach took the states' rights viewpoint, advocating a "state laboratory" system for experimenting "close to the grass roots." It was feared that a federal system could be declared unconstitutional due to its possible encroachment on states' rights.

In enacting the unemployment insurance provisions of the Social Security Act in 1935, Congress recognized both national and state concerns over unemployment and measures to alleviate it. Since any unemployment affects the entire nation as well as the state in which it occurs, action was considered as part of the Federal Government's responsibility to "promote the general Welfare" as specified in the U.S. Constitution. However, Congress also considered it feasible and desirable for the states to administer unemployment insurance programs to meet their local needs.

Planning of this legislation was influenced by many preceding programs -- those in other countries, voluntary plans in this country, state workers' compensation laws and Wisconsin's unemployment insurance law.

## UNEMPLOYMENT INSURANCE IN OTHER COUNTRIES

Private sector unemployment insurance benefits were first provided in Europe, under voluntary plans initiated by trade unions for their members. The best-known plans were started by small local unions in Belgium, in the cities of Liege in 1897 and Ghent in 1901. The first successful government programs in this field involved providing subsidies to the trade union plans. Over the years, the need for pooling the financial risks forced many voluntary union plans to merge with national programs. In 1920, the Belgian government welded union programs into the semblance of a national system, with centralized control of funds and national subsidies when needed.

### Laws Subsidizing Voluntary Insurance Systems

1902 - France  
1907 - Denmark  
1915 - Norway  
1916 - Netherlands  
1917 - Finland  
1920 - Belgium  
1921 - Czechoslovakia  
1925 - Switzerland (12 cantons)  
1931 - Spain  
1934 - Sweden

Compulsory unemployment insurance laws were enacted in Europe decades before being passed in the U.S. The first national system was adopted in Great Britain in 1911. By the time the Social Security Act became law in 1935, all or parts of 10 nations had compulsory subsidies to their voluntary plans.

### **Compulsory Unemployment Insurance Laws**

1911 - Great Britain  
1919 - Italy  
1920 - Austria  
1920 - Irish Free State  
1922 - Queensland, Australia  
1924 - Poland  
1925 - Bulgaria  
1925 - Switzerland (13 cantons)  
1927 - Germany  
1935 - Canada

The British system was funded by flat-rate contributions from employers, employees and the national government. As amended through February 1935, Britain's act covered the employment of most nonagricultural workers, 16 to 64 years of age, except for nonmanual workers who earned more than 250 pounds per year. Benefits, payable for up to 26 weeks, varied according to a worker's age and sex. British statutory regulations for payment of benefits and provisions that defined benefit waiting periods, job availability requirements and benefit eligibility disqualifications were substantially incorporated into the original state laws in this country, as was the concept of administration through local employment exchanges.

### **EARLY DEVELOPMENTS IN THE UNITED STATES**

In the early 1930s, only a few groups of workers in the United States were protected against unemployment, and these plans had limited value in formulating a comprehensive system. In 1934, trade union plans covered

about 100,000 workers, joint trade union-management plans covered another 65,000, mostly in the garment trades and voluntary company plans covered an additional 70,000. These voluntary programs were primarily guaranteed employment plans, modest in scope and coverage, and designed to protect seasonal workers during their off season.

### **Proposals for State Legislation**

The first state unemployment insurance laws proposed in the United States, modeled after the British Act of 1911, were introduced in the Massachusetts Legislature in 1916 and the New York State Legislature in 1921. Neither bill passed, nor did similar bills subsequently introduced in New York and several other states during the 1920s. It took the Great Depression of the 1930s to spark widespread interest in laws that provided financial assistance to unemployed workers.

### **The Wisconsin Law**

The most persistent attempts were made in Wisconsin. Largely resulting from efforts by Professor John R. Commons and his associates at the University of Wisconsin, every legislative session from 1921 to 1931 considered an unemployment insurance bill. Early proposals were modeled on workers' compensation, with the entire cost to be borne by employers, to encourage them to stabilize employment. A mutual insurance company would carry the insurance, and employers' contribution rates would vary according to their experience with unemployment (the concept known as experience rating).

During a special session in 1931, the Wisconsin legislature passed this nation's first unemployment insurance act; it was signed

into law in 1932. To allow time for setting up the administrative system and accumulating a pool of employers' contributions, benefits were not paid until 1936.

Under the Wisconsin law, individual employer reserves would be maintained in a state fund. Each employer's reserve would be used for paying benefits to its own workers when they became unemployed and its contribution rate would vary according to the total amount of benefits paid. When the per-employee amount in its reserve accumulated to a certain level, the employer's contributions were suspended. The amount and duration of benefits paid to each claimant would be determined separately for each employer according to the claimant's duration of employment and wages with that employer.

### **The Ohio Pooled Fund**

In 1932, the Ohio Commission on Unemployment Insurance recommended a different kind of plan. This plan provided for a statewide pooled fund, employer and employee contributions with no variation in rates, weekly benefits that were related to base-period wages from all of the claimant's employers and a uniform maximum of 26 weeks of benefits for all eligible claimants. The plan's emphasis was on the social aspects of unemployment and on conditions beyond any individual employer's responsibility or control that create unemployment.

### **Other State Laws**

No other states took action until 1935, when six states -- New York, California, Massachusetts, New Hampshire, Utah and Washington -- passed laws in anticipation of the Federal Social Security Act. These early laws were amended during the next regular

legislative session in each state, to conform to the new federal law.

### **Proposals for Federal Legislation**

Interest in a national unemployment insurance law began as early as 1916, when a resolution was introduced in Congress to create a commission to draft such legislation. This resolution did not pass, and Congress showed no further interest for over a decade.

In 1928 and 1931, the Senate Committee on Education and Labor held hearings on the national problem of unemployment, and on the experience with unemployment insurance in foreign countries. In 1931 and again in 1934, U.S. Senator Robert F. Wagner of New York introduced legislation for a joint federal-state system, but neither bill ever came to a vote.

President Franklin D. Roosevelt named a Committee on Economic Security in June 1934, chaired by U.S. Secretary of Labor, Frances C. Perkins, to study the problem of unemployment as part of the overall problem of economic instability. In its final report to Congress in January 1935, this committee recommended providing income security for all unemployed workers. Subsequently, Senator Wagner and others introduced bills embodying additional recommendations from the committee.

### **FRAMEWORK OF THE FEDERAL-STATE SYSTEM**

The national program for unemployment insurance was instituted in August 1935 under two titles of the Social Security Act: Title III, Grants to the States for Unemployment Compensation Administration and Title IX, Tax on Employers of Eight or More. Both

measures passed Congress by an overwhelmingly bipartisan margin. Much of Title IX was later incorporated into the U.S. Internal Revenue Code as the Federal Unemployment Tax Act (FUTA).

The constitutionality of these new state and federal laws was challenged in several states shortly after unemployment insurance contributions became payable by employers on January 1, 1936. The U.S. Supreme Court upheld the constitutionality of New York's law in November 1936, and that of the Social Security Act and Alabama's Unemployment Compensation Act in May 1937.

The type of federal-state cooperation provided for in these sections of the Social Security Act had never been tried before in any other governmental activity. It did not create a general system of unemployment benefits comparable to the federal old age insurance system. Nor did it provide grants to the states for paying unemployment benefits, comparable to the matching grants provided for public assistance payments.

Instead, it required contributions from all employers in industry or commerce that employed eight or more workers for at least 20 weeks in a calendar year. The initial federal contribution rate was 1.0 percent of total payrolls for 1936, and was scheduled to increase to 2.0 percent in 1937 and to 3.0 percent by 1938.

Since all employers were required to contribute, each state could assist its unemployed without putting its industries at an economic disadvantage relative to those in other states. Through a tax offset provision, the Social Security Act actually made it advantageous for states to enact their own laws to pay unemployment benefits. This tax

offset provision entitled employers to credit their contributions made under a state law against up to 90 percent of their federal tax due. As a result, their net federal tax would be only 0.1 percent in 1936; 0.2 percent for 1937; and 0.3 percent in 1938. Employers were also credited for any unemployment insurance contributions they were excused from paying under a state experience rating system.

The federal law contained a number of standards for administration, policy and coverage. Effective in 1940, the federal law required the states to operate a merit system for employment security personnel. Any state that failed to meet these federal standards could be penalized in two ways:

- Federal funds for state administration costs could be withheld; and
- Employers could be denied credit against the federal unemployment insurance tax for contributions under their state law.

Approval by the Social Security Board (and later, by the U.S. Secretary of Labor) was required for federal certification that a state unemployment insurance law met all required conditions. (The Judicial review of adverse decisions by the Secretary of Labor in state conformity or compliance proceedings was first provided for in 1970.)

Although the costs of administering state unemployment insurance programs were financed entirely from the federal share of the unemployment insurance tax, Congress was required to appropriate funds annually.

To safeguard the financial stability of the system, the federal law required each state to deposit the contributions it collected into an

Unemployment Insurance Trust Fund set up by the U.S. Department of the Treasury, which would invest these contributions solely in U.S. government bonds. A separate account was established for each state; a state could withdraw its funds at any time, but only to pay unemployment benefits.

No state could reduce contribution rates below the standard rate (equivalent to the 90 percent federal tax offset) except through a system of rating an individual employer according to his unemployment experience.

Benefits could be paid only through public employment offices or other federally approved agencies. The amount or duration of weekly benefits was not specified. Under the law, a claimant could not be denied benefits for refusing jobs that met any of the following criteria:

- Did not meet the prevailing wages and contributions in their locality;
- Were vacant because of an ongoing labor dispute; or
- Would require the claimant to join a company union or forbade them from joining a bona fide labor organization.

By July 1937, all 48 states, the District of Columbia and the Territories of Alaska and Hawaii had enacted unemployment insurance legislation, and were all paying benefits to unemployed workers by July 1939. Although the Commonwealth of Puerto Rico began paying benefits in 1959, it did not join the federal-state system until 1961; conversely, the U.S. Virgin Islands joined the system in 1961, but delayed paying benefits until 1964.

Each state law specified which workers were covered for unemployment insurance, what contributions employers should pay, what

benefits would be paid, the requirements for receiving benefits and which agency within the state's government would administer their law. As a uniform condition for eligibility in all states, claimants were required to register for work at a public employment office and continue to report in accordance with the administrative agency's regulations.

In most instances, state provisions for coverage were at least as inclusive as the federal ones. However, in cases where a state had more restrictive coverage -- for example, in defining an "employer" -- an employer could be liable for the full federal tax under the U.S. law during the time its workers would not be eligible for benefits under the state law.

State program financing provisions were related to the federal tax; employers' state contributions were ordinarily set at 90 percent of the federal tax, the maximum credit offset. To finance benefits, most states adopted a "pool-fund plan" aggregating all money collected from employers and spreading program costs among all employers.

## **II. DEVELOPMENTS IN FEDERAL UNEMPLOYMENT INSURANCE COVERAGE, ADMINISTRATION FINANCING AND RELATED REGULATIONS**

The coverage provisions of the federal and state unemployment insurance laws form the basic framework of the Unemployment Insurance program. They determine which employers must make contributions to fund the program and which workers may receive benefits. The exclusion of certain employing units and certain types of employment can limit coverage, but most states permit these excluded groups to elect coverage voluntarily.

### **EARLY COVERAGE LIMITATIONS**

When the Social Security Act of 1935 was adopted, it was generally accepted that, for administrative reasons, some size-of-firm restrictions were necessary. Consequently, the federal unemployment tax provisions applied only to firms employing eight or more persons, in the United States, for at least one day in 20 weeks during a calendar year. The original laws in 32 states set the same limitations; only 10 states initially covered firms with one or more workers.

The Social Security Act originally excluded the following types of employment:

- Agricultural labor;
- Domestic services in a private home;
- Services of individuals employed by a son, daughter or spouse, or of children under age 21 employed by a parent;
- Services performed for federal, state or local government entities;
- Services by officers or crew members of vessels on the navigable waters of the United States; or
- Services for nonprofit organizations organized and operated exclusively for

religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals.

Services of agricultural, domestic, and to some extent, family workers were excluded chiefly for administrative reasons. State and local government workers were exempted because it was believed that it would be unconstitutional for the Federal Government to tax these units. Federal and maritime workers were considered to be exclusively under federal jurisdiction, and the exclusions for religious and other nonprofit institutions followed the custom in other tax laws.

### **AMENDMENTS TO THE FEDERAL DEFINITION OF EMPLOYMENT**

Legislative actions and several notable court decisions have significantly modified the definition of employment over the years. Some of these changes brought workers into the program, while others excluded some who had previously been protected.

The Railroad Unemployment Insurance Act, approved in 1938 and effective in 1939, transferred the nation's railroad workers from the joint federal-state program to a new federal system operating under the Railroad Retirement Board.

"Agricultural labor" was defined under regulations of the Bureau of Internal Revenue. In 1939, amendments to the Social Security Act excluded additional services. Among these were some essentially industrial

activities that were involved in processing and marketing and services performed on a farm but not for its owner or operator (for example, harvesting a crop that had been sold to a cannery).

A U.S. Supreme Court decision handed down in June 1947 led to further restrictions of coverage. The 1935 Social Security Act had defined "employment" as any service not specifically excluded that was performed within the United States by an employee for their employer. The Supreme Court held that under this language, coverage was broader than it would have been under the common law "master-servant" relationship.

In 1948, a congressional amendment limited the term "employee" to mean employees under the common-law rules, and made this definition retroactive to 1939. As a result, federal coverage was withdrawn for about 500,000 people, such as outside salesmen, who are not actually independent businessmen. However, this exclusion was subsequently repealed.

### **EXTENSION OF COVERAGE UNDER THE FEDERAL LAW**

Under the 1939 amendments to the Social Security Act, federal agencies that are not wholly owned by the government, such as national banks, became subject to the federal unemployment tax unless exempt under some other law, such as an act creating an agency. States were specifically authorized to receive contributions from these agencies. These amendments also extended coverage to agencies not wholly owned by a state or local government, unless they had constitutional immunity.

Ruling on a New York case in 1943, the U.S.

Supreme Court held that neither the U.S. Constitution nor any congressional enactments excluded maritime employment from coverage under state unemployment insurance. The Federal Unemployment Tax Act (FUTA) was amended in 1946 to assure such coverage, stipulating that contributions for the services of maritime workers could be received under the unemployment insurance law of the state in which the office of the company controlling the specified vessel was located. Currently exempt are services performed on fishing vessels with crews of fewer than 10 whose remuneration involves a share of the catch. Also exempt are services performed in catching fish or shellfish for commercial purposes, except for salmon or halibut fishing, or any services performed on large vessels weighing more than 10 net tons.

In a significant extension of coverage, FUTA was amended in 1954 (effective January 1, 1956) to cover employers of four or more employees who each worked at least one day in 20 weeks during a calendar year.

Title XV of the Social Security Act was amended, effective January 1955, to create the Unemployment Compensation for Federal Employees Program (UCFE), which extended protection to all federal civilian workers employed after December 31, 1954. Benefits were also extended to ex-service members under the Ex-servicemen's Unemployment Compensation Act of 1958 (UCX).

Through these permanent programs, state agencies pay benefits to federal employees and ex-service members under their own state provisions and are fully reimbursed by the Federal Government.

Prior to enactment of the UCX Program, three temporary federal programs provided benefits

for ex-service members:

- Servicemen's Readjustment Allowances, paid under the Servicemen's Readjustment Act of 1944 (the G.I. Bill of Rights) for unemployed World War II veterans, ended for most veterans in July 1952;
- Reconversion Unemployment Benefits for Seamen, enacted in 1946 for unemployed members of the World War II Merchant Marine, ended in June 1950; and
- Unemployment Compensation for Veterans, paid to unemployed veterans of the Korean Conflict under the Veterans Readjustment Assistance Act of 1952, ended for most veterans in July 1958 and for all veterans in January 1960.

Effective in July 1981, with the Multi-employer Pension Plan Amendment Act of 1980, unemployment compensation was denied to ex-service members who left the armed services at the end of their term of enlistment if they were eligible to re-enlist.

In the Miscellaneous Revenue Act of 1982 (adopted in November 1982), veterans' eligibility for up to 13 weeks of compensation (following a four-week waiting period) was restored, without jeopardy for their refusal to re-enlist. The Emergency Unemployment Compensation Act of 1991 extended their benefits to a potential 26 weeks, and the same waiting period requirements that apply to all other claimants under each state's law.

The Employment Security Amendments Act of 1970 (Public Law 91-373), Congress' most significant unemployment insurance legislation in a decade, extended coverage (effective in 1972) to the following groups:

- Employers with one or more workers on at least one day in each of 20 weeks during a calendar year, or have a quarterly payroll of \$1,500 or more;
- Nonprofit organizations with four or more employees, including private and state colleges or universities, and state hospitals (but excluding primary or secondary schools, churches and other religious organizations);
- Outside salesmen, such as agents or drivers paid on a commission basis;
- Additional categories of agricultural processing workers; and
- U.S. citizens working for American firms outside the United States.

This 1970 Act also prohibited payment of benefits to teachers, administrators and professional research workers at state and private colleges or universities between successive academic years or two regular terms, if they had contracts of employment for both periods. In addition, it allowed local governments to elect voluntary coverage limited to hospitals or schools but exclude teachers from coverage if they so chose.

The Emergency Jobs and Unemployment Assistance Act of 1974 created the Special Unemployment Assistance program (SUA) which provided temporary coverage, effective January 1975, to workers not covered by state laws, but who otherwise met the individual state's earnings and eligibility requirements. These workers were primarily state and local government employees, domestic workers and agricultural workers. Benefit costs under this program were funded from federal general revenues. Benefits were set under the state's benefit scale; their maximum duration was initially set at 26 weeks, but was later increased to 39 weeks.

The SUA program was activated when the

total unemployment rate for any three consecutive months averaged 6% or more nationally, or averaged 6.5% or more in an area defined as a prime-sponsor area under the Comprehensive Employment and Training Act of 1973 (CETA). Since the national trigger had been met when the law was passed, the program was immediately activated in states having agreements with the federal government. SUA was extended by successive legislation through June 25, 1978, but no new claims were allowed after 1977.

Permanent coverage for many of these workers by the states (as of January 1, 1978) was affected by the Federal Unemployment Compensation Amendments of 1976. This extension involved approximately 9 million workers, over 90% of them state and local government workers, who would qualify for state unemployment insurance benefits under conditions that were applicable to other unemployed workers. Benefits based on prior service with newly covered employers were federally financed. The 1976 federal law covered the following employers:

- Agricultural employers who had 10 or more workers on at least one day in each of 20 weeks during the current or preceding calendar year, or who paid cash wages of \$20,000 or more for agricultural labor in a calendar quarter (crew leaders are considered to be employers under certain conditions);
- Employers who pay quarterly cash wages of \$1,000 or more for domestic service in a private home, local college club or the local chapter of a college fraternity or sorority;
- States, cities and most other local governmental organizations (certain specified categories of employees, such as elected or judicial officials, were still

excluded); and

- Nonprofit elementary and secondary schools.

Provisions for the disqualification of educational employees have been modified several times since 1976. Currently, school personnel are affected as follows:

- Professional employees of schools: benefits must be denied between school terms and during vacation periods and holiday recesses.
- Nonprofessional school employees: states may pay benefits between academic years or terms.
- Other groups: states are permitted to extend the denial of benefits applicable to school employees to individuals performing services for or on behalf of schools, even though they are not employees of those schools.

Other new disqualifications included the denial of benefits to professional athletes between successive sports seasons if they have a reasonable assurance of employment for both periods, denial of benefits to undocumented workers and denial of benefits to certain fishing vessel workers. There was also a new prohibition from disqualifying a claimant solely because of pregnancy.

Since January 1, 1995, states can exclude from coverage the services of non-immigrant farm workers who are foreign nationals and who are admitted into the U.S. temporarily to work under contracts for fixed time periods. However, these workers are counted in determining whether an agricultural employer meets the wage or size-of-firm requirements for mandatory coverage.

FUTA was amended in 2000 to extend

coverage to federally recognized Indian tribes. As with other governmental entities, tribes were required to submit reimbursement for benefits in lieu of experience rated contributions. Failure to make such payments would result in the loss of FUTA coverage. (This coverage extension was added to the New York law in 2002.)

Initially, the unemployment insurance system covered about 65% of all wage-and-salary workers in the U.S.; by 1972, approximately 85% of these workers were covered. As of 1983, coverage under all federal and state unemployment insurance programs had been extended to 97% of total employment in New York State, and to 99% by 1988. The self-employed, workers on small farms, and domestic workers with several employers in a calendar quarter are the main groups that are still not covered by unemployment insurance.

#### **EXTENSION OF BENEFIT DURATION UNDER FEDERAL-STATE LAWS**

In response to times of economic recession, federal programs of extended unemployment compensation were enacted to stabilize the economy and provide benefits to meet the basic needs of unemployed workers. In 1970, Congress created a permanent Extended Benefits program. Congress established temporary programs in 1958, 1961, 1971, 1974, 1982, 1991, 2002, and 2008.

#### **Extended Benefits**

The Federal Employment Security Amendments of 1970 set up a permanent Extended Benefits (EB) program, to be financed 50% by the federal government. The program would be activated or triggered “on” when the unemployment rate exceeded specified levels. This legislation set up both

national and state triggers for activating an extended benefits period.

The national “on” trigger was a three-month average insured unemployment rate (IUR) of 4.5% or more. The state trigger had dual requirements: (a) a 13-week average IUR of 4% or more, and (b) a rate that was 120% or more of the average rate in the corresponding periods of the two preceding years (called a “look back period”). This law provided up to 13 weeks of additional benefits to claimants who had exhausted their regular benefits or who could not qualify for a new benefit year after their old benefit year had expired. The extended benefit “off” trigger was when the “on” requirements were no longer met. The national program was first effective in January 1972. State triggers were operative on or after October 10, 1970.

An extended benefits period begins with the third week after the week of an “on” indicator and ends with the third week after the “off” indicator, except that it has a minimum duration of 13 weeks. An extended benefits period began in New York State in January 1971. Extended benefits periods were triggered “off” in New York and other states in 1972 despite high unemployment, since the 120% requirement was not met and the national IUR was below 4.5%. Subsequent legislation allowed the states to temporarily suspend the 120% requirement.

Following the passage of the Emergency Unemployment Compensation Act of 1974, states were permitted to pay EB until the end of 1976, fully reimbursed by the federal government, whenever the national IUR was 4%, even if the dual requirements of the state benefit trigger were not met. Under the Federal Unemployment Compensation Amendments of 1976, the 120% requirement

became optional for a state as of April 1977 when its IUR was 5% or more; it was mandatory whenever the rate was between 4% and 5%.

Effective in June 1981, agent states in interstate claims were prohibited from paying more than two weeks of EB if the agent state was not in an extended benefits period.

The national EB trigger was repealed in August 1981 and EB claimants were excluded from the calculation of insured unemployment rates for the state triggers. Since September 1982, states with a 13-week IUR of 5% (at 120% of its IUR for a two year look back period) or of 6% (without reference to the IUR) are allowed to pay EB to claimants with 20 weeks of base-period employment.

As of April 1983, states were allowed to pay EB to individuals who are hospitalized or on jury duty, provided these conditions also apply to regular beneficiaries.

Since March 7, 1993, states have been allowed an optional “on” trigger to activate EB whenever their seasonally adjusted total unemployment rate (TUR) for the most recent three-month period is at least 6.5% and is at least 110% of the TUR for the corresponding three-month periods in either of the two previous years. A state triggering on to an EB period based on their TUR will begin to offer those benefits on the third week after the first week for which there is a state “on” indicator. Under this optional trigger, up to seven weeks of additional benefits will be paid if the TUR is at least 8% and the 110% requirement is met. New York did not adopt the optional TUR trigger until May 2009.

Effective February 17, 2009, the American

Recovery and Reinvestment Act (ARRA) and several subsequent extensions permitted states to pay EB through March 7, 2012. The benefits were fully reimbursed by the federal government. During an extended benefits period, states were allowed to modify an individual’s eligibility to include any week after an individual exhausted regular benefits or EUC 08 (a temporary emergency benefit program discussed in the following section), even if the individual’s benefit year had expired.

The ARRA also provided an additional 13 weeks of EB (for a total of 26 weeks of EB) for railroad workers between July 1, 2008 and June 30, 2009.

Between December 17, 2010 and December 31, 2013, states were allowed to use a look back period of three years (up from two) to trigger on EB when comparing corresponding periods’ total unemployment rates. This provision was important for states that would likely trigger off of EB despite high, sustained but not increasing unemployment. As of January 1, 2014, the look back period had reverted to two years.

### **Temporary Emergency Benefits Programs**

Prior to 1970, two temporary federal programs had been enacted as recessionary measures to give unemployed workers up to 13 weeks of additional benefits. With the Temporary Unemployment Compensation Act of 1958, states were offered a choice of whether to pay EB to workers who had exhausted their regular benefits. This program began in June 1958 and ended in April 1959, and New York State participated. Any states choosing to participate had to repay the cost to the federal government. With passage of the Temporary Extended

Unemployment Compensation Act of 1961, all states were covered. This program began in April 1961 and ended in June 1962; it was financed by a temporary increase in the federal unemployment tax rate of 0.4% for 1962, which was reduced to 0.25% for 1963.

The Emergency Unemployment Act of 1971 enacted Temporary Compensation, an emergency benefits program to increase the duration of benefits for individuals who had exhausted their extended benefits. The program was financed in total by the federal government and provided up to 13 weeks of additional emergency benefits to persons who had exhausted their EB.

The "on" trigger for an emergency benefits period was a state adjusted IUR of 6.5%, provided an extended benefits period was active. An emergency benefits period had to run for at least 26 weeks. Persons who had not exhausted EB, as well as those who had, could draw emergency benefits if the extended benefits period was "off" solely because the 120% requirement was not met. The program was effective January 30, 1972 and was extended through March 31, 1973 by subsequent legislation.

In January 1975, the emergency benefits program was renewed under the Federal Supplemental Benefits (FSB) program, with the Emergency Unemployment Compensation Act of 1974, and extended under successive legislation. Federal Supplemental Benefits were initially payable to claimants for a maximum of 13 weeks, but the duration was extended to a maximum of 26 weeks in April 1975.

During 1975, an unemployed worker could receive a total of 65 weeks of benefits under the Regular, Extended and FSB Programs.

For 1975, both the "on" and "off" triggers were the same for FSB and extended benefits periods. FSB became payable on the basis of a national trigger in the week starting February 23, 1975 in all states that had agreements, after the national IUR reached levels greater than 4.5% for November and December 1974 and for January 1975. In states that were in an extended benefits period, these emergency benefits were payable as soon as the program was enacted. They began in New York State on January 6, 1975.

Starting in 1976, FSB triggered "on" when an individual state's IUR topped 5%. The maximum duration of emergency benefits varied from 1975 through March 1977, depending on the state's IUR. It was 26 weeks whenever the unemployment rate was 6% or higher and 13 weeks when the rate was from 5% to 5.9%. Neither extended benefits nor FSB were payable when the rate fell below 5%. Enactment of the Emergency Unemployment Compensation Act restored the duration of FSB to a single 13-week maximum after April 1977, and the "on" trigger in a state was an IUR of 5% or higher. This new law denied FSB to a claimant if more than two years had elapsed since their last regular benefit year ended.

The FSB program ended on January 31, 1978, and new claims were not allowed after October 1977.

In 1982, the Tax Equity and Fiscal Responsibility Act created the Federal Supplemental Compensation (FSC) program. This program was 100% federally financed and provided benefits to the following groups:

- Claimants who had exhausted their regular benefits but still had unexpired

- benefit years; or
- Claimants whose benefit years expired on or after June 6, 1982, and who had no further rights to benefits.

Originally, payments of 6, 8 or 10 weeks were possible, but a January 1983 amendment increased the minimum to 8 weeks and the maximum to 16 weeks, depending on a state's IUR and whether it was in an extended benefits period.

In April 1983, FSC was extended to October 1983 with 8 to 14 weeks of benefits, based on a state's IUR (from less than 4% to at least 6%, respectively). In addition, up to 10 weeks of additional benefits were made available to claimants who had exhausted FSC prior to April 11, 1983, based on a state's IUR.

In October 1983, FSC was extended again, through its expiration date in March 1985.

In November 1991, the Emergency Unemployment Compensation Act of 1991 (EUC) was enacted, which provided 6, 13 or 20 weeks of 100% federally financed emergency benefits to claimants who had exhausted their regular benefits after November 17, 1991. This program provided a reach-back to March 1, 1991 for claimants in states where 13 and 20 weeks of emergency benefits were payable. The program was set to expire on July 4, 1992.

In December 1991, EUC was amended to: eliminate the six-week tier of emergency benefits and provide a 13-week minimum in all states; set a reach-back to March 1, 1991 in all states; and change the program's termination date to June 13, 1992.

In February 1992, an additional 13 weeks of

benefits were provided, giving a maximum of 26 (or 33) weeks through June 13, 1992, depending on a state's unemployment level. This amendment also provided 13 (or 20) weeks of emergency benefits between June 13, 1992 and July 3, 1992.

In July 1992, the program was extended through March 6, 1993, providing 20 (or 26) weeks of benefits after June 13, 1992. Benefits would be phased down to 10 (or 15) weeks and to 7 (or 13) weeks when the national total unemployment rate (TUR) falls below 7.0% or 6.8%, respectively.

Two additional extensions, in March and November of 1993, resulted in the program ending on April 30, 1994, with duration at 7 (or 13) weeks.

Title II of the Job Creation and Worker Assistance Act of 2002, formally known as The Temporary Extended Unemployment Compensation Act of 2002 (TEUC), was signed into law on March 9, 2002. TEUC provided for up to 13 weeks of 100% federally funded benefits in all states and up to 13 additional weeks of Temporary Extended Unemployment Compensation – X (TEUC-X) benefits in states that were in an extended benefits period, or would be in one using a 4.0% IUR trigger. TEUC also included a reach-back provision that allowed these EB to be paid to individuals who had filed initial claims for regular unemployment insurance benefits during or after the week of March 15, 2001 and had exhausted those benefits, but were unable to establish new claims for regular benefits.

On January 8, 2003, Public Law 108-1 was enacted to extend the deadline for filing new TEUC claims until May 31, 2003, and extend the TEUC entitlement period through the

week of August 30, 2003. Public Law 108-11, signed on April 16, 2003, extended TEUC benefits through December 28, 2003, and created special provisions, also known as TEUC-A, for workers displaced within the air transportation industry and certain specified businesses related to that industry. These provisions were enacted in response to the terrorist actions of September 11, 2001, from security measures taken in response to such actions, or because of the military conflict with Iraq.

Individuals qualifying for TEUC-A could collect up to 39 weeks of benefits. In those states with IURs that satisfied the requirement for an extended benefits period, claimants who were eligible for TEUC-A could receive up to 13 weeks of TEUC-X benefits, for a total of 52 weeks of TEUC benefits. Individuals could file a claim for TEUC-A for weeks of unemployment through December 28, 2003 and they could continue collecting TEUC-A benefits through December 26, 2004.

In June 2008, The Supplemental Appropriations Act of 2008 created the Emergency Unemployment Compensation (EUC08) program, which provided 13 weeks of 100% federally financed emergency benefits to claimants who had a benefit year that ended on or after May 1, 2007, and who had exhausted their regular benefits. The program was set to expire on March 31, 2009, with the entitlement period lasting until June 30, 2009.

As of December 2013, nine Acts of Congress extended the expiration date for EUC08 through January 1, 2014. The week ending December 28, 2013 (December 29, 2013 in New York), was the last week for which an individual could receive a payment

for EUC08.

Expansions to the EUC08 program targeted states with high levels of unemployment, first in the Unemployment Compensation Extension Act of 2008 and then again in the Worker Homeownership and Business Assistance Act of 2009. A state was considered to have high unemployment when its unemployment level met requirements to trigger “on” the permanent EB program.

In November 2008, the Unemployment Compensation Extension Act of 2008 increased entitlement of EUC08 to 20 weeks. It also created a second tier of EUC08 with an additional 13 weeks of benefits for states meeting one of the thresholds required to trigger “on” the permanent EB program, having an IUR of at least 4% over 13 weeks or having a TUR of at least 6%.

In November 2009, the Worker, Homeownership and Business Assistance Act provided an additional week to the second tier of EUC 08 for a total of up to 34 weeks of benefits. The Act also created a third and fourth tier of EUC08 in states in an “extended benefit period”. Under the third tier, up to 13 weeks of additional benefits were made available in states having an IUR of at least 4% over 13 weeks or a TUR of at least 6%. Under the fourth tier, up to 6 weeks of additional benefits were made available in states having an IUR of at least 6% over 13 weeks or a TUR of at least 8.5%. Under EUC08, the permanent EB program and regular unemployment insurance benefits, some individuals were entitled to up to 99 weeks of unemployment benefits.

In 2010, the Unemployment Compensation Extension Act of 2010 provided states with options to maintain the amount of weekly benefit an individual received when a new benefit year resulted in a decrease of either \$100 or 25% of their initial weekly benefit amount. The legislation also prohibited states from making changes to their method of calculating regular compensation that would result in a lower average weekly benefit amount than on June 2, 2010 (Non-reduction rule).

The Middle Class Tax Relief and Job Creation Act of 2012 modified EUC08 by increasing the TUR required to trigger “on” Tier 2, 3, and 4. For the most recent 3 months, TUR was required to equal at least 6% for Tier 2 (previously no trigger), 7% for Tier 3 and 9% for Tier 4.

The Act also changed the structure of the program by creating three distinct benefit periods (March-May 2012, June-August 2012 and September-December 2012) during which EUC08 tier duration varied:

- In states not on EB, from March 1, 2012 to May 31, 2012, for individuals currently receiving Tier 4 benefits or new entrants to Tier 4, total benefits increased to the lesser of 62% of regular unemployment insurance or 16 weeks (provided that the total EUC08 and EB the individual received did not exceed 282% of regular UI or 73 weeks);
- From June 1, 2012 until August 31, 2012, Tier 4 benefits were reduced to the lesser of 24% of regular unemployment insurance benefits or 6 weeks. From September 1, 2012 until January 2, 2013, Tier 4 benefits increased for all states to the lesser of 39% of regular unemployment insurance

or 10 weeks; and

- After September 2, 2012, the Act reduced Tier 1 benefits to the lesser of 54% of regular unemployment insurance or 14 weeks and Tier 3 benefits to the lesser of 35% of regular unemployment insurance or 9 weeks.

Under the Act, states were required to provide reemployment services and Reemployment and Eligibility Assessment Activities for individuals receiving EUC08. States must require claimants referred to these services to participate. States were required to provide labor market and career information, skills assessments, orientation to one-stop center services and reviews on eligibility to be based on work search activities.

States were also required to offset EUC08 overpayments against benefits payable to individuals using the same procedures as are used to recover overpayments of regular compensation.

#### **SUPPLEMENTAL BENEFITS UNDER FEDERAL-STATE LAWS**

##### **Disaster Unemployment Assistance (DUA)**

Under the Federal Disaster Relief Act of 1970, the President is authorized to provide to any individual unemployed as a result of a major natural disaster such assistance as deemed appropriate while the individual is unemployed, up to the maximum benefits and duration available under the law of the state in which the disaster occurs.

Benefits were payable under this Act from January 1971 through April 1974, when it was superseded by the Disaster Relief Act of 1974. Under this new Act, benefits could

continue for no longer than one year after a disaster is declared. The amount of disaster assistance is deducted from regular unemployment insurance benefits and cannot exceed the maximum weekly benefit amount of the state in which the disaster occurs.

The Disaster Relief Act of 1974 was amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, enacted on November 23, 1988. It provides up to 26 weeks of Disaster Unemployment Assistance (DUA) benefits to any individual unemployed as the result of a major disaster for weeks of unemployment for which the individual is not entitled to benefits under any other program.

DUA benefits and administrative costs are funded through the Federal Emergency Management Administration (FEMA). DUA payments are reduced by the amount of: any compensation or insurance received for loss of wages; unemployment benefits paid under collective bargaining agreements; workers' compensation death benefits received; any payments under public or private retirement pension or annuity plans; or wages applied to weekly earnings allowances specified under a state's unemployment insurance law.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act was amended on March 25, 2002, to make federally funded DUA benefits available for up to 39 weeks to eligible individuals who became unemployed as the result of the terrorist attacks of September 11, 2001.

In October 2005, the Stafford Act was amended by the Hurricane Katrina Unemployment Relief Act of 2005, allowing a state to use Title III Social Security Act funds to administer claims on behalf of another state if a major disaster is declared in

that other state.

### **Trade Adjustment Assistance (TAA)**

Trade Adjustment Assistance (TAA) was authorized under the Trade Expansion Act of 1962 and defined further under the Trade Act of 1974. The TAA program provides various services and benefits to individuals certified as having permanently lost their job or had their work hours and wages reduced due to increased foreign imports or production shifts to foreign countries.

As of 2009, the American Recovery and Reinvestment Act made eligible adversely affected secondary workers (including workers at firms that are suppliers to or downstream producers of TAA-certified firms), workers in service sector firms and workers in public agencies.

Aside from a lapse between December 1985 and March 1986, several acts of legislation extended TAA's authorization through 2001. At that time, authorization for TAA lapsed again but remained funded through appropriations; the Trade Act of 2002 reauthorized TAA through 2007. Appropriations kept the program going in 2008 with the Consolidated Appropriations Acts of 2008, and again in 2009 with the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act.

The Trade and Globalization Act of 2009 (TGAAA), as part of the American Recovery and Reinvestment Act of 2009, reauthorized TAA and temporarily expanded eligibility and benefits through 2010. The Omnibus Trade Act of 2010 extended the changes through February 12, 2011.

TAA continued without the previous

expansions until the Trade Adjustment Assistance Extension Act of 2011 was enacted on October 21, 2011. TAA was reauthorized through the end of 2014, with eligibility and benefits expanded almost to the levels under TGAAA through the end of 2013. The expansion of eligibility and benefits was retroactive and individuals who were previously denied benefits were automatically reconsidered.

In 2009, the TGAAA, as part of the ARRA, amended the Trade Act of 1974, expanded entitlements to include employment and case management services.

TAA benefits include income support (known as Trade Readjustment Allowances, or TRAs) paid to workers who have exhausted their unemployment insurance benefits and are enrolled in TAA-approved training programs. Extended unemployment benefit payments are reduced by these TRAs, which are also federally funded. Under the original 1974 law, claimants could receive 26 TRA payments beyond the 26 weeks of regular unemployment, for a total of 52 weeks of benefits.

Following the Trade Reform Act of 2002 and earlier amendments, claimants enrolled in approved training programs could receive 26 weeks of regular unemployment, 26 weeks of Basic TRA and 52 weeks of Additional TRA, for a total of 104 weeks of benefits. If remedial education is included in their training, claimants could also receive 26 weeks of Remedial TRA, for a total of 130 weeks of benefits.

The Trade Act of 2002 created Reemployment Trade Adjustment Assistance (RTAA) and Alternative Trade Adjustment Assistance (ATAA) for affected workers age

50 and over. Both programs supplement wages for workers who have found new employment at a lower wage than in their previous trade.

Introduced in 2002, TAA also provided a refundable Health Coverage Tax Credit for a percentage of a qualified health plan's premiums.

### **Self Employment Assistance Program (SEAP)**

The Trade Act of 1974 was amended by the North American Free Trade Agreement (NAFTA) in December 1993. NAFTA provided for the creation of a voluntary Self-Employment Assistance Program (SEAP) to assist workers who permanently lose their job because of foreign imports or the shift of production overseas. This program, also federally funded, was expanded to include unemployment insurance claimants identified through a state's profiling system as likely to exhaust their regular benefits. New York's SEAP was enacted in 1994 and has been operational since April 1995.

SEAP participants receive allowances in lieu of regular unemployment benefits while engaged full-time in entrepreneurial training, business counseling, technical assistance and any other activities that would be required to establish their own small businesses. The usual requirements for job availability and total unemployment and the disqualifications for job refusals and income earnings are waived for SEAP participants.

The Middle Class Tax Relief and Job Creation Act of 2012 made SEAP available to individuals who had exhausted their regular benefits and were receiving EB or EUC08. Under the Act, recipients are entitled to up

to 26 weeks of SEAP based on their EB and EUC08 eligibility. Participants do not need to be profiled as likely to exhaust; however, there must be a reasonable expectation that the individual will be entitled to at least 13 weeks of benefits at the time they are enrolled in the program.

### **Shared Work Program**

The Short-Time Compensation Act of 1982 created another voluntary program, Short-Time Compensation (Shared Work), which allows states to provide partial unemployment benefits to workers whose employer chooses to reduce their work-weeks in lieu of temporary layoffs. These federally funded benefits are paid to workers for their lost hours of work and wages, in proportion to the benefit amount they would receive for a full week of unemployment.

A Shared Work plan must be approved by both the employer and any labor unions involved, and by the state's administrating agency. New York's Shared Work Program began as a three-year demonstration project in January 1986 and became permanent in June 1989.

The Middle Class Tax Relief and Job Creation Act of 2012 repealed the previous definition of Short-Time Compensation and amended section 3306 of FUTA to set specific requirements for shared work programs in all of the states:

- The work reduction must be at least 10% and not more than 60%;
- The maximum amount payable to an individual is 26 times the amount of their regular weekly unemployment insurance benefit rate;
- Participants must be available to work

- their regular workweek as required; and
- Employers are required to maintain health and retirement benefits and must not reduce these benefits on account of shared work.

States that had a program already in place were given 2½ years to meet the requirements. The law provided for 100% federal funding for Shared Work benefit paid to individuals up to August 22, 2015.

### **Federal Additional Compensation (FAC)**

With the American Recovery & Reinvestment Act of 2009, an additional weekly benefit of \$25 was afforded to all beneficiaries (excluding railroad workers) receiving unemployment compensation. This additional benefit was federally funded and ran for the duration of weeks an individual received compensation after a state entered into agreement with the Secretary of Labor. Individuals receiving regular unemployment insurance benefits, EUC08, EB, DUA or TAA from February 28, 2009 (March 1, 2009, for New York) until May 29, 2010 (May 30, 2010, for New York), would receive FAC until they exhausted all benefits or until December 11, 2010 (December 12, 2010 for New York).

## **FEDERAL TAX RATES AND RELATED REGULATIONS**

### **Tax Rates**

Initially, the federal unemployment tax rate was 1.0% of a liable employer's taxable payroll. It rose to 2.0% in 1937 and to 3.0% in 1938, where it remained until 1961. However, the Act allowed employers a 90% credit against the federal tax (or 2.7% of the 3.0%) for payment of their state

unemployment insurance contributions. The federal government actually received a net tax of 0.3% to finance state and federal administrative costs under provisions of FUTA. This 2.7% tax credit was retained in subsequent years, even when the federal tax rate was raised.

In 1961, the federal tax rose to 3.1% and the net federal tax became 0.4%. To pay for EB under the temporary federal TEUC program of 1958-1959, an additional payroll tax of 0.4% was assessed for 1962 and 0.25% was in effect for 1963. In states that participated in the program and did not repay federal loans on time, tax credits to employers were to be reduced starting with the 1963 taxable year.

Effective in January 1970, the federal tax rose from 3.1% to 3.2% and the net tax received by the federal government was 0.5%; this 0.1% increase was earmarked in 1970 and 1971 for a reserve fund, the federal Extended Unemployment Compensation Account (EUCA), to pay the federal share of EB costs.

The federal tax was temporarily increased by 0.08% (to 3.28%) for 1973 to finance the payment of emergency benefits. In 1977, the federal tax rate was raised from 3.2% to 3.4%. The net federal tax, after excluding the 2.7% tax credit, increased from 0.5% to 0.7% to build up the Loan Fund for states with depleted reserves and to fund the extended and emergency benefits. This higher rate would continue until all advances made from federal general revenues to the EUCA were repaid.

In January 1983, the federal tax rate was increased to 3.5% of liable employers' taxable payrolls. This new rate was the sum of the 2.7% employer tax credit and the 0.8% used to finance administrative costs of the TEUC

program, the federal share of EB costs and loans to states from the Federal Unemployment Account (FUA).

As of January 1, 1985, the federal tax rate increased from 3.5% to 6.2%. The net tax of 0.8% remained, while the employer offset credit rose from 2.7% to 5.4%.

The temporary 0.2% FUTA surtax (discussed under the Appropriations section below) expired on June 30, 2011, after which the federal tax rate dropped to 6.0%. The net tax rate dropped to 0.6% after the 5.4% offset credit, which remained unchanged.

Originally, employers were required to have at least three years of unemployment risk experience or to have paid contributions for at least three years to qualify for reduced rates. In 1955, changes in the federal law permitted states to shorten the qualifying period for both these requirements from three years to one year, after which new or newly covered employers could be eligible for reduced rates under experience rating. Starting in 1972, federal law allowed states to assign reduced rates, as low as 1%, to new employers on a reasonable basis other than unemployment risk experience.

### **Taxable Wages**

When the Social Security Act was passed, the federal unemployment tax applied to the total payroll for covered employment. Effective in 1940, the taxable wage base was reduced to the first \$3,000 paid to a covered worker, and all states adopted this change. At that time, it made little practical difference, since the \$3,000 figure represented 98% of all wages that were then classified in covered employment nationwide.

By 1970, however, the average annual wage in covered employment rose to \$7,500 and the \$3,000 level represented less than half of all covered wages. In 1972, the taxable wage base was increased for the first time, to the first \$4,200 of each employee's yearly wages. The wage base was raised to \$6,000 in January 1978 and to its current level of \$7,000 in January 1983.

### **Collection of Unemployment Compensation Debts**

On September 30, 2008, the SSI Extension for Elderly and Disabled Refugees Act of 2008 permitted states to recover unemployment insurance debts through offset of federal income tax refunds using the Treasury Offset Program (TOP). The TOP is a centralized offset program, administered by the Federal Government to collect delinquent debts owed to federal agencies and states. Debts that could be offset include monies owed to the state due to erroneous payments of unemployment compensation resulting from fraudulent claims, unpaid employer contributions due to fraud for which an employer was found responsible, and any penalties and interest determined by the state.

Initially, there were several restrictions regarding how and when these debts could be collected. Debts were recoverable only within 10 years from the date they were incurred. The address on the federal return during the year of overpayment needed to be within the same state that was seeking to recover a debt. Additionally, the state was required to notify the person of the offset by certified mail and allow 60 days for the person to present evidence that showed that that the liability was not legally enforceable or due to fraud.

On December 8, 2010, the Claims Resolution Act of 2010 removed many of the requirements for a state seeking an offset. Since the enactment, debts can be offset at any time, without notice, and from residents of any state. Additionally, debts not resulting from fraud are able to be offset.

On December 26, 2013, the Bipartisan Budget Act of 2013 required that states use the TOP to recover unemployment insurance debts that were over one year past due.

### **Appropriations**

One reason for not offsetting employers' entire federal unemployment insurance tax liability for payment into an approved state unemployment insurance system was to obtain federal funds for administrative costs. However, nothing in the original Social Security Act stipulated that the entire share retained by the federal government must be returned to the state from which the tax was received. Congress appropriates funds each year for state and federal administration, based on a workload formula.

The Employment Security Administrative Financing Act of 1954 (also known as the Reed Act) changed the process. This law earmarked all proceeds from FUTA to be used for the unemployment insurance program, though Congress was still required to approve funds for administration.

The Reed Act also provided that any tax collections in excess of employment security administrative expenses would automatically be appropriated annually to the Federal Unemployment Trust Fund (UTF).

These excess funds were to be placed in the Federal Unemployment Account (also known

as the Loan Fund or FUA) and would be available for interest-free loans to state unemployment insurance agencies with depleted reserves to ensure that their unemployment insurance obligations were met. Collections exceeding a specified reserve amount in this Loan Fund were to be returned to the states to finance benefits. Under certain circumstances, state legislatures could appropriate the money returned for administering the system or for constructing urgently needed facilities.

In 1961, the new Employment Security Administration Account (ESAA) was established. This account would be credited with federal unemployment insurance tax receipts and provide funds for state administrative grants. The excess above a specified ceiling in this account at the close of each fiscal year was to be transferred to the FUA up to the statutory limit. Any surplus that remained would be redistributed to the states (this occurred in 1956, 1957, 1958, 1998, 1999, 2000, 2001, and 2002).

The Employment Security Amendments Act of 1970 established another account, the aforementioned Extended Unemployment Compensation Account (EUCA). This new account was to be credited with tax receipts from the previously mentioned 0.1% increase in the federal unemployment tax in 1970 and 1971, and thereafter with one-tenth of the new federal tax, up to a specified ceiling. This account would also be credited with the temporary 0.08% increase (in 1973) in the federal tax to finance continuation of the temporary EB program. The 1970 law also raised statutory ceilings for the ESAA and FUA.

Congressional passage of the Emergency Unemployment Compensation Act of 1971

provided that emergency benefits would be financed from the EUCA and that the U.S. Treasury could make repayable advances to that account if necessary. This act also extended provisions for distributing excess funds to the states from 1973 until 1983.

Emergency unemployment benefits, also known as Federal Supplemental Benefits (FSB), were renewed under the Emergency Unemployment Compensation Act of 1974 and were funded by the Federal Government with repayable advances from federal general revenues to the EUCA. After March 1977, emergency benefits were to be paid entirely from federal general revenues, under the Emergency Unemployment Compensation Act of 1977. Special Unemployment Assistance (SUA) benefits, authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, were financed entirely from federal general revenues from the start.

The Budget Reconciliation Act of 1987 extended the 0.2% temporary FUTA surtax, enacted in October 1976, until January 1991. This Act also changed the distribution of this 0.8% tax so that 0.52% (up from 0.48%) would go into the ESAA, another 0.18% (down from 0.32%) into the EUCA, and the remaining 0.1% into the FUA (this account had formerly received only the overflow from the others). When all three accounts have reached their statutory limits and all advances from the U.S. Treasury general funds have been repaid, the remaining excess is to be distributed to the accounts of individual states.

The Omnibus Budget Reconciliation Act of 1990 (effective January 1991) extended the 0.2% temporary FUTA surtax until January 1996. It also revised distribution of the 0.8%

tax to provide that 0.72% will go into the ESAA and 0.08% will be credited to the EUCA. The overflow will go to the FUA. The Reed Act was made permanent, with all future distributions based on each state's share of wages subject to the federal taxable wage base, rather than the state's wage base.

Under the Emergency Unemployment Compensation Act of 1991 (EUC), benefits were funded from a combination of sources: federal general revenues; the EUCA; any carryover financing from prior entitlement legislation; increased corporate estimated tax receipts; and savings from worker profiling.

Distribution of the 0.8% FUTA tax was modified again in July 1992, allocating 0.64% into the ESAA and 0.16% into the EUCA. Additionally, the ceiling for the FUA was reduced from 0.625% to 0.25%, and the ceiling for the EUCA was increased from 0.375% to 0.5%. Beginning on October 1, 2001, the ceiling for the FUA was increased from 0.25% to 0.5% of covered wages.

The Omnibus Budget Reconciliation Act of 1993 extended the 0.2% temporary FUTA surtax until December 31, 1998. The Taxpayer Relief Act of 1997 extended it again through December 31, 2007; the Energy Independence and Security Act of 2007 extended it through December 31, 2008; the Energy Improvement and Extension Act of 2008 extended it through 2009; and the Worker, Homeownership and Business Assistance Act of 2009 extended the surtax through its end date on June 30, 2011.

The EUC08 program, signed into law with the Supplemental Appropriations Act of 2008 on June 30, 2008, provided additional weeks of compensation to eligible individuals in all states. Initially, the

program was funded from federal funds in the EUCA in the UTF.

The American Recovery and Reinvestment Act of 2009 made temporary changes to the EUC08 program by funding benefits paid after April 1, 2009, from general revenues. The Act provided funding for 100% of EUC08 program benefits for individuals who became eligible for payments under the legislation, individuals entitled to second tier benefits after March 31, 2009, and individuals entitled to first tier benefits or the first 13 weeks of second tier benefits after August 27, 2009.

The Act also provided 100% federal funding for all sharable benefits of the EB program from the EUCA, for all new entrants into EB through December 31, 2012. The ARRA provided financing from general revenues for Federal Additional Compensation through May 2010.

The ARRA appropriated \$500 million from the ESAA to the states' accounts in the UTF for administering unemployment programs.

The ARRA also provided up to \$7 billion to the states as an incentive to modernize their unemployment programs. States had to apply by August 22, 2011, in order to receive payment. \$4.4 billion was distributed to the states and the remaining \$2.6 billion was deposited into the FUA.

### **Federal Loans to State Unemployment Programs**

Unemployment compensation benefits are an entitlement, and states must pay them regardless of whether the state account is insolvent.

Under provisions of the Employment Security Administrative Financing Act of 1954 (the Reed Act), funds placed into the Loan Fund would be available for interest-free loans to state unemployment insurance agencies with depleted reserves. States had up to four years to repay these loans before incurring a reduction in allowable tax credits, which, in effect, would force states to raise the contribution rates of their employers.

After September 13, 1960, a FUA advance to a state was limited to the amount of the current or following month's benefit payments. A provision was also included for speeding up repayment of these advances: the time period was shortened to two years, after which an automatic reduction in employer tax credits took effect in the states involved.

States could be granted two extensions of the deadline to repay their advances from the Federal Unemployment Trust Fund before the automatic tax-increase (tax credit-reduction) provisions for nonpayment would take effect. These repayment extensions were granted under the Emergency Compensation and Special Unemployment Assistance Act of 1975 and the Emergency Unemployment Compensation Act of 1977, provided that the states took appropriate actions to restore the financial soundness of their unemployment insurance accounts.

With passage of the Omnibus Budget Reconciliation Act of 1981, all loans made to states after April 1, 1982, are subject to interest charges. To conform to federal law, interest charges may not be paid, directly or indirectly, from the states' Unemployment Insurance Fund. The annual interest rate to be assessed is the lower of 10% or the rate paid by the U.S. Treasury on state reserve balances

in the federal Unemployment Trust Fund in the last quarter of the preceding calendar year.

Public Law 98-21, passed in March 1983, provides reduced interest charges for some borrowing states under certain circumstances. This law permits lowering the interest rate if a state takes action to increase tax revenues and/or reduce benefits by a specified amount. Public Law 102-318, enacted July 1992, extends by one year the grace period for avoiding the imposition of "penalty" FUTA taxes on employers in states with overdue Title XII loans, if the state amends its law in 1992 or 1993 to increase estimated revenues by at least 25% during the first year after enactment.

The American Recovery and Reinvestment Act of 2009 temporarily waived interest payments and interest accrual on loans to states from the FUA until December 31, 2010. However, states were still subject to the tax credit reduction if the state did not repay the loan by November 10 following the second consecutive January 1 that a state had an outstanding loan.

Beginning in 2014 and in full effect through 2019, states must meet funding goals as determined by the Secretary of Labor in order to borrow funds without interest from the FUA. States will be required to have had at least one year in the previous five calendar years where the ratio of its reserve balance to its average high-cost multiple is equal to 1.0 or greater. This means that one year of a state's Trust Fund account balance in the last five must be equal to the highest levels of payments experienced over the past 20 years.

Additionally, the state's average contribution rate (unemployment insurance contributions collected during the year divided by total

wages subject to unemployment insurance contributions) must be equal to at least 80% of the prior year's rate and the average rate must be equal to at least 75% of the average benefit cost ratio (the amount of benefits and interest paid in a year divided by the total wages subject to unemployment insurance contributions) over the preceding five years.

### **Sequestration of UI Programs**

On March 1, 2013, the President issued a sequestration order in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) as amended by the Budget Control Act of 2011 and the American Taxpayer Relief Act of 2012. The BBEDCA required a reduction of FY 2013 budgetary resources for programs, projects and activities (PPAs), including federally funded unemployment insurance programs. unemployment insurance programs subject to sequestration include:

- Discretionary PPAs:
  - unemployment insurance state administrative grants;
  - Administrative funding for UCFE, UCX, and the funding for the provision of TRA, ATAA, and RTAA benefits under the TAA program;
  - Reemployment and Eligibility Assessments (REAs) for regular unemployment insurance;
  - unemployment insurance National Activities;
- Mandatory PPAs:
  - Emergency Unemployment Compensation (EUC) benefits and administrative funding;

- Federal share of EB benefits;
- EUC-related Reemployment Services and Reemployment and Eligibility Assessments; and
- Federal reimbursement of state Shared Work benefit costs.

The following are exempt from sequestration:

- Unemployment insurance benefits paid by a state from its account in the UTF;
- Title XII, Social Security Act, advances to states;
- Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for EX-Service-members (UCX);
- Short-Time Compensation (Shared Work) grant funds authorized in Section 2164 of Pub. Law, 112-96; and
- Self-Employment Assistance (SEA) grant funds authorized in Section 2182 of Pub. Law, 112-96.

The reductions for non-defense fiscal year 2013 budgetary resources were 5.0% for discretionary PPAs and 5.1% for mandatory PPAs. Reductions did not apply to benefits that had already been paid. Since the sequestration applied to all of fiscal year 2013 (October 1, 2012 - September 30, 2013), the actual percent reduction affecting funding and benefit payments was recalculated depending on the date reductions were applied in each state.

Based on an April 1, 2013 implementation date (as in New York State), the EB<sup>1</sup>/EUC08

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<sup>1</sup> Alaska was the only state in an extended benefits period during the implementation of the fiscal year

benefit reduction was 10.7% (and applied to benefit payments issued for week ending April 7, 2013, through the end of fiscal year 2013). For individuals with remaining entitlement in EB or any EUC tier, the remaining entitlement and weekly benefit amount was reduced by 10.7%. For individuals entering EB or any EUC08 tier between April 1, 2013, September 29, 2013, the maximum benefit amount and weekly benefit amount was reduced by 10.7%.<sup>2</sup> States in an extended benefits period during sequestration would be responsible for paying the amount represented by the 10.7% reduction unless the state law authorized a reduction in EB as permitted under the BBEDCA.

during the first quarter of fiscal year 2014, the benefit reduction would have been 7.2%. States in an extended benefits period during sequestration would be responsible for paying the amount represented by the 7.2% reduction unless the state law authorized a reduction in EB as permitted under the BBEDCA.

Sequestration of mandatory PPAs was implemented for fiscal year 2014 (October 1, 2013 - September 30, 2014). In December 2013, the Bipartisan Budget Act of 2013 changed the sequestration caps for fiscal year 2014 and fiscal year 2015. This deal eliminated some of the spending cuts required by the sequester.

The EUC08 benefit reduction for weekly benefit and maximum benefit amounts was 7.2% for fiscal year 2014 (and applied to benefit payments issued for week ending October 6, 2013 through the EUC08 expiration date of December 29, 2013 in New York State).

As of the date of this publication, no states are in an extended benefits period. Had any state been in an extended benefits period

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2013 sequester. Alaska triggered off of EB in May 2013.

<sup>2</sup> Some states used alternative methods for implementing sequestration reductions such as paused-week, grandfathering, and reduction of weeks in EUC08 Tiers.

### III. UNEMPLOYMENT INSURANCE DEVELOPMENTS IN NEW YORK STATE

The first unemployment insurance bill was brought, unsuccessfully, before the New York State Legislature in 1921. In the 14 years following, various members of the Legislature proposed 77 subsequent measures for creating some form of unemployment insurance.

The onset of the Great Depression in late 1929 increased public demand for an unemployment insurance system. New York Governor Franklin D. Roosevelt, at a national Governors' Conference in June 1930 in Salt Lake City, Utah, stated:

“Unemployment Insurance we shall come to in this country just as certainly as we have come to workmen's compensation for industrial injury, just as certainly as we are in the midst of a national way of insuring against old age want.”

In January 1931, New York Lieutenant Governor Herbert H. Lehman met in Albany with representatives from Massachusetts, Rhode Island, Connecticut, Pennsylvania and Ohio as a Commission on Unemployment Insurance. This commission recommended the creation of compulsory statewide systems of unemployment reserves.

New York formed a Joint Legislative Committee on Unemployment Insurance in April 1931, which was "to investigate the cause of unemployment in its every aspect." Its final report in February 1933, stated:

“No evidence has been presented to us to change our belief in the soundness of the principle that industry should, in times of

business activity and prosperity, set up reasonable reserves against the involuntary unemployment of its workers in less prosperous times and that the establishment of such reserves should be under state supervision and should be made compulsory upon employers by the state.

The necessity of establishing a statewide system of employment exchanges to function in connection with a compulsory system of unemployment reserves is recognized by all students of the subject, as is the necessity for the collection of more adequate statistics on employment, unemployment and industrial trends.”

Acting on these recommendations, and at the request of the Governor, the Industrial Commissioner appointed various committees of employers, employees and technical experts in 1933 and 1934, to draft appropriate legislation.

## THE 1935 NEW YORK LAW

The New York State Unemployment Insurance Law was enacted on April 25, 1935 and its constitutionality was upheld by the U.S. Supreme Court in November 1936. This law's declaration of public policy stated:

“The public good and the well-being of the wage earners of the state require the enactment of this measure for the compulsory setting aside of financial reserves for the benefit of persons unemployed through no fault of their own.”

The law provided for a statewide pooled fund of contributions from employers of four or more workers in the types of employment covered. It required that a study be conducted of merit rating, and stated as "public policy that no rate of contribution on payrolls required from any individual employer shall be less than 1%."

Benefits became payable January 1, 1938. To collect benefits, a worker had to have had at least 90 days of covered employment in the prior year or at least 130 days in the two years before filing their claim.

These benefits were payable only for a full seven-day period of unemployment, but the Industrial Commissioner was to complete a study of partial unemployment and transmit its findings to the Legislature.

The law provided for weekly benefit payments equal to 50% of the worker's "full-time weekly wages," with a minimum of \$5 and a maximum \$15 per week. Full-time weekly wages were defined as the current rate for the customary number of hours per week in the worker's usual employment, or in the job most similar to that in which they had their longest employment.

Beneficiaries could receive one week of benefits for each 15 days of employment in the 52 weeks before their payments began, but could not receive more than 16 times the weekly benefit or 16 weeks of payments in any 52-consecutive-week period.

No benefit payments were allowed until completion of a three-week waiting period, but ordinarily no more than five such weeks were required in any calendar year. This waiting period was extended to 10 weeks if a worker had lost their job through misconduct or because of an industrial controversy where they worked. A worker who refused to accept employment for which their training and experience reasonably fitted them would be disqualified for an indefinite period.

One fundamental purpose of the state's Unemployment Insurance Law was "to promote the regularization of employment in enterprises, localities and industries of the state." The Industrial Commissioner was required to "take such steps as are within his means for the reduction and prevention of unemployment."

## UNEMPLOYMENT INSURANCE COVERAGE

### The 1930s

The size-of-firm coverage provision in the original New York law -- for all private employers of four or more workers for at least 13 weeks in a calendar year -- was broader than in the federal law. The state law exempted nonprofit institutions, the State of New York and all municipal and other government subdivisions; but any of these employers could elect voluntary coverage for their employees. The law also specifically excluded employment as a farm laborer and services of an individual's spouse or minor child; employers could not elect to voluntarily cover these employees.

The New York law covered all manual (blue-collar) and non-manual (white-collar) workers with earned incomes of no more than \$50 per week or \$2,500 per year. It was felt that coverage for unemployment insurance should be limited to blue-collar workers and low-paid white-collar workers, since these two groups ran the greatest unemployment risk, and would be the groups least able to save money to be used during periods of involuntary unemployment. The earnings limit for coverage of white-collar workers was raised twice -- to \$2,600 in 1936 and \$3,000 in 1937. Beginning in 1938, both manual and non-manual workers were covered regardless of their annual earnings.

The new federal Social Security Act made all employers of eight or more workers in each of 20 weeks in a calendar year subject to the federal unemployment tax, regardless of their employees' annual earnings or type of work -- manual or non-manual.

The influence of this federal law, and the difficulty that employers had in distinguishing

between manual and non-manual employees, prompted New York State to drop this type-of-work restriction in January 1938. All employees of subject employers were covered, whatever their annual earnings, but wages subject to contribution were limited to the first \$3,000 of each worker's calendar-year earnings.

Despite the federal limitation of liability to employers of eight or more workers and the exclusion of domestic services in private homes, New York's law maintained its original coverage of employers with as few as four or more workers, including domestic workers.

During the remainder of the 1930s, amendments to the New York law tended to restrict coverage. Changes adopted in 1939 excluded employment as a golf caddy and part-time employment of a minor under the age of 21 who attended a regular daytime school. Following enactment of the federal Railroad Unemployment Insurance Act in June 1938 (effective in July 1939), railroad workers were also excluded from coverage.

### The 1940s

State amendments during the 1940s redefined existing exclusions from coverage, extended coverage to some groups and allowed certain exempt local governmental institutions that elected voluntary coverage to reimburse the Unemployment Insurance Fund for benefits paid rather than pay contributions.

New York State took advantage of a congressional amendment to the Federal Unemployment Tax Act to extend coverage in 1940 to federal agencies such as national banking associations. In 1941, the state also extended coverage to employees of nonprofit institutions who were temporarily and solely employed for constructing, remodeling, or

demolishing buildings.

Beginning in 1947, coverage was extended to employees of the State of New York if they were in classified civil service positions and were employed continuously for one year. Rather than pay contributions on wages, the state was required to reimburse the state Fund for unemployment benefits paid to its former employees. In 1948, any municipal corporations and other local governmental subdivisions that elected voluntary coverage (only a small number did) were also required to reimburse the Fund.

Maritime Employment: The New York law made no specific reference to maritime employment. The general opinion was that such employment was outside the state's jurisdiction and that admiralty jurisdiction prevailed. However, the New York State Court of Appeals ruled in October 1942 that the state law did cover these workers; and the constitutionality of this decision was upheld by the U.S. Supreme Court in May 1943.

World War II Veterans: In September 1944, to help ex-servicemembers readjust to peacetime civilian life, Congress enacted the Servicemen's Readjustment Act. Title V of this act provided benefits to veterans involuntarily unemployed after their discharge, and allowances to self-employed veterans with net incomes of less than \$100 in any month. State Employment Security agencies administered these provisions as agents for the federal government, and they were reimbursed by the federal government for program benefits paid. This program expired in 1950.

In April 1944, prior to the enactment of the federal Servicemen's Readjustment Act, New York had made a special provision for benefits to ex-servicemembers who had not accumulated sufficient wage credits to qualify

for regular benefits. This special state provision, to be financed from general state funds, became inoperative with passage of the federal law, and was repealed in April 1945.

### The 1950s

The most significant changes in the state unemployment insurance system during the 1950s were the extension of coverage to employers of three or more workers (effective January 1956) and to employers of two or more workers (effective January 1957). However, private households with fewer than four employees remained excluded. As a result, New York's law continued to cover smaller firms than did the federal regulations, which still only covered employers of four or more workers.

Other amendments to the state law extended coverage to the following small groups of workers:

- School custodial employees in cities of 500,000 or more (effective July 1950);
- Employees of nonprofit institutions whose primary activities are producing plays or musicals (March 1952) and concerts (July 1954) for entertaining the general public;
- Employees of the New York State Division of Military and Naval Affairs (April 1955);
- All state employees in the classified civil service (July 1955); and
- Noncovered employers who operate a building could elect for voluntarily coverage of the building's maintenance employees (April 1951).

### The 1960s

The most important change in the 1960s was the extension of coverage, effective in

January 1960, to employers of one or more workers with payrolls of \$300 or more in any calendar quarter. Domestic service in private homes was still only covered in households employing four or more domestic workers in one day. Effective in January 1966, however, coverage for domestic workers was extended to household employers with payrolls of \$500 or more in a calendar quarter.

Another amendment, effective in January 1963 and designed to encourage municipal corporations and other governmental units to elect voluntary coverage, allowed them to either pay unemployment insurance contributions or reimburse the Fund for benefits charged against them. Starting in July 1963, those local governmental units and nonprofit organizations that elected voluntary coverage could exclude certain employees, including administrative and professional personnel, any volunteer workers, teachers, clergymen and members of religious orders.

In July 1965, coverage was extended to full-time, year-round employees of the State Legislature working in Albany, even though these jobs are in the unclassified civil service. Services of elected officials of the Legislature remain excluded from coverage.

In 1965, New York State passed standby legislation (to go into effect only after it was certified as being in conformity with federal requirements) mandating coverage of most nonprofit organizations. This legislation, which became operative in 1971, is described in the section, "The 1970s," contained below.

Two additional amendments from the late 1960s further extended agricultural coverage: in 1967, mandatory coverage for agricultural processing work for an employer who was not a farm operator; and in 1969, voluntary coverage for agricultural work on a farm, if the employer so chose.

Also in 1969, coverage was extended to daytime students in colleges and trade or specialized schools (excluding high schools) who worked outside of school hours or during vacations. Effective in July 1963, the state law excluded the services of children under the age of 14 -- which applied mainly to children who were employed in television and theatrical performances.

### **The 1970s**

In the 1970s, coverage was expanded substantially by the federal Employment Security Amendments of 1970 and the Unemployment Compensation Amendments of 1976. Two large worker groups brought under mandatory coverage were those in nonprofit organizations in 1971, and those in local governments in 1978 (which began in 1975 under a temporary federal program).

In New York, all nonprofit organizations with quarterly payrolls of \$1,000 or more were covered on a mandatory basis in January 1971, after formal approval of the State's 1965 standby legislation by the U.S. Secretary of Labor in September 1970. Collectively, these organizations employed over 400,000 workers. Churches were covered, except that workers engaged in religious functions were excluded.

New York State covered nonprofit primary and secondary schools, in addition to the state and private colleges or universities covered by the federal act.

Other major occupations whose services were excluded with nonprofit organizations were doctors, professional scientific workers, teachers and other professional workers in primary or secondary schools, persons working for and receiving services at rehabilitation facilities, and students employed by the schools they attend.

Municipal corporations and other government subdivisions, which were only covered on an elective basis, were given the additional option in 1971 of electing coverage limited to municipal hospitals and schools, with the further option of excluding teachers.

Additional changes in the state law became effective on January 1, 1972, to bring state coverage into full conformity with the federal amendments regarding nonprofit organizations. Coverage was extended to nonprofit organizations with four or more employees in each of 20 weeks, and to some previously excluded occupations in nonprofit organizations: doctors, professional scientific workers, teachers and other professional workers in colleges or universities. Teachers in nonprofit elementary and high schools were only covered if their employers elected it. Coverage was extended to all unclassified workers in state hospitals and colleges.

In accordance with federal amendments in 1970, New York State also extended coverage, effective in 1972, to certain outside salesmen and commission drivers, some types of agricultural processing workers, U.S. citizens working outside the country for American firms whose principal place of business is in New York State, and citizens working in other states, the Virgin Islands or Canada, whose employment is directed from New York State and who are not covered under the unemployment insurance law of the place in which they work.

Two minor changes in coverage were also enacted in 1972. One extended coverage to principal stockholders of corporations not subject to the federal unemployment tax. The other change excluded the employment of students under the age of 22 who are enrolled in full-time work-study programs.

Effective January 1975, local government and

other workers were covered by a temporary federal program that extended coverage to persons who were not covered by state laws, but who met the state's minimum earnings and eligibility requirements. This Special Unemployment Assistance Program was effective when the Total Unemployment Rate (TUR) for any three consecutive months reached either 6% nationally or 6.5% in certain specified geographic areas. Benefit claims were first accepted on January 6, 1975, retroactive to unemployment beginning on December 23, 1974.

To conform to the federal legislation, the state law was amended (effective in 1978) to mandatorily cover local government workers, including those in schools; workers on large farms; and those in a few other occupations that had previously been excluded. These changes extended unemployment insurance coverage to an additional 900,000 workers.

Prior to the federal amendments, New York's law had only provided for voluntary coverage by local governments and farm operators, but few such employers elected coverage. Currently, those employed by farm operators with 10 or more workers in each of 20 weeks or on farms paying cash wages of \$20,000 or more in a calendar quarter are covered by New York's Unemployment Insurance Law.

Nonprofit elementary and high schools were covered in New York State as of January 1971, except for teachers and other professional school workers, who were allowed coverage in 1972 if their employers so elected. By the end of the decade, these occupations were no longer exceptions; but these workers were ineligible for benefits between school terms if they had a reasonable assurance of continuing their employment.

Also by the close of the decade, federal legislation covered state workers, with some

exceptions. Most state workers have been covered in New York State since 1947. Domestic workers, covered by federal legislation, have been covered from the inception of New York State's unemployment insurance system. The current state coverage of households with domestic worker payrolls of \$500 or more in a calendar quarter is broader than the federal provision, which covers household employers with quarterly payrolls of \$1,000 or more.

### **The 1980s**

During the 1980s, coverage was extended to nonprofit organizations or government entities for services performed by individuals enrolled in a Job Training Partnership Act (Title IIB) Summer Youth Employment Program, and to musicians and other persons engaged in the performing arts unless a written contract stipulates that they are to be employees of another covered employer.

Provision was made for the voluntary coverage of persons employed at places of religious worship as caretakers, or performing duties of a religious nature, or both.

The employees of educational services agencies were extended the same benefit rights as professional and nonprofessional employees with educational institutions. Neither group is eligible for benefits between school terms or during vacation periods and holiday recesses if they have a reasonable assurance of continued employment.

Excluded from coverage, under certain circumstances, were real estate brokers and sales associates, certain student interns, and fishing vessel crews of fewer than 10 whose remuneration involves a share of the catch. Coverage was reduced slightly for ex-servicemembers. The primary groups still excluded are the self-employed, workers on

small farms, and domestic workers with multiple employers in the same quarter.

Authorized under the federal Short-Time Compensation Act of 1982, New York State implemented a Shared Work Program on a demonstration basis in January 1986, with participation open to firms with 10 or more employees. This program became permanent in June 1989 and was expanded to include firms employing five or more. Employees of these firms are eligible to receive partial unemployment benefits if their wages are reduced by from 20% to 60% in lieu of a workforce reduction.

### **The 1990s**

In 1991, coverage was excluded for services rendered to a nonprofit organization by a person participating in a youth service program, if that person receives a stipend and is eligible for an award or scholarship upon leaving the program.

Starting in 1992, coverage was extended to professional models who provide written consent to transfer the exclusive legal right to use their name or image to someone else, who then dictates their assignments, location and hours of work, and provides compensation.

Employees of community art schools that are chartered by the state Board of Regents were extended the same benefit rights as professional and nonprofessional employees with educational institutions.

Excluded from coverage were certain full-time students of any age (previously, only those under age 22 were excluded) enrolled in nonprofit or public educational institutions in certain work-study programs. Also excluded, under specified conditions, were the services of full-time students at organized camps.

## **The 2000s**

Following the 2000 amendment to the Federal Unemployment Tax Act (FUTA) extending coverage to federally recognized Indian tribes, New York State coverage was extended to them in 2002. As with other governmental entities, Indian tribes are given the option of submitting benefit reimbursements in lieu of contributions. Coverage was also extended to the services of fellow, resident and intern physicians.

Professional Employer Organizations (PEOs), or employee leasing companies, are required to register with the State Department of Labor and meet certain minimum registration standards.

Beginning in 2002, licensed insurance agents and brokers are excluded from coverage under certain conditions and are classified as independent contractors.

As of December 2004, the State University of New York (SUNY) and City University of New York (CUNY) are included as educational institutions for benefits based on professional employment.

## **The 2010s**

As of March 2013, when an employer contests a determination of liability for contributions, the statute of limitations -- for a determination of the liability for and the amount of contributions for the contested period and subsequent periods -- is extended while the determination of a liability is pending.

The March 2013 legislation clarifies that non-citizens who are currently eligible for benefits shall continue to be eligible for benefits as set forth in the federal law.

## **WEEKLY BENEFIT RATES**

### **1935 to 1948**

When originally adopted in 1935, the New York State Unemployment Insurance Law based the benefit rate on one-half of a worker's full-time weekly wage, setting a minimum payment of \$5 and a maximum of \$15.

The law was amended in 1937 to redefine the weekly wage on which benefits were to be based, and to raise the minimum weekly payment to \$7. Benefits for all claimants remained at 50% of the newly defined weekly wage, in a range from \$7 to \$15, and was the formula when benefits first became payable on January 1, 1938.

To simplify the program's administration, another amendment in July 1939 based the benefit calculation on the average weekly wage during a claimant's highest quarter of earnings, rather than the highest weekly wage during their base year. These calculations were set forth in a table written in the law, showing the benefit amount corresponding to the earnings in the highest quarter of the base year.

Four benefit rate increases were enacted between 1942 and 1948. The maximum rate rose to \$18 in 1942, \$21 in 1945, and \$26 in 1948. The minimum rate rose to \$10 in 1943.

### **The 1951 Amendments**

Based upon recommendations from the Joint Legislative Committee on Unemployment Insurance, major revisions passed into law on April 9, 1951 (effective June 4, 1951). The three main changes were:

- A new method for measuring prior weekly earnings. In place of the table

relating weekly benefit rates to highest quarterly earnings, a new schedule was implemented relating benefit rates to average weekly wages, which were defined as base-year earnings divided by the number of weeks of base-year employment. Weeks with earnings of less than \$15 were not counted unless their exclusion would leave a worker with fewer than the required 20 weeks of base-period employment.

- A sliding scale of benefits. In place of the concept that benefits should equal 50% of prior full-time weekly wages, a philosophy that had prevailed since 1935, a sliding scale of benefits was introduced. This scale ranged from two thirds of the average weekly wage for the lowest-paid workers to 52% for beneficiaries who were eligible for the rate just below the maximum. This graduated scale followed the general principle that unemployment benefits should meet the ordinary non-deferrable living expenses of the beneficiary and his family, expenses representing a higher proportion of earnings for low-wage earners than for high-wage earners.
- An increase in the maximum weekly benefit. This amount was increased from \$26 to \$30 by the addition of four rates to the new benefit scale table. The \$30 figure was chosen as roughly one half of the average weekly wage of production workers in manufacturing firms (which was \$59.55 in 1950).

**Changes in Maximum and Minimum Weekly Benefit Amounts, 1951-2000**

During the period from 1951 to 2000, the weekly benefit rate schedule was adjusted

upward 18 times. The table below presents a chronological summary of these changes to both the maximum and minimum weekly benefit amounts, and the qualifying wages needed for each rate.

**STATUTORY ADJUSTMENTS IN THE WEEKLY MAXIMUM AND MINIMUM UNEMPLOYMENT INSURANCE BENEFIT RATES AND QUALIFYING WAGES  
NEW YORK STATE, 1951-2000**

Year	Maximum Weekly Benefit Rate		Minimum Weekly Benefit Rate	
	Amount	Qualifying Wages	Amount	Qualifying Wages <sup>1</sup>
1951	\$26	\$586 or more quarterly	\$10	\$300 quarterly
1952	30	59 or more weekly	10	Less than 16 weekly
1955	36	71 or more weekly	10	Less than 16 weekly
1957	45	89 or more weekly	10	Less than 16 weekly
1960	50	99 or more weekly	10	Less than 16 weekly
1965	55	109 or more weekly	10	Less than 16 weekly
1968	65	129 or more weekly	20	Less than 31 weekly
1970	75	149 or more weekly	20	Less than 31 weekly
1974	95	189 or more weekly	20	Less than 31 weekly
1977	115	229 or more weekly	25	Less than 41 weekly
1978	125	249 or more weekly	25	Less than 41 weekly
1983	170	339 or more weekly	35	Less than 68 weekly
1984	180	359 or more weekly	40	Less than 81 weekly
1989	245	489 or more weekly	40	Less than 81 weekly
1990	260	519 or more weekly	40	Less than 81 weekly
1991	280	559 or more weekly	40	Less than 81 weekly <sup>2</sup>
1992	300	599 or more weekly	40	Less than 81 weekly <sup>2</sup>
1998	365	9,125 or more quarterly <sup>3</sup>	64	1,600 in high calendar quarter <sup>3</sup>
2000	405	10,530 or more quarterly <sup>4</sup>	64	1,600 in high calendar quarter <sup>3</sup>

1. Subject to a minimum average weekly qualifying amount. For example, in 1984 (and through March 31, 1999) the minimum qualifying amount was \$80 per week.
2. Or 21 times the state minimum wage in effect during the previous year, whichever is greater.
3. In addition, base-year wages must be a minimum of one and one-half times the high calendar quarter. (NOTE: Qualifying wages for the maximum weekly benefit were \$729 or more weekly until April 1999. Qualifying wages for the minimum weekly benefit remained at less than \$81 weekly until April 1999.)
4. Quarterly wages equal to at least 26 times the maximum weekly benefit amount.

**Changes in Maximum and Minimum Weekly Benefit Amounts, After 2000**

On the first Monday in October 2014, the minimum benefit amount increased to \$100 dollars.

Beginning in 2014, the maximum benefit rate increases on the first Monday in October of each year, according to the following schedule:

- 2014: \$420
- 2015: \$425
- 2016: \$430
- 2017: \$435
- 2018: \$450
- 2019: 36% of the average weekly wage
- 2020: 38% of the average weekly wage
- 2021: 40% of the average weekly wage
- 2022: 42% of the average weekly wage
- 2023: 44% of the average weekly wage
- 2024: 46% of the average weekly wage
- 2025: 48% of the average weekly wage
- 2026 and each year thereafter:
  - 50% of the average weekly wage

In no event will the maximum benefit amount be reduced from the previous year. However, three triggers have been enacted to suspend benefit rate increases when an increase could potentially result in insolvency of the Unemployment Insurance Trust Fund.

Effective January 1, 2014, to December 31, 2016, no increase may take place if the Department of Labor determines that New York State has had a decrease in private sector jobs in each month of the first two calendar quarters of the year. Increases may resume in the following year to the amount for the year previously scheduled so long as the Department of Labor determines that New York State has not had a decrease in private

sector jobs in each month of the first two calendar quarters in the subsequent year.

Increases may also be suspended effective January 1, 2017, to December 31, 2018, if the Department of Labor determines that the balance of the Unemployment Insurance Trust Fund on December 31 is less than the amount projected to be the cost of the benefit rate increase in the following year. Increases may resume in the following year to the amount for the year previously scheduled so long as the Department of Labor determines that the Unemployment Insurance Trust Fund revenues are sufficient.

Beginning January 2019, an increase may be suspended if the Department of Labor determines that the Unemployment Insurance Trust Fund balance has not reached or exceeded 30 percent of the average high cost multiple on at least one day between April 1 and June 30 of that year. The average high cost multiple is a measure of Unemployment Insurance Trust Fund solvency. An average high cost multiple of 1.0 is the amount of funds required to cover 1 year at the historic high level of benefit payments; this is also the solvency criterion under federal regulations starting in 2019 under which states may receive interest-free federal loans. The average high cost multiple is determined by dividing the reserve ratio (the balance of the Unemployment Insurance Trust Fund expressed as a percentage of total wages paid in covered employment) by the average high cost rate (ratio of benefits paid to total wages paid in covered employment in three high cost years). If, following such suspension of an increase, it is determined that the balance is greater than 30% of the average high cost multiple on at least one day between April 1 and June 30 of that year, the suspension will be lifted and maximum benefit rate increases

will resume.

### **Benefit Rate Provisions After 2000**

In 2014, a new method of calculating benefit rates was implemented. For claimants with earnings in only two or three base period (or alternate base period) quarters, the calculation of the benefit rate is as follows:

- If the high quarter wages are  $> \$4,000$ , the benefit rate is  $1/26$  of the average of the two highest quarters.
- If the high quarter wages are  $> \$3,575$  and  $\leq \$4,000$ , the benefit rate is  $1/26$  of the high quarter.
- If the high quarter wages are  $\leq \$3,575$ , the benefit rate is  $1/25$  of the high quarter.

For claimants with wages in all 4 quarters of the base (or alternate base) period, the calculation remains unchanged.

### **Partial-week Benefits**

New York State did not provide benefits for part-week unemployment until November 1942. At that time, the Day Base Plan was enacted. This plan compensated claimants for full days of unemployment, and paid benefits only after they had accumulated the equivalent of a full week of unemployment. A day in which some work was performed, no matter how little, was not compensable. Initially, benefits were paid only after the equivalent of a full week of unemployment had been accumulated.

Since 1951, benefits have been paid weekly, on a prorated basis, for partial-week unemployment. However, partial-week unemployment does not lessen a beneficiary's

maximum benefit amount.

New York's system is unique, in that benefits are based primarily on lost days of work in a week rather than on lost earnings in a week<sup>1</sup>.

Under the Day Base Plan, the first three days of unemployment in a statutory week (Monday through Sunday) are "qualifying days," and no benefits are payable for them. Any additional days of unemployment within the week (including Saturday and Sunday) are "effective days,"<sup>2</sup> and benefits are payable for them. Each effective day counts towards one fourth of a claimant's weekly benefit amount. Thus, a claimant having worked two days in a week would receive only half their weekly benefit amount.

A claimant who is unemployed for part of the week receives no benefits if their earnings for the statutory week exceed a specified amount. In 1942, when the maximum weekly benefit was \$18, the allowable earnings limit was \$24; in 1951, when the maximum weekly benefit was \$26, the allowable earnings limit was set at \$30.

Subsequent periodic adjustments to the allowable weekly earnings limit have set it at the same amount as the maximum weekly benefit rate:

- \$36 in 1955;

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<sup>1</sup> Most other states calculate partial benefits based on the amount earned in relation to the benefit rate, in lieu of partial-week benefits. Some states, such as Massachusetts and Colorado, allow beneficiaries to earn up to a certain percentage of their weekly benefit rate without a reduction in their benefit rate. Earnings exceeding this percentage are deducted from the amount they receive.

<sup>2</sup> An 'effective day' is defined as the fourth and subsequent registered days of total unemployment in a statutory week in which the claimant did not earn more than the earnings unit.

- \$115 in September 1977;
- \$125 in September 1978;
- \$170 in September 1983;
- \$180 in July 1984;
- \$245 in April 1989;
- \$260 in April 1990;
- \$280 in April 1991;
- \$300 in February 1992;
- \$365 in September 1998;
- \$405 in September 2000;
- \$420 in October 2014.

After 2014, the allowable weekly earnings limit will increase as the maximum benefit rate increases (the schedule can be found on page 11). Claimants may not receive benefits if they earn more than the maximum weekly benefit amount regardless of how many days they have worked in a week.

### **Deductions and Withholdings**

Various acts of legislation have been implemented which allow for certain deductions and withholdings to the weekly benefit amount.

To conform to the federal regulations, effective in September 1982, unemployment benefits could be reduced by an amount required to meet a claimant's child support obligations (requiring a claimant's agreement or a court order), with this amount forwarded to local child support enforcement agencies

Beginning in April 1997, claimants may elect to have 10% withheld from their weekly benefit amount to offset their Federal income tax liability. This option can be chosen when a benefit claim is filed, or can be added or withdrawn during the benefit period. Benefits are also subject to State and local income taxes, but tax withholding provisions do not

currently exist.

An August 1997 amendment allows the deduction of the greater of 10% or \$10 from a claimant's weekly benefit amount (unless a larger amount is requested in writing by the claimant) for uncollected overissuances of Food Stamps, with such amount being forwarded to the appropriate Food Stamp agency.

In 2008, claimants were given the option to have state income taxes withheld from the weekly benefit amount.

### **Shared Work Program**

The federal Short-Time Compensation Act of 1982 allows states to provide partial unemployment benefits to workers whose employers choose to reduce their work-weeks as an alternative to temporary layoffs. These federally funded benefits are paid to workers for their hours of work lost, as a proportion of the benefit amount they would receive for a full week of unemployment. More about the Shared Work Program is detailed later in this section.

## **DURATION OF BENEFITS**

The New York State Unemployment Insurance Law was designed only as partial compensation for the loss of income during short-term or temporary unemployment and as a first line of defense against economic recessions. It was assumed that federal emergency programs would deal with long-term unemployment resulting from severe or prolonged recessions. In determining the maximum duration for benefits, a primary consideration was the time required for the short-term unemployed to return to work.

### **Waiting Period**

For the newly unemployed, the law has a waiting period during which benefits are not paid. This allows the Department of Labor time to process new claims and avoid paying benefits to workers who are unemployed for very short periods. This waiting period was originally three weeks, or a maximum of five weeks in a calendar year if there was more than one spell of unemployment.

In 1938, the waiting period was changed to three consecutive weeks in the first spell of unemployment, with a maximum of five weeks in the benefit year (the 52-week period following the filing of an initial claim). In 1939, it was changed to three weeks, not necessarily consecutive, in the benefit year; in 1942, it was reduced to two weeks.

In 1945, the waiting period became one week or four effective days, all or part of which might be served in the preceding benefit year. Since 1951, the preceding benefit year had to have expired to accumulate effective days. A 1956 act eliminated the waiting period requirement in the case of unemployment due to a major disaster, but this waiver was

deleted in 1983.

In terms of effective days, if a person is credited with one effective day in each of four weeks, their waiting period will extend over the entire four-week period. Their first three days of unemployment (including Saturday and Sunday) in each week are disregarded in counting effective days. In other words, a claimant must be unemployed at least four days (counting Saturday and Sunday) in one week to receive credit for one effective day.

### **Maximum Durations to 1970**

Except in its first year, the New York program has had a uniform maximum benefit duration period for all claimants. In 1938, this period varied from 3 to 16 weeks, depending upon the amount of past earnings; but in July 1939, the maximum duration was changed to 13 weeks for all beneficiaries. This was increased to 20 weeks in 1942 and to 26 weeks in 1945. Thereafter, the 26-week maximum has remained except for temporary programs that extended the benefit duration during periods of recession and readjustment.

During the first 35 years of the state unemployment insurance program, two temporary federal programs provided additional weeks of benefits to individuals who had exhausted their regular benefits.

The federal Temporary Unemployment Compensation Act of 1958 (TUC) was effective for all claimants from June 23, 1958 to April 10, 1959. It was extended through July 5, 1959, to cover some veterans. As a tapering-off device, New York enacted a temporary measure from April 1959 to July 1959 to provide benefits for those who had received one or more TUC payments.

The other federal program, the Temporary Extended Unemployment Compensation Act of 1961 (TEUC), effective from April 1961 through June 1962, provided 13 additional weeks of benefits to exhaustees.

This program voided a New York statute, which had been on the books from February 1961 to April 1962, and provided extended benefits when, during 13 consecutive weeks, the number of regular benefit exhaustees totaled more than 1% of the insured labor force.

### **Maximum Durations After 1970**

During most of the 1970s, the maximum benefit duration had been extended beyond the basic 26 weeks under various programs activated by high unemployment rates -- to 39 weeks, then to 52 weeks, to 65 weeks, and back to 52 weeks.

### **Extended Benefits Program** **(EB)**

The Extended Benefits (EB) program is financed equally by the federal government and from state unemployment insurance reserves. It is a permanent program enacted as part of the federal Employment Security Amendments of 1970. EB is activated or triggered "on" by high federal or state insured unemployment rates (details in Chapter II). Corresponding State legislation was passed in early 1971.

The program provides a maximum of 13 weeks of EB to persons who had exhausted their regular benefits, or who did not requalify for a new benefit year. These additional weeks increased the maximum benefit duration in New York to 39 weeks.

An EB period was activated in New York on January 11, 1971, and expired on July 23, 1972. Despite continued high unemployment, the program was deactivated because the 120% requirement was not met; that is, the 13-week average insured unemployment rate in the state was not at least 120% of the average during the same periods of the two preceding years.

Federal legislation in late 1972 permitted states to temporarily suspend the 120% requirement. New York enacted conforming legislation in June 1973. Additional extended benefits periods ran from February 18, 1974 through October 1978, and from July 1980 through January 1981. Beginning in April 1977, the 120% requirement became optional if the state's insured unemployment rate was 5% or more, but it was mandatory whenever the rate ranged between 4% and 5%.

In September 1982, the "on" trigger was changed to require an insured unemployment rate of at least 5% for the previous 13 weeks and 120% of the average of the rates for the same 13-week periods in each of the two previous years. The Governor can waive the 120% requirement when the insured unemployment rate is 6% or more. It was also mandated that EB be reduced by the amount of any Trade Readjustment Allowances a claimant receives. (Trade Readjustment Allowances are discussed below.)

As of March 1993, federal legislation allowed states to use an optional trigger to activate the EB program when the state's seasonally adjusted TUR for the most recent three-month period is 6.5% or more and that rate is at least 110% of the state's TUR for the same three-month period in the first or second preceding year. An additional seven weeks will be paid

if the TUR is 8% or more and the 110% requirement is met.

In May 2009, in response to high unemployment attributable to the Great Recession, New York State enacted legislation to adopt the optional TUR trigger to activate the EB program.

Also in this legislation, New York State made technical changes to conform the New York State EB statute with federal law and other more recent amendments to the State's unemployment insurance law. A claimant's eligibility period for EB shall include any alternative eligibility period. EB eligibility conditions now include that benefits shall be payable to claimants with remuneration of one and one half times their high calendar quarter earnings. Extended benefits amounts shall be paid to a claimant for periods of high unemployment for no more than 80 effective days with respect to the applicable benefit year. The total maximum amount payable is equal to 80% of the maximum amount of regular benefits payable.

Using this optional trigger, EB was activated on May 24, 2009, until it triggered off on June 10, 2012.

Between December 2010 and December 2013, states were allowed to use a look back period of three years (up from two) to trigger "on" EB when comparing corresponding periods' TURs. This provision was important for states that would likely trigger "off" EB despite sustained high, but not increasing, unemployment.

In February 2011, in accordance with federal law, New York temporarily modified the provisions concerning EB "on" and "off" triggers by increasing the look back from two

years to three years.

Using the three- year look back, EB triggered on again on September 16, 2012, and triggered off again on December 9, 2012, in New York State.

### **Federal Supplemental Benefits Program (FSB)**

Commonly known as Emergency Benefits and totally funded by the federal government, this program was authorized under temporary federal legislation, which has been renewed and revised periodically (see details in Chapter II).

This program was in effect in New York for six months in 1972 -- from January 31 through July 30. It provided up to 13 weeks of emergency benefits, which along with extended benefits, pushed the maximum benefit duration to 52 weeks.

These emergency benefits were renewed on January 6, 1975 under federal legislation, which provided a maximum of 13 weeks of additional benefits; the maximum duration was extended to 26 weeks in April 1975. Between January 6, 1975 and April 24, 1977, unemployed workers in New York could receive up to 65 weeks of benefits from the time they first registered under the regular unemployment insurance system: the basic 26-week maximum; 13 weeks of extended benefits; and 26 weeks of emergency benefits.

The duration of emergency benefits was lowered after April 1977 to a maximum of 13 weeks. The maximum benefit duration under all programs from that date was 52 weeks, or until the expiration date for all emergency benefits, January 31, 1978. The 1977 federal legislation also provided that these emergency

benefits could not be paid to an unemployed worker more than two years after the end of their last regular benefit year.

### **Trade Readjustment Allowances (TRA)**

The federal Trade Act of 1974 created the Trade Adjustment Assistance (TAA) program. The TAA provides additional benefits to individuals certified as having permanently lost their jobs, or had their work hours and wages reduced, as the result of increased foreign imports or shifts of production to foreign countries. Recipients must enroll in TAA-approved training programs to qualify for these federally funded benefits.

Under the original law, claimants could receive 26 weeks of Basic TRA payments following 26 weeks of regular unemployment insurance, for a total of 52 weeks in benefits. With the Trade Reform Act of 2002 and other amendments to the 1974 law, claimants could receive up to 52 weeks of additional TRA payments (78 weeks of TRA in total), for a total of 104 weeks in benefits. If their training includes remedial education, claimants can receive up to 26 weeks of Remedial TRA payments, bringing the total to 130 weeks of benefits.

### **Federal Supplemental Compensation (FSC)**

The FSC program began in 1982. Eligibility was based on a state's insured unemployment rate, and benefits were 100% federally funded.

FSC provided up to 14 weeks of additional benefits to claimants who had exhausted their regular benefits and had either (1) unexpired

benefit years or (2) benefit years that expired on or after June 6, 1982.

The program expired on March 31, 1985, although some beneficiaries continued to collect through June 1985.

### **Emergency Unemployment Compensation Program (EUC)**

This federal program became effective in New York State in November 1991. One hundred percent federally funded, it paid 13 additional weeks to claimants who had exhausted their regular benefits. In February 1992, after the State's adjusted insured unemployment rate (AIUR) rose to 5%, the number of weeks of extra benefits was increased to 33 weeks.

In July 1992, when the AIUR dropped below 5%, the maximum number of weeks payable dropped back down to 20. In July 1993, as the result of a decrease in the National Total Unemployment Rate, this maximum fell to 10 weeks. In October 1993, the maximum dropped to seven weeks. The EUC program expired on April 30, 1994.

### **Temporary Extended Unemployment Compensation Act of 2002 (TEUC)**

TEUC became effective in March 2002. It included a reach-back provision that allowed individuals who had filed new claims for regular unemployment insurance benefits during or after the week of March 15, 2001, to receive TEUC benefits. Claimants must have exhausted the benefits from the prior claim and they must have been ineligible to establish new claims for regular benefits. TEUC provided for up to 13 weeks of 100% federally funded benefits. The program expired on December 28, 2003.

TEUC-A provided benefits for workers displaced within the air transportation industry and certain specified businesses related to that industry. These provisions were enacted in response to the terrorist actions of September 11, 2001, from security measures taken in response to such actions, or because of the military conflict with Iraq.

Individuals qualifying for TEUC-A could collect up to 39 weeks of benefits. Individuals could file a claim for TEUC-A for weeks of unemployment through December 28, 2003, and they could continue collecting TEUC-A benefits through December 26, 2004.

#### **Emergency Unemployment Compensation Program 2008 (EUC08)**

The Emergency Unemployment Compensation (EUC08) program provided 13 weeks of 100% federally funded emergency benefits to claimants who had exhausted their regular benefits on or after May 1, 2007.

As of December 2013, nine Acts of Congress have extended the expiration date for EUC08 through January 1, 2014. In New York State, the week ending December 29, 2013, was the last week for which an individual could receive a payment for EUC08.

Congressional legislation enacted four tiers of EUC08.

Tier 1 consisted of 13 weeks of benefits beginning on July 13, 2008. Beginning November 30, 2008, 20 weeks became available. After September 2, 2012, first tier weeks were reduced to 14. Individuals must

have exhausted regular unemployment insurance by December 22, 2013, to be eligible.

New York State triggered onto second tier benefits on November 21, 2008, after meeting the high unemployment criteria established under federal law.

Second tier benefits became available beginning February 22, 2009.<sup>3</sup> Tier 2 included 13 additional weeks of benefits. Beginning November 15, 2009, an additional week was added for a total of 14 weeks of Tier 2 benefits. Individuals must have exhausted Tier 1 by December 22, 2013, to be eligible.

New York State triggered onto third tier and fourth tier benefits on November 8, 2009, after meeting the TUR criteria established under federal law.

Third tier benefits became available on November 15, 2009. Tier 3 included 13 additional weeks of benefits. After September 2, 2012, Tier 3 benefits were reduced to 9 weeks. Individuals must have exhausted Tier 2 by December 22, 2013, to be eligible.

Fourth tier benefits became available on February 21, 2010.<sup>4</sup> Tier 4 included 6 additional weeks of benefits. New York State triggered off of Tier 4 on August 15, 2010. Individuals who had entered Tier 4 by this date were eligible to collect the remainder of their entitlement.

New York State triggered on to fourth tier benefits again on June 4, 2012. From June

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<sup>3</sup> This was the earliest date that individuals could exhaust Tier 1 benefits and go onto Tier 2 benefits.

<sup>4</sup> This was the earliest date that individuals could exhaust Tier 3 benefits and go onto Tier 4 benefits.

10, 2012, through September 2, 2012, fourth tier benefits became available for anyone who exhausted Tier 3. New York State triggered off of Tier 4 on September 2, 2012. Individuals who had entered Tier 4 by this date were eligible to collect the remainder of their entitlement until December 29, 2013.

Benefits paid beginning with the week ending April 7, 2013, were reduced by 10.7% due to the Federal Sequester for fiscal year 2013.

Benefits paid beginning with the week ending October 6, 2013, were reduced by 7.2% due to the Federal Sequester for fiscal year 2014.

EUC08 expired on December 29, 2013, and no benefits were payable for weeks after this date.

#### **Self-Employment Assistance Program (SEAP)**

As part of the North American Free Trade Agreement (NAFTA) of 1993, the federal Trade Act of 1974 was amended to allow states to voluntarily create self-employment assistance (SEA) programs. SEA was originally offered for only five years, but in 1998 new legislation made the program permanent.

This federally funded program is targeted to claimants who are profiled as likely to exhaust their regular unemployment benefits. Participants can receive SEAP allowances while engaged in full-time entrepreneurial training, business counseling, technical assistance and other activities required to establish their own small businesses. The usual requirements for job availability and total unemployment, and disqualifications for job refusal and income earnings, are waived for SEAP participants.

New York State's program, SEAP, was enacted in 1994 and became operational in April 1995.

In March 2012, SEAP became available to individuals who had exhausted their regular benefits and were receiving EB or EUC08. Recipients are entitled to up to 26 weeks of SEAP based on their EB and EUC08 eligibility. Participants do not need to be profiled as likely to exhaust; however, there must be a reasonable expectation that the individual will be entitled to at least 13 weeks of benefits.

#### **Shared Work Program**

This program, authorized by the Short-Time Compensation Act of 1982, helps employers to avoid or minimize layoffs. More information on this federally funded program is found later in this section.

The program began in New York as a three-year demonstration program in January 1986 and became permanent in June 1989. Initially, claimants were limited to 52 weeks of partial unemployment benefits.

In January 1995, the law was amended so that recipients were limited to 20 weeks of benefits during their 52-week base period.

Effective April 29, 2013, benefits were increased to 26 weeks during the 52-week base period.

#### **Section 599.2 Training Programs**

This October 1987 amendment to the State's Unemployment Insurance Law permitted claimants to receive up to 13 weeks of additional benefits, beyond the maximum 26 weeks of regular benefits (and any extended

benefits then in effect), while they complete an approved training program. Since July 1991, up to 26 weeks of benefits are allowed beyond the 26 weeks of regular benefits.

### **Federal Additional Compensation (FAC)**

Federal Additional Compensation was a supplemental weekly benefit of \$25, paid to all beneficiaries (excluding railroad workers) receiving regular unemployment insurance benefits, EUC08, EB, DUA or TAA.

This supplemental benefit was 100% federally funded. Existing beneficiaries and new entrants who received benefits between March 1, 2009 and May 30, 2010, would receive this supplement until they exhausted their entitlement or until December 12, 2010.

## **ENTITLEMENT PROVISIONS**

### **The Early Years**

The original New York law required all claimants to have 90 days of covered work in the 12 months, or 130 days in the 24 months, preceding their filing for benefits. While this provision never became effective, it does show that -- from the beginning -- New York considered *time worked* to be the proper test of a claimant's attachment to the labor force.

This initial principle was replaced by an earnings concept in January 1937, because it was considered administratively infeasible to require that employers provide data on time worked for all covered workers. The new eligibility requirements were that base-year earnings had to equal 18 times the weekly benefit rate (the equivalent of nine weeks of full-time work) and annual earnings had to be at least \$126.

The claimant base year was defined as the first four of the five calendar quarters that preceded the filing of a new benefit claim. The one-quarter lag between the end of the base year and the beginning of the benefit year was needed to allow the administering agency sufficient time to process the quarterly wage reports for the 3,000,000 workers then covered by the law.

Just three months after the payment of unemployment insurance benefits began (on January 1, 1938), the law was amended again to simplify its administration. Effective April 1938, the base year became the calendar year proceeding the benefit year, which was a fixed year beginning on April 1 for all claimants. This gave the agency more time to process employers' quarterly wage reports.

However, if calendar-year earnings did not entitle claimants to benefits, their base period could be the first four of the five calendar quarters before their filing (as under the previous definition). This option was dropped in 1939.

Also in 1939, the qualifying earnings requirement was increased from 18 times to 25 times the weekly benefit rate -- equal to about 13 weeks of full-time work. Minimum base-year earnings of \$175 were required, with a minimum of \$43 in the high quarter. This new method of basing the benefit rate on high-quarter earnings avoided the previously complicated calculations. Requiring work in more than one calendar quarter also assured that a claimant was consistently attached to the labor market.

An increase in the minimum benefit from \$7 to \$10 in 1943 effectively raised the minimum earnings requirement to \$250 (25 times the weekly benefit). While this resulted in paying more substantial minimum benefits, persons with base-year earnings of between \$175 and \$250 could no longer qualify.

The qualifying earnings requirement was raised again in June 1945 to 30 times the weekly benefit amount (equivalent to about 15 weeks of full-time work), with a minimum of \$300 in the base year and \$100 in the highest quarter. This change made it possible to increase the maximum benefit duration to 26 weeks for all eligible unemployed workers without violating sound insurance principles.

For example, individuals earning \$300 in their base year could qualify for up to \$260 in benefits (\$10 a week for up to 26 weeks); those who had earned \$630, or 30 times the \$21 maximum benefit rate, could receive up to \$546 in benefits -- or 87% of a claimant's

\$630 base-year wages.

### **The Hughes-Brees Act of 1951**

Approved on April 9, 1951, this act made fundamental changes in the Unemployment Insurance Law. The test of attachment to the labor force reverted to the original concept of time worked, by requiring at least 20 weeks of work at average wages of \$15 a week -- for a total of \$300 in the base year or base period.

This qualifying period (the base year) was defined as the 52 weeks preceding the filing of a valid original claim (the first claim entitling a person to benefits). The benefit year was defined as the 52 weeks starting with the first Monday after filing a claim. Accordingly, the lag period and the benefit-year and base-year concepts were geared to the needs of the unemployed rather than to program administrative needs.

In addition, the change in the benefit formula affected maximum potential total benefits. Workers qualifying for the minimum benefit of \$10 per week based on the \$300 earnings minimum could receive \$260 in benefits (\$10 for 26 weeks), 87% of their base-year earnings. Those qualifying for the maximum \$30 rate based on earnings of \$1,160 could receive \$780 in benefits (\$30 for 26 weeks), or 67% of their base-year earnings.

### **Changes in Entitlement Requirements After 1951**

Several major changes in the entitlement requirements have been enacted since the Hughes-Brees Act was passed. One was an alternate provision, effective July 1958, permitting the use of a two-year base period for claimants who could not qualify on the basis of one year's covered employment and

earnings. The previous measure of labor market attachment had been widely criticized for unduly penalizing workers whose recent employment experience had been limited due to illness, work in noncovered employment or an economic recession, but whose past employment record had otherwise been good.

Under this amendment, claimants could be entitled to benefits with only 15 weeks of covered employment during their 52-week base period, instead of 20 weeks, provided they had at least 40 weeks of employment in the two years (104 weeks) preceding their initial benefit claim. The alternate minimum-earnings requirement was an average weekly wage of \$15 during those 40 weeks.

Legislation enacted in New York State in 1984 extended the base period for up to six months for claimants with insufficient weeks, but who had received workers' compensation payments or any benefits paid pursuant to the Volunteer Firefighters' Benefit Law during their base period, with this extension equaling the number of weeks in which such payments were received.

In April 1999, this base period extension was modified to equal the number of calendar quarters during which the claimant received such payments, up to a maximum of two quarters

The minimum average weekly earnings requirement was raised to \$30 per week in August 1968. It was raised again on September 5, 1977 to an average of \$40 per week for 20 weeks, or a total of \$800. An alternate provision, allowing entitlement on the basis of employment in the preceding two years, required minimum earnings of \$1,600 in 40 weeks. In September 1983, the earnings minimum was raised to \$67 per week, and

was increased to \$80 in July 1984.

Beginning in April 1991, the minimum average weekly wage requirement was increased to 21 times the state hourly minimum wage that was in effect on April 16, 1990, providing it was greater than \$80. Effective in February 1992, it was increased to 21 times the state minimum wage in effect on February 4, 1991, if it was greater than \$80.

However, no increase to the minimum average weekly wage requirement took place in either of these instances because the state minimum wage was only \$3.80 on each of these dates. Thus, the 21 times the minimum wage did not exceed \$80.

In April 1999, the minimum earnings requirement increased to \$1,600 in the high calendar quarter, with base-period wages of at least one and one-half times the high calendar quarter. The base period was defined as either the first four of the last five completed calendar quarters, or the last four completed calendar quarters, whichever the claimant selected.

Effective January 1, 2014, the entitlement criteria for establishing a valid original claim increased from at least \$1,600 in high quarter earnings to 221 times the minimum wage (rounded down to the nearest \$100). The high quarter requirement is set to be \$1,700 in 2014 and \$1,900 in 2015.

Effective January 1, 2014, claimants are required to actively seek employment, while the Department of Labor is required to promulgate regulations defining systematic and sustained efforts to find work and establish proof of these efforts.

## **ELIGIBILITY AND INELIGIBILITY PROVISIONS**

Besides the amount of past employment, New York's law specifies other conditions of eligibility for receiving benefits.

Claimants may be denied benefits when they first file a claim, or during their benefit year, because of the violation of specific eligibility criteria. A disqualification suspends benefits but does not reduce the potential maximum claimants may receive if they meet requirements after their disqualification period ends. (The two exceptions -- cases of criminal misconduct or willful misstatement - - are described later.)

### **Availability and Total Unemployment**

The original law stated that "no employee shall be entitled to any benefits unless the employee (a) is suffering total unemployment as defined in this article; and (b) has ... registered as totally unemployed and reported for work or otherwise given notice of the continuance of his unemployment ..."

Total unemployment was defined as: "... the total lack of any employment ... together with the total lack of all wages, both of which are caused by the inability of any employee who is capable of and available for employment to obtain any employment in his usual employment or in any other employment for which he is reasonably fitted by training and experience."

Starting in November 1942, employment status is determined for each day after a claim was filed. A claimant can, therefore, be unemployed during part of a week and receive partial benefits.

Although the language of the law has changed over time, the concept of eligibility has remained. *Normally*, claimants must:

- Be totally unemployed;
- Be capable of work;
- Be willing and able to work in their usual employment or in any other for which they are reasonably fitted by training and experience; and
- Register as totally unemployed.

Since April 1960 (broadened in October 1987), those persons participating in an approved vocational training course were not required to meet all of these conditions.

From July 1981 on, beneficiaries serving on jury duty were not disqualified on the basis of their unavailability for work.

Effective October 1994, the availability and capability provisions are suspended for persons who are identified by a profiling system as likely to exhaust benefits while they participate in re-employment services.

Since January 1995, those persons who are participating in the Self-Employment Assistance Program (SEAP) are not required to be available for work.

### **Disqualifications Under the 1935 Law**

Employer representatives had refused to participate in the drafting or introduction of New York State's Unemployment Insurance Law in 1935. Because it was drafted only by representatives of organized labor and the general public, it differed in some ways from other state laws. For example, the law did not include a disqualification for voluntarily quitting a job.

A claimant was barred from receiving benefits for an extended waiting period of 10 weeks (seven weeks beyond the usual three) if they lost their job because of misconduct or an industrial controversy (see next page) at their workplace.

Claimants who had refused an offer of employment were denied benefits. Although not explicitly stated in the law, this benefit disqualification could only be lifted by subsequent re-employment. With the scarcity of jobs in 1935, a job refusal was "punished" much more severely than a discharge for misconduct. However, this disqualification for a job refusal did not apply under any of the following circumstances:

- If the wages, hours, or conditions that were offered were substantially less favorable than those offered for similar work in the locality;
- If the establishment was involved in an industrial controversy;
- If acceptance would require the employee to join a company union or would interfere with membership in any labor organization; and
- If the job location was an unreasonable distance from the employee's home, or if travel expenses were considerably greater than on the previous job.

The first three of these circumstances were required by federal legislation. All four remain in effect today.

### **Changes in Job Refusal Provisions**

The original statute disqualified claimants for refusing employment for which they were reasonably fitted by training and experience, a disqualification lifted only by re-employment.

In 1941, a reference to "good cause" was added. Claimants were not disqualified for refusing a job offer for "good cause," (e.g., for relevant health reasons), although they could not receive benefits if circumstances showed they had withdrawn from the labor market and were not genuinely seeking work.

In 1958, the disqualification period was fixed at six weeks from the date of the job refusal, in addition to the waiting period. This period was the same as that for voluntary separation and misconduct. Disqualification could not be terminated by intervening employment, and references to "good cause" and withdrawal from the labor market were dropped.

In 1960, a re-employment requirement was substituted for the fixed disqualification period for a job refusal, voluntary quit, or misconduct. This change required earnings of at least \$200 or at least three days of work in each of four weeks after the disqualifying act. Then a one-week waiting period was required before benefits were again payable.

In 1983, the re-employment requirement was made more stringent by requiring the claimant to be re-employed on three days in each of five weeks and have earnings equal to five times their weekly benefit rate. In 1999, this was modified to simply require earnings equal to five times the claimant's benefit rate.

Since January 1995, the disqualification for refusing to accept work is not applicable to those persons participating in the Self-Employment Assistance Program.

In April 1999, refusal for "good cause" was modified to include employment that would interfere with a claimant's right to join or retain their membership in any labor

organization or interfere with or violate the terms of a collective bargaining agreement.

Effective April 1999, after 13 weeks of benefits a claimant who is not subject to a recall date or did not obtain employment through a union hiring hall is required to accept employment which the claimant is capable of performing, providing it pays at least 80% of the claimant's base-period high calendar quarter wages or meets the prevailing wage for similar work in their locality, whichever is less.

As of May 2009, individuals are considered eligible for unemployment insurance benefits if they have worked on a part-time basis for the majority of time during their base period, if they are available to work a corresponding number of hours in new employment, and may not be disqualified from receiving benefits due to their refusal to accept full-time employment.

Effective January 2014, the requalification requirement for claimants to receive benefits after refusal of employment is increased to ten times the weekly benefit rate.

### **Industrial Controversy Provisions**

From the inception of its unemployment insurance program, New York's industrial controversy provision has suspended benefits for a specified period if unemployment is due to a strike, lockout, or some other industrial controversy at the establishment employing the claimant.

In 1983, suspensions were broadened to include any concerted activities not authorized or sanctioned by the bargaining agent that are in violation of the existing collective bargaining agreement.

Adopting a "hands-off" policy once the fact has been established that an industrial controversy exists, the state does not examine the issues or the merits of the dispute. It does not determine who is "participating in," "financing," or "interested in" the dispute or who belongs to the same "grade or class of workers" involved; it does not determine whether the dispute is a "lockout" or a "strike," or whether it is legal or illegal.

In cases involving industrial controversy, the courts have interpreted "establishment" as the physical premises on which the dispute is in active progress, not as the corporate organization. Therefore, persons who are not involved in the dispute may be denied benefits since they work on the same premises, while workers who stand to profit by the dispute may not have benefits suspended if they work somewhere else.

Originally, the suspension period was 10 weeks, *concurrent* with a three-week waiting period. Since September 1941, however, the suspension period has been seven weeks or until the end of the dispute, if earlier, *in addition to* the waiting period.

The waiting period was reduced from three weeks to two weeks in 1942 and to only one week (or four effective days) starting in 1945. Intervening employment periods will not terminate the suspension, and under a 1958 amendment, the suspension applies for the seven weeks even if the claimant had other employment *before* filing for benefits.

Effective August 15, 2007, the seven week suspension of unemployment benefits for workers affected by an industrial controversy would no longer apply upon the hiring of temporary or permanent replacement workers.

Effective September 25, 2008, the law was amended to limit the original bill's application to the hiring of *permanent* replacement workers only. A replacement worker is presumed to be permanent unless the employer specifies that the claimant will be able to return to his or her position after the strike, in the event the strike terminates prior to the conclusion of the claimant's eligibility for benefit rights. If the employer does not permit such a return, the employee shall be entitled to recover, with interest, any benefits lost as a result of the seven week suspension of benefits. The employer may also face a penalty of up to \$750 per employee, per week of benefits.

Effective July 15, 2010, the seven week waiting period for receipt of unemployment benefits that applies to a claimant who lost his or her job due to a strike or industrial controversy, where the claimant is an "innocent bystander," was removed. A claimant would be exempt from the seven week waiting period where the Commissioner determines that the claimant is not working for an employer or bargaining unit involved in the industrial controversy, and is not otherwise participating in the controversy.

This section also deletes the requirement that employers pay interest on benefits improperly suspended against workers who are replaced during the strike and are not re-hired once the strike ends, after their employer certified to the Commissioner that the workers were being replaced on a temporary basis and would be re-hired.

### **Voluntary Quit Provisions**

The first disqualification for a voluntary separation from employment was enacted in 1941, and specified that employees who left

their job without good cause could not receive benefits until six weeks after filing their claim. A voluntary quit found to be for good cause did not disqualify.

If the quit indicated a withdrawal from the labor market, benefits were not payable until six weeks (plus the waiting period) after a bona fide return to the labor market.

In 1958, the disqualification period for a voluntary quit without good cause was changed to six weeks (plus the waiting period) from the day after the quit instead of the date of filing a claim. After these references to withdrawal from the labor market and bona fide return were dropped in 1958, such cases were decided on the basis of the claimant's availability.

A 1960 amendment replaced the fixed time period for lifting a disqualification with a re-employment requirement. This change required earnings of at least \$200 or at least three days of work in each of four weeks after the disqualifying act, the same requirement for lifting the disqualification for a job refusal or misconduct. In addition, this amendment specified two conditions for an automatic disqualification: quitting to marry or to move with a spouse to another locality.

In 1983, the re-employment requirement was changed to three days of work in each of five weeks with earnings of five times the weekly benefit rate.

A 1987 amendment removed the automatic disqualification for voluntarily leaving a job with good cause to follow a spouse to another locality. However, a claimant would still be subject to a disqualification after a voluntary separation from employment if the separation were due to the claimant getting married.

A June 1981 amendment provides that a claimant who elects to waive seniority rights in a temporary layoff is not disqualified as quitting without good cause if the layoff is due to a lack of work, the employer consents to the waiver, and it is authorized under a collective bargaining agreement or a written employer plan.

Effective in April 1999, a disqualification for voluntary separation from any base-period employer continues until the claimant has earnings that are equal to at least five times their weekly benefit rate. Previously, this disqualification only occurred whenever it involved the claimant's last employer prior to their filing a benefit claim.

Since July 1999, a voluntary separation may be considered for good cause if it occurred as a consequence of circumstances directly resulting from a claimant being the victim of domestic violence.

A May 2009 amendment stated that individuals who are voluntarily separated from employment due to compelling family reasons are considered eligible for unemployment insurance benefits.

Effective January 2014, requalification requirements are increased for claimants to receive benefits after a voluntary separation without good cause. Eligibility is restored after a claimant has subsequently worked in employment and earned remuneration at least equal to ten times their weekly benefit rate.

Effective January 2014, any base period employer may protest charges based upon voluntary separations and misconduct within the time frame specified in the Department of Labor's notice to the employer for such charges. Employers must request a hearing

for such a protest.

### **Misconduct Provisions**

Dismissal for misconduct in connection with employment originally brought a denial of benefits for an extended 10-week waiting period (concurrent with the normal three-week waiting period).

In 1941, this period was changed to seven weeks from the day after the job loss, plus the normal waiting period, but not to be served concurrently. In 1958 the denial period was reduced to six weeks, plus the regular one-week waiting period. A re-employment requirement was substituted for the fixed-time period in 1960.

Beginning in 1960, a disqualification was added for criminal misconduct leading to the loss of employment. A claimant who admits to or is convicted of a felony leading to his or her job loss is denied benefits for 12 months following discharge. After this period a claimant must meet all conditions for filing a valid original claim. In 1999 this disqualification was restricted further by the exclusion of all wages paid to the claimant by the affected employer from establishing any subsequent valid original claim.

The state's Unemployment Insurance Law was amended in 1983 to require that a claimant must be re-employed on three days in each of five weeks and earn remuneration of at least five times their weekly benefit rate to requalify for benefits.

Effective in 1999, a disqualification for dismissal due to criminal misconduct with any base-period employer remains in effect until the claimant earns at least five times his or her benefit rate. Previously, such a

disqualification only occurred when it involved the claimant's last employer prior to filing his or her benefit claim.

Effective in 1991, benefits are no longer withheld pending the outcome of proceedings against a claimant under criminal indictment.

As of January 2014, a determination of misconduct allows for cancellation of wages for all base period employers.

Effective January 2014, requalification requirements are increased for claimants to receive benefits after misconduct. Eligibility is restored after a claimant has subsequently worked in employment and earned remuneration at least equal to ten times their weekly benefit rate.

### **Willful Misstatement Provisions**

Originally, the law stated that a willful misstatement for the purpose of obtaining unemployment benefits was a misdemeanor. It specified no penalty, however, and made no reference to any disqualification.

In 1937, an extended 10-week waiting period was added for individuals who made willful misstatements. In 1940 the law was amended to include a penalty for the misdemeanor -- a fine of up to \$500, imprisonment up to one year, or both.

A 1941 amendment removed the 10-week waiting period and, in addition to the penalty, reduced total potential benefits and required that the employee forfeit from 5 to 13 weeks of benefits.

The duration of the forfeiture period was changed to from 5 to 20 weeks in 1942 and to from 1 to 20 weeks in 1968. A penalized

claimant could be disqualified further, if the misstatement also concerned a circumstance subject to a disqualification.

### **Overpayments and Recovery Provisions**

Overpayments are established whenever it has been determined that claimants have received unemployment benefits to which they were not entitled. The state may make an effort to recover an overpayment (and/or issue additional fines or penalties against a claimant), depending on the circumstances of the original eligibility determination.

- If an overpayment is ruled to have been without fault on the claimant's part, liability for repayment is waived.
- If it is determined that the claimant knowingly committed fraud or willful misrepresentation, or concealed any material facts when applying for their unemployment benefits, then a recoverable overpayment will be established and other specified fines or penalties may be imposed.

As noted above, a willful misstatement to obtain unemployment benefits was a misdemeanor under the original law, but no penalty was specified for such an action. Starting in 1941, however, a claimant was required to repay any benefits received if a false statement or misrepresentation had been made when filing his or her claim.

Beginning in 1942, any overpayments resulting from redeterminations or decisions issued by a referee, the appeal board or the courts which were based on new or revised wage information were considered to be non-recoverable if the claimant had accepted the benefits in good faith, did not make any false statements or representations and did not

willfully conceal any pertinent facts when filing their benefit claim.

A 1960 revision provided that benefits paid prior to criminal act disqualifications were recoverable, since they would “not be considered to have been accepted by the claimant in good faith.” All overpayments that resulted from the retroactive payment of remuneration became recoverable in 1961.

A 1972 amendment to the law provided that overpayments resulting from reversal of a referee’s decision allowing benefits were always recoverable, but this amendment was repealed in 1976.

Beginning in 1983, the Commissioner of Labor was granted the right to recover all erroneously paid benefits (i.e. resulting from a new determination or decision decreasing or denying benefits previously allowed).

A 1998 amendment provides that, unless a new determination or decision is based on a retroactive payment of remuneration, benefits already received by a claimant under a previous decision or determination will not be affected if they were accepted in good faith and the claimant did not make any false statements or misrepresentations and did not conceal any pertinent facts when filing his or her benefit claim.

To recover non-fraudulent overpayments a 50% offset may be imposed on any future unemployment benefits received by a claimant, and no time limit exists for them. Offsets are not allowed against a claimant’s state income tax refunds, no civil actions are permitted, and interest cannot be assessed on overpayments. Ten years (previously six years) from the date of the last collection activity, non-fraudulent overpayments are

cancelled as uncollectible. However, offsets may be made against future claims.

Significant fines and criminal penalties may be imposed when overpayments have resulted from the fraudulent activities of a claimant, including willful misrepresentation and concealment of material facts when the claimant filed for benefits. As noted earlier, a claimant may be disqualified from receiving benefits for a period of between 1 and 20 weeks.

Actions may also be taken against employers who attempt to prevent or reduce benefits paid to eligible claimants, or who aid and abet a claimant’s attempt to fraudulently collect benefits.

Permissible recovery actions include the 100% reduction of a claimant’s future unemployment benefits, again with no time limit, and the reduction of state income tax refunds is allowed. Fraudulent overpayments are cancelled as uncollectible ten years (previously six years) from the date of the last collection activity, but if any judgments have been filed, they are cancelled as uncollectible after 20 years. However, offsets may be made against future claims.

Civil actions can be filed against claimants and interest can be charged at an annual rate of 9%. Fines or penalties of \$500 and a maximum one-year prison term may be imposed on claimants and employers when fraud has been committed.

Effective October 2013, the claimant will be assessed a fraud penalty of 15% of the total overpayment or \$100, whichever is greater, which will be deposited in the General Account. This applies for all overpayments established after October 1, 2013.

An employer shall not be relieved of charges if it or its agent has failed to timely or adequately submit information for the determination of a claim that results in an overpayment. The only exception to this is if the failure was a result of the Department of Labor's error or a natural disaster declared by the U.S. President or New York State Governor. However, the Department may relieve charges if the employer shows good cause the first time it fails to provide timely and adequate information.

A penalty for willful filing of a false claim or misrepresentation may be assessed for up to two years after the date of a final determination that the fraudulent activity occurred. This two year period is extended while a claimant has an appeal pending.

The Department of Labor may collect willful benefit overpayments by commencing a civil action or judgment filed with the county clerk of the claimant's county of residence when: (1) the claimant has responded to requests for information prior to determination and such requests for information notified the claimant of his or her rights to a fair hearing as well as the potential consequences of an investigation and final determination. Additionally, if the claimant requested a fair hearing or appeal after a determination, then the claimant was present either in person or through electronic means when a final determination was rendered; (2) The Department of Labor has made efforts to collect on final determinations; and (3) The Department of Labor has sent notice to the claimant of intent to docket such final determination.

The Department of Labor is required to offset New York State unemployment insurance benefits for overpayments established under any other state or federal unemployment

program. Offsetting penalties or interest from future unemployment insurance benefits is prohibited.

### **Disqualifying Income and Benefit Reductions**

A 1958 provision denied benefits for the period in which a worker received vacation pay, even when the plant was on shutdown, if he or she was *fully* employed in the week before and the week after the vacation shutdown. In 1963, the law was changed so that benefits were denied for any day during a paid vacation period or a paid holiday.

Another 1963 amendment reduced benefit payments to claimants on retirement pensions if their employer had financed 50% or more of the pension and would be charged for the benefits. Depending on whether the employer financed all or most of the pension costs, the benefit was reduced by the amount of the weekly pension payment or by one half of this amount. This change resulted in some claimants receiving no benefits at all. When state government employees became covered for unemployment insurance in 1947, retirees were barred from all benefits based on their state employment.

The provision that held state retirees ineligible for unemployment benefits based on state service was deleted, effective January 1972. State retirees are now subject to the pension reduction on the same basis as other retired workers.

A federal provision, effective April 1980, reduced unemployment benefits of all retirees by the amount of all the retirement payments they received, including Social Security benefits.

In November 1980, the pension reduction provision was changed to require that the reduction of unemployment benefits be in the same proportion as the claimant's contribution to his or her pension. As a result, Social Security benefits are no longer used to reduce unemployment benefits.

A 1995 amendment exempts all income from participation in the Self-Employment Assistance Program, allowing participants to receive program benefits.

In 2004, payments for Social Security or Disability were included under certain reductions for unemployment insurance benefits, along with pension and retirement benefits. Also, in order to align with federal guidelines, the law prohibited a rollover distribution from a claimant's pension from impacting a claimant's unemployment benefits.

In 2005, disability pensions were considered deductible pursuant to the Federal Unemployment Tax Act (FUTA).

A 2013 change (effective 2014) states that no benefits shall be payable to a claimant for any week during a dismissal period for which a claimant receives dismissal pay or severance pay in weekly payments that are greater than the maximum benefit rate.

In 2014, receiving a pension payment from a base period employer causes a reduction in a claimant's benefit rate. If the employer contributed to a pension at all, the claimant's rate is reduced by the pro-rated weekly amount of the pension. However, if the claimant was the sole contributor to the pension, no reduction applies.

### **Conditions for Disqualification in Certain Professions**

Other federal and state amendments enacted during the 1970s extended coverage to educational institutions, but denied benefits based upon such employment to teachers and other professional school personnel between school terms or academic years if they had a contract or (subsequently added) a reasonable assurance of employment in both periods. Teachers and other professional personnel in colleges were first covered by New York's Unemployment Insurance Law in 1972, and those in elementary and high schools were covered on a mandatory basis in 1978.

The denial of benefits in educational institutions was extended, effective January 1, 1978, to nonprofessional workers in elementary and high schools between school terms and during holidays and recesses if they had contracts to continue their employment. These provisions were also extended to nonprofessional employees of colleges in 1983.

In April 1984, provisions relating to benefits for claimants working as professional and nonprofessional employees with educational institutions were extended to educational services agencies. This denied benefits between school terms and during vacation periods and holiday recesses to both employee categories if they have reasonable assurance of continued employment.

Other revisions taking effect in 1978 denied benefits to professional athletes between successive sports seasons if they had a reasonable assurance of continued employment. Another provision prohibited the payment of benefits to illegal aliens.

Starting in 1993, the denial of benefits to claimants in professional and nonprofessional employment with educational institutions was extended to include not-for-profit community art schools that are chartered as schools by the State Board of Regents.

In 1996, full-time students working less than 13 weeks in an organized camp were excluded from coverage, providing the camp did not exceed specified gross receipts and specified months of operation.

## **REVENUE PROVISIONS**

The payment of benefits in New York State is financed by employer contributions. From the beginning, two questions on financing the system have been paramount:

- How large should fund reserves be to prepare for the likelihood of severe or prolonged unemployment?
- How should the costs of providing unemployment benefits be distributed equitably among employers?

Over the system's history, New York has used three approaches to distribute program costs among employers: a uniform payroll contribution rate from 1936 to 1945; a modified plan of experience rating from 1945 to 1951; and reduced contribution rates based on experience rating, supplemented when necessary by a uniform payroll tax, from 1951 to the present.

### **The First Decade**

During the first decade of the program's operation, all employers were taxed at the same rate: 1.0% in 1936, 2.0% in 1937, 3.0% in 1938, and 2.7% beginning in 1940.

The original legislation mandated the New York State Unemployment Insurance Advisory Council to study the feasibility of merit rating or experience rating -- assigning different tax rates to employers based on their experience with unemployment. "In the event of adoption of experience rating," the Council stated, "no employer's tax rate should fall below 1%" -- a tacit assumption that experience rating was proper and would eventually be incorporated into the system.

There also appeared to be a similar assumption on the federal level. The 1935 federal Social Security Act's offset provision, allowing employers up to a 2.7% credit against their federal tax even though they paid less than that under their state's law, required that the reduced rate result from an approved experience rating plan.

There were a number of factors, however, that delayed the adoption of an experience rating plan in New York State until 1945:

- The federal act required at least three years of experience in paying benefits. Since payments did not begin in New York State until January 1, 1938, employers could not qualify for credit for reduced taxes under an experience rating plan before 1941.
- During these early years, the dominant problem was in organizing the benefit payment administrative system.
- A prerequisite for experience rating was a satisfactory formula for varying employer rates -- one that would assure equity among employers, preserve the solvency of the Fund, and also be administratively workable.
- The issue of experience rating was also highly controversial.

The Legislature did pass an experience rating bill during the 1940 session, but it was vetoed by Governor Herbert Lehman; and this veto was not overridden by the Legislature. However, additional studies of experience rating were conducted. In 1943 and 1944, the state Division of Employment made actuarial studies of benefit experience, by industry and size-of-firm, covering the three benefit years from April 1940 through May 1943.

### **The Tax Credit Plan**

An amendment providing an experience rating system and the potential for reductions in employer tax payments was enacted in New York State, and effective July 1, 1945. Formally known as the Tax Credit Plan, this amendment incorporated an approach to solvency of the Unemployment Insurance Fund and reductions in employer contributions that was unique among the states. It contained the following features:

- It provided for a reduction in employer contributions only when a surplus above a specified legal reserve existed in the state's Unemployment Insurance Fund. This legal reserve was set at four times the preceding year's contributions due (at 2.7%), or 10.8% of the preceding year's payrolls subject to contribution.
- This fund surplus was to be rebated each year to all qualified employers as credits against their following year's liabilities, based on the standard 2.7% contribution rate. The amount of this credit would vary among employers depending on factors bearing a direct relationship to their risk of unemployment.
- There was a provision for continued year-to-year growth of the Fund and for yearly contributions by employers. The Fund's surplus would not be distributed among employers unless it exceeded 10% of the preceding year's contributions due, and the credits distributed to employers in any given year would not exceed 60% of the preceding year's payments due at 2.7%.
- An individual employer's experience with unemployment risk was

measured by the following three factors: (a) the stability of its annual payroll; (b) the stability of its quarterly payroll; and (c) the number of years that the employer had been making contributions into the state's Unemployment Insurance Fund. Declining payroll and a brief period of existence resulted in a less favorable experience rating for a firm.

Unlike the situation that existed in other states, unemployment benefits or benefit wages (the wages earned by beneficiaries) in New York did not affect the individual employer's contribution rate. This removed some of the motivation for employers to hold down benefits in order to reduce their contributions.

In 1947, as a result of employer pressure, New York enacted two changes in experience rating. A benefit-wage factor (wages earned by beneficiaries from base-year employers in relation to employer payrolls) was substituted for the annual payroll factor as one measure of an employer's experience. Also, the legal reserve was reduced from 10.8% to 9.45% of payrolls subject to contributions -- three and one-half times the previous year's contributions due. In 1948, the legal reserve was further reduced to \$900 million or 9.45% of insured payrolls, whichever was less.

Credits were granted to all qualified employers for the payroll years ending on June 30, 1946 and 1947, and those ending on September 30, 1948 and 1949. After heavy benefit outlays during the post-war economic recession of 1948-1949 had reduced the Fund reserve below the \$900-million threshold, all employers were required to pay contributions at the standard rate of 2.7% on their payrolls subject to contribution in 1950 and 1951.

### Experience Rating

In 1951, New York State adopted its third approach to Fund management (basically, the system currently in effect) and changed the method of establishing an individual firm's contribution rate. That year's amendments to the Hughes-Brees Act eliminated the system of credits and the concepts of legal reserves and distribution of surpluses. Instead, they set up a range of contribution rates below 2.7% for employers with favorable experience ratings.

Besides their increasing the number of experience rating classes among employers, these 1951 amendments changed the formula for evaluating experience. The following four factors affected a firm's rating:

- Benefits paid to its former employees;
- Quarterly changes in its total payroll;
- Annual changes in its payroll subject to contribution; and
- Length of time in the unemployment insurance system.

Benefits paid to former employees were by far the most influential factor. This factor was derived by balancing the employer's account (see the following paragraph) and by computing this balance as a percentage of its payroll subject to contribution, then translating the resulting account percentage into a point system.

An individual account was established for each employer within the Unemployment Insurance Fund, solely as a bookkeeping device for computing their contributions due. The Fund remained pooled so far as benefit payments to unemployed workers were concerned. Each employer's account was charged with benefits paid to its former

employees and was credited with unemployment insurance contribution it paid, and the balance was derived on the computation date (July 1 of each year).

Thus, the 1951 changes to the law provided an experience rating system through a varying scale of employer rates, which shifted up or down according to the reserve in each employer account as a percentage of its payrolls subject to contribution.

To ensure adequate funds for paying benefits, a rate table consisting of several scales of contribution rates was formulated. The scale of rates to be used in a given year depended on the condition of the state Unemployment Insurance Trust Fund. The scale of contribution rates assigned to employers in any year was based on the Size-Of-Fund Index, the percentage that the Fund balance on each year's computation date represents relative to statewide annual payrolls subject to contribution.

To qualify for experience rating under the 1951 legislation, an employer must have met the following conditions:

- Been in the unemployment insurance system for 14 calendar quarters prior to the July 1 rate computation date;
- Paid some wages to employees during the last calendar year;
- Had no negative account balance on July 1 of the three preceding years; and
- Filed all required contribution reports within a prescribed time limit.

Firms that did not qualify for experience rating paid the full 2.7% state rate, but all contribution rates only applied to the first \$3,000 of calendar-year wages paid to each

employee, in conformance with the federal stipulation.

The 1951 legislation also established a General Account for bookkeeping purposes and as a warning device on the status of the Fund balance. Any employer whose account had a negative balance on the July 1 computation date was given a zero balance, with the amount of its negative balance being charged against the General Account. Other non-chargeable benefits (e.g., for defunct firms and refunds) were also charged to the General Account.

The legislation provided for a subsidiary contribution from employers when the General Account balance fell below a specified percentage of statewide employer payrolls subject to contribution. When imposed, this subsidiary contribution was a uniform rate for all employers, but it varied from year to year depending on the General Account percentage.

The General Account was also credited with other income, including interest on the Fund, balances of employers no longer in the system, and subsidiary contributions.

### **Changes in the 1950s and 1960s**

In 1956, the minimum employer coverage required for experience rating was reduced to only four complete calendar quarters before the computation date, to conform to the federal amendment.

Legislation in 1958 made several changes in contribution rates and in financing provisions, designed to strengthen the state unemployment insurance fund's General Account. Effective in 1959, the contribution rate for firms with negative account balances

and those that were delinquent in filing all required reports was raised to 3%. Effective in 1960, the contribution rate for firms with negative account balances for two successive years rose to 3.2%.

In addition, the entire negative balance of an employer was no longer transferred to the General Account, but only the amount that exceeded 2% of its annual payroll subject to contribution. An employer who had a positive account balance, but who had any negative balance transferred to the General Account within the three preceding years, was required to pay at least 2.7%.

Under a special provision effective June 30, 1959 (but voided in 1963), a varying percentage was diverted from employer accounts to the General Account to raise the General Account balance before subsidiary contributions were implemented.

Under a revised contribution rate schedule that became effective in 1959, most employers saw their contribution rates increase. An employer was allowed to make an annual voluntary contribution to raise its account balance, and thereby reduce its contribution rate for the following year (first applicable with computation of the 1961 contribution rates). However, if the voluntary contribution did not lower the employer's contribution rate, it was not refundable.

In 1963, the benefit factor or employer account percentage (the employer's account balance as a percentage of its payroll subject to contribution) became the sole factor for measuring the employer's experience. The yearly rate computation date was changed from July 1 to December 31, and the payroll year was redefined as the 12 months ending on the preceding September 30. Any

employer who had part of a negative balance transferred into the General Account was required to pay at least 2.9% for the next four years.

In 1966, the method for determining the subsidiary rate was changed to reduce the year-to-year rate fluctuations. Also, as of December 31, 1970, year-to-year increases in the subsidiary rate were limited to 0.3%.

### **Changes in the 1970s**

Several changes in New York's revenue provisions took effect in the 1970s, most of them to conform to federal amendments and rulings.

New York's 1965 standby legislation extending compulsory coverage to nonprofit organizations was approved by the U.S. Secretary of Labor in 1970 and became effective in 1971. This legislation allowed nonprofit organizations to choose either to reimburse the Fund for benefits paid or to submit contributions on their payroll. According to the federal amendments of 1970, nonprofit organizations that had been covered prior to 1969 could have their account balance as of January 31, 1971, credited against their benefit charges if they elected the reimbursement of benefits paid.

The taxable wage base on employer payrolls remained unchanged for 34 years, before increasing three times over an 11-year period. The first increase in the wage base since 1938 became effective in January 1972, when it rose from the first \$3,000 in calendar-year wages paid to each employee to the first \$4,200 paid. The second change, in January 1978, raised the base to \$6,000, and the third adjustment increased it to \$7,000 in 1983.

Changes to the contribution rate schedule after 1972 provided a range of rates for negative-account employers, based on their account percentage, and expanded the range of rates for employers with positive account balances.

The contribution rate for new employers and those who paid no remuneration in the preceding year was set at the same rate as that for employers with positive account percentages under 1%, but the rate was not to exceed a maximum of 2.7%. Two employer groups received a minimum rate of 2.7% -- those who did not file all required reports and those who had a negative balance transferred to the General Account during the three preceding payroll years.

Employers primarily engaged in freezing or canning locally grown fruits or vegetables could elect to pay a fixed rate of 3.2% for three years, starting in 1973. Relief for the apparel and construction industries similar to that for the cannery industry was approved in 1977, except that the fixed rate for the apparel industry was set at 3.0%.

As a result of the federal Employment Security Amendments of 1970, the federal unemployment tax was raised by 0.1% to 3.2%. The 2.7% offset to the states remained, and the federal share held at 0.5%. For 1973, the federal tax rate was increased to 3.28% to finance emergency benefits.

Beginning in 1977, the federal unemployment tax, excluding the offset to states, increased from 0.5% to 0.7% to build up the Loan Fund for states with depleted reserves and to defray the costs of extended and emergency benefits.

New York State borrowed funds from the federal Loan Fund during 1977 because of

inadequate state reserves to finance current unemployment insurance payments. This Loan Fund provided interest-free advances for unemployment insurance costs to states for one month at a time.

Federal legislation, enacted in 1977, extended the time period for a state to repay a loan without incurring a reduction in tax credits, if the state took appropriate actions to restore the financial soundness of its unemployment account.

In October of 1978, an additional contribution at a rate of 0.3% was approved for 1979 payrolls to repay outstanding loans the New York State Unemployment Insurance Fund had received from the federal Unemployment Trust Fund.

### **Changes in the 1980s**

The Omnibus Budget Reconciliation Act of 1981 required that all loans made to states from the Federal Unemployment Account between April 1, 1982 and January 1, 1988, be subject to interest charges. States may also be faced with reduced employer offset credits.

In 1981, the experience rating provision was extended for two years, until June 1983. Also in 1983, experience rating was finally made a permanent part of the state unemployment insurance law.

Effective January 1985, the contribution rate table was changed by adding rates from 4.3% to 5.4%. The fixed rate for the apparel, construction and cannery industries was increased to 5.4%, to be phased in over five years. The Size-Of-Fund Index was reduced to a range of from zero to 5%.

In March 1985, the maximum credit under

FUTA was increased from 2.7% to 5.4%. The normal contribution rates, assignable each year to employers based upon their experience, were changed by adding rates between 4.2% and 5.4%.

A 5.4% normal rate was assigned to those employers who failed to file all their required contribution reports by December 31, 1984; who had a portion of their negative account balance transferred to the General Account on any of the previous computation dates; and who have had a portion of their negative account balance transferred to the General Account as of December 31, 1984. (The normal employer contribution rate for the next three years would be no less than 5.4%.) Certain employers were exceptions.

As of January 1, 1985, the FUTA tax was increased to 0.8% (excluding the offset to states). This tax was scheduled to drop to 0.6% on January 1, 1989, but the temporary increase was extended when the statutory limits on balances in the Federal Unemployment and Extended Unemployment Compensation accounts were raised.

As of January 1986, the state must pay interest (at 9% per year) on refunds of employer contributions, penalty and interest payments collected as a result of state error, if a refund application is made.

Beginning in October 1986, the required penalty for an employer's late response or failure to respond to a request for claimant wage and employment information was increased from \$10 to \$25.

Legislation enacted in December 1986 permitted the averaging of wages for the last three payroll years or for all quarters if an employer has been liable for contributions for

fewer than 13 quarters, for use in determining the employer's account percentage in rate calculations. Previously, only payrolls for the last payroll year had been used.

Starting with October 1987, the General Account is charged for any additional benefits beyond the 26-week maximum for claimants enrolled in approved training courses.

Effective April 1989, if the Size-Of-Fund Index is less than 2.0, every employer will be required to pay a supplemental contribution (to be credited to the employer's account) of 0.7% of wages subject to contribution for the four calendar quarters immediately following the computation date.

### **Changes in the 1990s**

Effective June 1990, the penalty for an employer's late response or failure to respond to requests for wage and employment data was increased from \$25 to \$50. In addition, the time period for employers to respond to these requests before incurring the penalty was increased from 7 to 10 days from the mailing date of the request.

Effective July 1991, the General Account, rather than the account of the base-period employer, is charged for benefits paid to a claimant (1) after breaking a disqualification from benefits for misconduct against an employer, and (2) who, as an inmate of a correctional institution enrolled in a work-release program and, when employment was terminated, the inmate relocated to another area after their release from prison.

Beginning in July 1993, the period during which an employer may submit a voluntary payment of unemployment insurance contributions is changed, from February 1

through January 31 of the following year, to from April 1 through March 31 of the following year.

As of June 1994, the charges to a base-period employer's account for benefits paid to a claimant cannot exceed the amount of the wages paid to the claimant by the employer. Excess charges are made to the account of another base-period employer or the General Account if there are no other employers.

Effective in June 1994, the General Account is charged, not the base-period employer's account, when a claimant receives benefits after serving a disqualification period according to a final determination that the claimant lost employment with the employer through misconduct or a voluntary separation from employment without good cause.

The most comprehensive changes to the revenue provisions of the New York State Unemployment Insurance Law since its 1935 inception took effect during 1999. Effective January 1999:

- The wage base on calendar-year earnings increased from \$7,000 (which had been the limit since 1983) to \$8,500.
- The number of columns in the contribution rate table is increased from 7 to 12, by adding five columns for half-percentage-point increases in the Size-Of-Fund Index.
- The supplemental rate and the minimum rate (0.3%) are both repealed.
- The maximum rate for newly covered employers and employers that paid no remuneration is increased from 2.7% to 3.4%.
- The maximum tax rate for negative-

balance, delinquent and restricted employers is increased from a fixed rate of 5.4% to a range of from 5.9% to 8.5%, depending on the tax rate column applicable during the year, determined by the Size-Of-Fund Index on the computation date.

The new tax rate schedule provides for a reduction in the rates for positive-balance employers (compared with the previous tax rate table) whenever the Size-Of-Fund Index is 2% or greater.

In addition, at the end of each calendar year, only that portion of an employer's negative account balance that exceeds 21% (it was 2%) of its taxable payroll for the preceding payroll year (October 1 through September 30) is transferred to the General Account.

For the following year, these negative-balance employers are assigned tax rates based on their negative account percentage prior to the transfer to the General Account. In addition, these employers are assigned the maximum tax rate applicable to the Size-Of-Fund Index for the next three years.

Also in January 1999, the subsidiary rate schedule is amended from a flat rate to an experienced-based rate. Subsidiary contributions are activated when the General Account balance is less than \$650 million. When this rate is activated, and depending upon an employer's account percentage, it ranges from 0.0% to 0.025% when the General Account balance is between \$600 million and \$650 million, and ranges from 0.525% to 0.925% when the General Account has a negative balance.

A state-imposed rate of 0.075% of quarterly payrolls subject to contribution is imposed, as

of January 1999, to fund the Re-employment Service Fund. Contributions to this Fund are to be used exclusively for additional staff and automated systems to enhance claimant re-employment services, management activities, and associated administrative costs.

Also in January 1999, the formula for determining employer account percentages in unemployment insurance rate calculations is changed, from an average of the wages paid during the last three payroll years, to the last five payroll years or for all subject quarters if the employer has been liable for contributions for fewer than 21 (previously 13) quarters.

Beginning in April 1999, benefits are charged to the last base-period employer's account in an amount equal to seven times the claimant's benefit rate. All subsequent charges are made against the account of each base-period employer in the same proportion that the employer's wages paid represent of the claimant's total base-period earnings.

### **Changes in the 2000s**

In November 2000, the upper limit on the maximum rate range for negative-balance, delinquent and restricted employers increased from 8.5% to 8.9%.

The normal rate for newly covered employers has also increased since 2000. This rate for employers who were first liable in 2004 began at 3.4% for both 2004 and 2005 and rose to 4.1% in 2006, before dropping back to 3.7% in 2007.

Employers who first became liable in 2005 had a 3.4% normal rate for both 2005 and 2006, and also had a 3.7% rate for 2007. Employers whose liability began in 2006 or

2007 and were not yet qualified for experience rating, have the same 3.4% normal rate for 2006 and 2007.

Effective August 2002, unemployment insurance benefits that should be charged to the general account in certain circumstances are as follows:

- In instances where an educational institution is the claimant's last employer prior to the filing of the claim for benefit;
- If the federal government is the claimant's last employer prior to the filing of the claim and such employer is not a base-period employer; and
- In those instances where a combined wage claim is filed pursuant to interstate reciprocal agreements and the claimant's last employer prior to the filing of the claim is an out-of-state employer.

As of 2005, annually as soon as practicable after May 1<sup>st</sup>, the Commissioner of Labor and the New York State Comptroller shall ascertain the total amount of administrative expenses incurred during the preceding fiscal year.

### **Changes in the 2010s**

As of 2009, the last employer of a claimant may apply to the Department of Labor to have their benefit charges recalculated, if the employer can demonstrate that they paid the claimant less in total wages than the seven weeks of benefits.

In February 2011, New York State amended its law in regards to extended benefits to conform to the federal Tax Relief, Unemployment Insurance Reauthorization,

and Job Creation Act of 2010 (see Appendix A, Page XX, Chapter 312 Year 2010).

Beginning January 2014, the six lowest rows of contribution rates are eliminated from the normal rate table.

Beginning in 2013, each year prior to May 31, the Commissioner of Labor will determine the state's average annual and average weekly wage for the preceding calendar year. The average annual wage will eventually be used (after 2026) to determine the potential increase in the following year's wage base and the average weekly wage will be used (after 2018) to determine the potential increase in the following year's maximum benefit rate.

Starting January 1, 2014, the wage base for unemployment insurance contributions will increase as follows:

January 2014	\$10,300
January 2015	\$10,500
January 2016	\$10,700
January 2017	\$10,900
January 2018	\$11,100
January 2019	\$11,400
January 2020	\$11,600
January 2021	\$11,800
January 2022	\$12,000
January 2023	\$12,300
January 2024	\$12,500
January 2025	\$12,800
January 2026	\$13,000

After 2026, the wage base for unemployment insurance contributions will be either 16% of the annual average wage in New York State (see above), rounded up to the nearest \$100, or the previous year's amount, whichever is greater. The new wage base will take effect on January 1<sup>st</sup>.

## SHARED WORK PROGRAM

New York State's Shared Work Program began as a three-year demonstration program in January 1986 and became permanent in June 1989.

Under the program, claimants receive partial unemployment benefits if their employer agrees to reduce the wages and work hours within specified limits. There is no work search requirement, but participants are required to be available for their normal workweek.

Initially, firms with ten or more full-time employees could participate, but this was later reduced to five employees. Work-week reductions could range from 20% to 60%.

An approved Shared Work plan could extend up to 53 weeks, but no more than 20 weeks could be paid during any claimant's benefit year. The number of weeks payable increased in July 1991 to 21 weeks and again in May 1992 to 52 weeks. As of January 1995, the maximum reverted back to 20 weeks.

In order to participate in the program, employers must meet certain requirements, including:

- Employers must certify that, for the duration of the program, they will not eliminate or diminish health insurance, medical insurance, or any other fringe benefits provided to employees immediately prior to the application;
- Any collective bargaining agent for the employees must agree to participate in the program;
- Employers must certify that if not for the Shared Work Program, the

employer would reduce or would have reduced its work force to a degree equivalent to the total number of working hours proposed to be reduced or restricted for all included employees;

- Employers must certify that they will not hire additional part time or full time employees for the affected work force while the program is in operation;
- Employers must certify that no participant of the program shall receive, in the aggregate, more than the maximum number of weeks of benefits exclusive of the waiting week;

As of September 2002, claimants who derive over 5% of their wages from piece work are eligible for the Shared Work Program (these workers were previously excluded). Employees who were denied benefits during the period October 1, 2001, through December 1, 2001, due to the fact that more than 5% of their wages were derived from piece work were entitled to make a retroactive claim, provided that the claim was filed within 60 days of the September effective date.

Effective March 29, 2013, until August 23, 2015, employers that participate in the Shared Work Program will not be charged where such benefits are reimbursed to the state by the Federal Government pursuant to the Middle Class Tax Relief and Job Creation Act of 2012. However, employers are not relieved of charges if the participating employees are seasonal, temporary or intermittent.

On April 29, 2013, a number of changes to the Shared Work Program were implemented:

- The minimum number of employees was reduced from five to two.
- The maximum number of weeks of benefits was increased from 20 to 26.
- Eligibility conditions were expanded to include part-time employees.
- Participants are not required to comply with the new work search and availability requirements in the 2013 unemployment insurance reforms, as long as the participant is available for his or her usual hours of work with the Shared Work employer.
- Participants became eligible to participate in Department of Labor-approved trainings, including employer-sponsored training or worker training funded under the Workforce Investment Act.

Effective April 29, 2013, the Commissioner of Labor shall not approve a Shared Work application unless the employer:

- Provides a description of how workers in the work force will be notified of the program in advance of it taking effect, if feasible, and if such notice is not feasible, provides an explanation of why it is not;
- Provides an estimate of the number of workers who would be laid off if the employer could not participate in the program; and
- Certifies that the terms of the employer's written plan and implementation shall be consistent with employer obligations under applicable federal and state laws.

As of April 29, 2013, the requirement that employers may not eliminate or diminish

certain benefits no longer applies if the benefits provided to employees that do not participate in the program are reduced to the same extent.

## **WAGE REPORTING**

At the inception of New York State's unemployment insurance program, wage and employment information needed to establish and process benefit claims was requested from employers only after a benefit claim had been filed.

In July 1978, the New York State Department of Taxation and Finance was authorized to require that employers submit quarterly wage reports on each of their employees for the purpose of detecting fraud in unemployment insurance and other public assistance programs.

In July 1995, New York's unemployment insurance system began transitioning from wage-requesting system to wage-reporting system. In the first stage, the Department of Labor was given complete access to the wage reporting files maintained by the Department of Taxation and Finance.

In return for being granted this access, the Department of Labor was required to design and operate the new system so that individuals eligible for benefits under the current law would qualify for the same amount of benefits under the new system based on these wage reporting files.

This access was also granted to facilitate the administration of employment security programs and determine the earnings effect of participation in training programs over which the Department of Labor has responsibility for reporting, monitoring or evaluation.

The Department of Labor's access to the Department of Taxation and Finance's wage reporting files became permanent in January 1999. As a result, all employers that are

liable for unemployment insurance contributions or payments in lieu of contributions were required to file a combined withholding, wage reporting and unemployment insurance return, providing the requisite information for the previous quarter.

In place of the \$50 penalty for a late or failed response to a request for claimant wage and employment data, employers not filing a quarterly return are penalized \$50 for each employee shown on their last completed return, with the minimum and maximum penalty amounts set at \$1,000 and \$10,000, respectively.

## **APPENDIX A**

### **Chronology of Significant Changes in Federal Unemployment Insurance Legislation 1935 - 2014**

**Note: Public Law citations denote the chronological sequence number of a bill's introduction during a Congressional session and the year it became law. Items in this Appendix are listed by effective dates, which may be in a different year.**



# FEDERAL LEGISLATIVE PROVISIONS

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Public Law and Year</u>
January 1936	<p>The U.S. Congress passed the landmark federal Social Security Act in August 1935, and it was declared constitutional by the U.S. Supreme Court in May 1937.</p> <p>Title III of the Act provides federal grants to the states for administration of the unemployment compensation program through public employment offices or federally approved agencies, and the law includes standards to which states must conform to receive these grants. State contributions are to be used only for benefit payments.</p> <p>Title IX imposes a federal tax on all employers of eight or more employees in each of 20 weeks in a calendar year. This tax is set at 1 percent of total payrolls for 1936, 2 percent in 1937 and 3 percent in 1938 and later years (applied to taxable payrolls as of 1940).</p> <p>An employer's contributions to a state can be credited against up to 90 percent of the federal tax due. The law includes standards to which states must conform to receive these credits against the federal tax on their employers. This credit is allowed even if an employer pays reduced contributions under a state experience rating system. An employer must have at least three years of unemployment insurance coverage to qualify for experience rating.</p> <p>The federal law excludes the following types of employment from coverage: (1) agricultural labor; (2) domestic service in a private home; (3) service of officers or crew members on a vessel on the navigable waters of the United States; (4) service of an individual employed by their child or spouse, or of a child under age 21 employed by a parent; (5) employment by the U.S. government or its instrumentalities; (6) employment by a state or a political subdivision; and (7) employment in a nonprofit institution operated exclusively for religious, charitable, scientific, or literary purposes, or for the prevention of cruelty to children or animals.</p>	74-271 1935
April 1939	<p>The taxing provisions in Title IX of the Social Security Act are incorporated into Chapter 23 of the Internal Revenue Code, as the Federal Unemployment Tax Act (FUTA).</p>	76-1 1939
July 1939	<p>The Railroad Unemployment Insurance Act provides for a special federal system of unemployment insurance for the railroad industry, which is excluded from FUTA.</p>	75-722 1938

January 1940	<p>The Social Security Act Amendments of 1939 make a number of important changes in the law. The tax base under FUTA is limited to the first \$3,000 of a covered worker's earnings.</p> <p>The following exclusions from coverage are added: (1) newsboys under age 18; (2) student nurses and interns in hospitals; (3) insurance agents or solicitors paid on commission only; (4) domestic service in college clubs or fraternities; (5) casual labor not in the employer's usual trade or business; (6) students employed by the school at which they are enrolled if they earn \$45 or less during a calendar quarter.</p> <p>The following employers are brought under coverage: (1) federal instrumentalities not wholly owned by the federal government, such as national banks and state bank members of the Federal Reserve System; (2) instrumentalities not wholly owned by state and local governments, unless they have constitutional immunity.</p> <p>States are required to establish merit systems for personnel who administer the unemployment insurance program.</p>	76-379 1939
September 1944	<p>The Servicemen's Readjustment Act of 1944 (commonly known as the "G.I. Bill of Rights") provides Servicemen's Readjustment Allowances of \$20 per week for up to 52 weeks to unemployed veterans of World War II and to self-employed veterans with net monthly profits under \$100. For most veterans, this program ended in July 1952.</p>	78-346 1944
October 1944	<p>The George Loan Fund is established under the War Mobilization and Reconversion Act of 1944, for federal loans to states whose revenues are inadequate for the increased benefit payments expected to result from the reconversion to a peacetime economy. This fund was never used and the legislation expired on January 1, 1952.</p>	78-458 1944
August 1946	<p>Coverage is extended to maritime service. A state may cover the crew of an American vessel if its operating office is within the state.</p>	79-719 1946
July 1947	<p>Seamen who were formerly employed by the U.S. War Shipping Administration are eligible for Reconversion Unemployment Benefits for Seamen, paid under conditions of the state in which they file their claim. This program ended on June 30, 1950.</p>	79-719 1946
October 1948 (retroactive to 1939)	<p>Following a U.S. Supreme Court decision, the term "employee" as defined in the Federal Unemployment Tax Act (FUTA) is limited to employees under the common-law rule of a "master-servant" relationship. Accordingly, federal coverage is withdrawn for some 500,000 persons, including outside salesmen.</p>	80-642 1948

October 1952	<p>The Veterans' Readjustment Assistance Act of 1952 (the UCV Program) provides up to 26 weeks of benefits at \$26 per week, or a total of \$676, to unemployed veterans of the Korean Conflict discharged between June 27, 1950 and February 1, 1955. Federal supplements raise the state benefit to \$26 or pay veterans after they exhausts state benefits. This program ended for most veterans on July 26, 1958 (except for those who serve in the war and continue in the service) and for all veterans on January 31, 1960.</p>	82-550 1952
August 1954	<p>The Employment Security Administrative Financing Act of 1954 (also known as the "Reed Act") earmarks all proceeds from FUTA to unemployment insurance purposes by automatically appropriating to the Federal Unemployment Trust Fund any annual excess of federal tax receipts over the employment security administrative expenditures as approved by Congress.</p> <p>It also creates a Loan Fund to provide interest-free loans to states whose unemployment insurance trust funds are below the amount they paid out in benefits during the previous year. A state has four years to repay advances from the federal Loan Fund. If the state does not repay the loan within the specified time, allowable tax credits to employers in the state will be reduced. In effect, this will result in a tax increase to employers in the states involved.</p> <p>The Act also provides for the return to the states of any excess above a \$200-million reserve in the Loan Fund, to be used for paying benefits. Under certain conditions, these funds can also be used for state administrative expenses and building new facilities.</p>	83-567 1954
January 1955	<p>States are allowed to reduce contributions for newly covered employers with at least one year's (instead of three years') experience with the risk of unemployment.</p> <p>Under Title XV of the Social Security Act, the Unemployment Compensation for Federal Employees Program (UCFE) extends coverage to federal civilian employees employed after December 31, 1954, subject to state conditions.</p>	83-767 1954
January 1956	<p>Coverage is extended to employers of four or more workers in 20 weeks in a calendar year.</p>	83-767 1954
June 1958	<p>The Temporary Unemployment Compensation Act of 1958 (TUC) permits any state which signs an agreement with the U.S. Secretary of Labor to pay extended benefits of half the regular duration to individuals who had exhausted benefits after June 30, 1957 and before April 1, 1959. New York State grants up to 13 additional weeks of</p>	85-441 1958

June 1958 (continued)	<p>benefits to such workers. The federal government finances the program through loans to participating states, which are then repaid by reduced FUTA tax credits to employers for 1963 and thereafter, if the state has not repaid the amount to the federal treasury by November 10 of the taxable year.</p> <p>The TUC Program began on June 23, 1958, and ended on April 10, 1959, or, for federal employees and veterans, on June 30, 1958. New York State repaid its loans by transfers of \$23 million in 1963, \$46 million in 1964 and \$20 million in 1965.</p>	85-441 1958 (continued)
October 1958	<p>The Ex-servicemen's Unemployment Compensation Act of 1958 (UCX) establishes a permanent program to provide benefits for veterans under the terms of the state in which their claims are filed. Passage is timed to coincide with the end of special coverage for veterans of the Korean Conflict.</p>	85-848 1958
September 1960	<p>The Social Security Amendments of 1960 amend Title XII to limit advances from the federal Loan Fund to only those states which may not meet benefit claims in the current or following month, and limit the amount to that required for one month's benefits. Recovery of advances from the federal Loan Fund, through an increase in the federal unemployment tax, will begin two years after the loan has been made, instead of four years.</p>	86-778 1960
January 1961	<p>Coverage under the Unemployment Compensation for Federal Employees Program (UCFE) is extended to certain instrumentalities that are neither wholly nor partially covered by FUTA, such as Federal Reserve banks, land banks and credit unions. In addition, these amendments bring the Commonwealth of Puerto Rico into the federal-state system.</p> <p>The federal payroll tax is increased from 3.0 percent to 3.1 percent without changing the 2.7-percent offset provision, thus increasing the net federal tax from 0.3 percent to 0.4 percent. Receipts from this tax are credited to a new Employment Security Administration Account, from which an annual maximum of \$350 million is allowed for state administration. At the end of each fiscal year, any excess is to be transferred to the Federal Unemployment Account (the Reed Act Loan Fund) to build up a balance of \$550 million (formerly \$200 million) or 0.4 percent of taxable payrolls, if higher. Any surplus over this ceiling is to be returned to the states.</p>	
April 1961	<p>The Temporary Extended Unemployment Compensation Act of 1961 (TEUC) provides for federally financed extended benefits of one-half the regular benefit entitlement to workers who exhaust their regular</p>	87-6 1961

April 1961 (continued)	benefits after June 30, 1960 and before April 1, 1962. This program, which also includes federal civilian employees and ex-servicemembers, limits additional benefits to 13 weeks and reimburses states only for benefits paid beyond the usual 26-week maximum. Scheduled to expire on June 30, 1962, this program is financed by a temporary additional federal tax of 0.4 percent for 1962 and 0.25 percent for 1963.	87-6 1961 (continued)
January 1962	Coverage is extended to American aircraft employees working outside the United States; nonprofit institutions not exempt from income tax; "feeder organizations" of nonprofit institutions; and various employees of certain income tax-exempt organizations (except persons who earn less than \$50 in a calendar quarter or who are students).	86-778 1960
January 1970	The Employment Security Amendments of 1970 make major changes in the unemployment insurance system effective on varying dates (see details below). Retroactive to January 1970, the federal unemployment tax is increased from 3.1 percent to 3.2 percent; the net tax received by the federal government is 0.5 percent. Receipts from the 0.1 percent increase are earmarked in 1970 and 1971 for a new Federal Extended Unemployment Compensation Account.	91-373 1970
	<p>States may give covered nonprofit organizations the option of either reimbursing the Unemployment Insurance Fund for benefit charges or submitting payroll taxes at an assigned tax rate. For nonprofit organizations covered before 1969 that elect reimbursement, states may credit the excess of prior tax payments over benefit charges before such election against future benefit charges.</p> <p>Added to the exclusions from unemployment insurance coverage are services by the following: students employed under work-study programs, students' spouses employed under a program of financial assistance to the student, and workers in hospitals in which they are patients. (Students employed by the schools at which they were enrolled were excluded from coverage as of 1940, as were student nurses and interns in hospitals.)</p>	
August 1970	The Employment Security Amendments of 1970 also provide for judicial review of adverse determinations by the U.S. Secretary of Labor in state conformity or compliance proceedings. States may appeal to the U.S. Court of Appeals.	91-373 1970
	The U.S. Secretary of Labor is to establish a federal unemployment insurance research grant program to train unemployment insurance personnel (both federal and state), and a Federal Advisory Council on Unemployment Compensation to review the program and recommend	

August 1970 (continued)	improvements.	91-373 1970 (continued)
September 1970	The 1970 amendments also repeal a federal statute that denies unemployment benefits to ex-servicemembers during periods to which military terminal leave is allocated. Ex-servicemembers are to be treated the same as other unemployed workers under state law as to their accrued military leave.	91-373 1970
October 1970	<p>The federal-state Extended Unemployment Compensation Program, a permanent program to extend the duration of benefits during economic recessions, is also created by the Amendments of 1970. This program becomes operative nationally after January 1, 1972 whenever the seasonally adjusted insured unemployment rate (IUR) for the nation is 4.5 percent or more for three consecutive months. States may institute such a program on or after October 10, 1970. This program triggers "on" when a state's insured unemployment rate averages 4 percent or more for 13 consecutive weeks <u>and</u> is at least 120 percent of the average rates for the corresponding 13-week period in each of the two preceding years.</p> <p>An extended benefits period begins the third week after the week of an "on" indicator, and ends the third week after the week of an "off" indicator, that is, when the specified unemployment conditions no longer exist nationally or within the state. However, an extended benefits period must remain in effect for at least 13 consecutive weeks in any state, and cannot start based on a state "on" indicator for another 14 weeks.</p> <p>Claimants who exhaust their regular benefit rights during an extended benefit period are eligible for up to 13 weeks of additional benefits or the equivalent of half of the maximum weeks of regular benefits in the state, if that is less, with a 39-week ceiling in total benefits (both regular and extended). Claimants whose benefit year has expired and who do not qualify for a new benefit year may also draw extended benefits.</p> <p>The federal government pays one-half of the extended benefit cost, financing the program by receipts for 1970 and 1971 from an increase of 0.1 percent in the federal unemployment tax, and thereafter by one-tenth of federal tax receipts. An Extended Unemployment Compensation Account is established with a ceiling of \$750 million or 0.125 percent of total wages in covered employment, if larger. Any remainder is to be retained in the Employment Security Administration Account.</p>	91-373 1970

October 1970 (continued)	<p>The Federal Unemployment Account (the Reed Act Loan Fund) ceiling is changed to \$550 million or 0.125 percent of total wages in covered employment, whichever is larger.</p> <p>When all three accounts reach their statutory limits and when any advances from the U.S. Treasury's general funds have been repaid, any excess is to be distributed to accounts of the individual states.</p>	91-373 1970 (continued)
December 1970	<p>The Disaster Relief Act of 1970 authorizes the President to provide an individual unemployed as a result of a major disaster any assistance he deems appropriate, but no more than the maximum benefits and duration available under the UI law of the state in which the disaster occurred. Benefits are payable under this Act from January 1971 through April 1974, when this Act is superseded by the Disaster Relief Act of 1974.</p>	91-606 1970
January 1972	<p>The Employment Security Amendments of 1970 extend coverage to the following groups: (1) employers with one or more employees in 20 weeks in a calendar year or a quarterly payroll of \$1,500; (2) nonprofit organizations with four or more employees (excluding churches, religious organizations and primary or secondary schools), state hospitals and state institutions of higher education; (3) outside salesmen and agents and commission drivers; (4) certain categories of agricultural processing workers; and (5) U.S. citizens working for American firms outside the U.S., who must file their benefit claims in person within the U.S.</p> <p>College faculty and other professional workers in colleges are covered, but are not eligible for benefits between successive academic years or two regular terms if they have a contract to resume work. Certain groups of workers in nonprofit organizations are excluded from coverage in addition to those excluded as of January 1970. These new exclusions include persons employed in sheltered workshops or rehabilitation facilities in which they receive services, persons in publicly financed unemployment work-relief or work-training programs, and workers who are prison inmates.</p> <p>States must give covered nonprofit organizations the option of either reimbursing the Fund for benefit charges or paying at an assigned contribution rate. (In 1971, states were permitted but were not required to give this option to nonprofit organizations.) States must extend permission to municipal corporations or other governmental subdivisions to elect coverage only for hospitals and colleges that they operate, and the choice of contributions or reimbursements for benefits charges.</p>	91-373 1970

January 1972  
(continued)

The annual taxable wage base per employee is raised from \$3,000 to \$4,200. New employers may be assigned a reduced rate of not less than 1 percent on a reasonable basis apart from experience with unemployment.

91-373  
1970  
(continued)

In addition, state laws are required to include these provisions:

1. Benefits may not be paid unless the claimant has had some employment since the beginning of their preceding benefit year. (This eliminates their ability to "double dip.")
2. Benefits may not be denied to workers who are in approved training programs.
3. Benefits may not be reduced or denied when a person works in one state but files their claim in another state or in Canada.
4. States must participate in arrangements for combining wage credits when a claimant's earnings are in two or more states.
5. Cancellation of wage credits or the total reduction in benefit rights is prohibited, except for misconduct in connection with work, fraud in connection with a claim, or receipt of disqualifying income, such as a pension.

January 1972

The Emergency Unemployment Compensation Act of 1971 creates a new temporary program that provides an additional extension in benefits, effective January 30, 1972 and ending September 30, 1972. New claims will not be accepted after June 30, 1972. The program triggers "on" for a state when its insured unemployment rate, plus an adjustment rate for exhaustees, is 6.5 percent or more, provided that the trigger for payment of benefits under the federal-state Extended Unemployment Compensation Act of 1970 is in effect or has terminated solely because the state no longer meets the requirement of an insured unemployment rate at least 120 percent of the average of the rates for the corresponding periods of the two preceding years.

92-224  
1971

During this emergency benefits period, claimants are eligible for up to 13 additional weeks of benefits or half of the state's maximum of regular benefits, if less, after exhausting their extended benefits. Claimants who have not exhausted extended benefits may receive emergency benefits if the extended benefits period has ended solely because the 120 percent trigger requirement was not met.

Financed entirely by the federal government, emergency benefits are payable out of the federal Extended Unemployment Compensation Account. Appropriations are authorized from the general revenues of the U.S. Treasury as repayable advances to the account, which are to be repaid only when there is to be a distribution of excess tax collections to the states. The new act also extends to 1983 (from

January 1972 (continued)	1973) the authorization to return to the states any surplus in federal unemployment tax receipts over stipulated ceilings in the federal Employment Security Administration Account, Unemployment Account (the Reed Act Loan Fund) and Extended Unemployment Compensation Account.	92-224 1971 (continued)
July 1972	The Emergency Extended Unemployment Compensation Act of 1971 is extended to March 31, 1973. To finance this benefit program, the federal unemployment tax for 1973 is increased from 3.2 percent to 3.28 percent; the net federal tax is 0.58 percent.	92-329 1972
October 1972	The permanent Extended Unemployment Compensation Program is temporarily modified by suspending the 120 percent trigger requirement for extended benefits until July 1, 1973. (See previous sections for October 1970.)	92-259 1972
July 1973	The 120 percent "on" and "off" trigger requirement for enacting extended benefits under the permanent Extended Unemployment Compensation Program is waived until January 1974. The new law permits a state to do the following: (1) ignore the 120 percent requirement for an "on" trigger if its insured unemployment rate is 4.5 percent or more, (2) disregard the 120 percent requirement as an "off" trigger if its insured unemployment rate is 4 percent or more, and (3) begin a new extended benefits period without regard to whether 13 weeks have expired since the last state extended benefits period. If the extended benefits period is still triggered "on" as of December 31, 1973, benefits continue to be payable, except to new claimants, through March 1974.	93-53 1973
January 1974	Suspension of the 120 percent trigger for an extended benefits period is continued through March 1974, if the state insured unemployment rate is 4 percent or more.	93-233 1973
April 1974	Suspension of the 120 percent trigger for an extended benefits period is continued through June 1974.	93-256 1974
May 1974	The Disaster Relief Act of 1974, superseding the like-named Act of 1970, also authorizes the President to provide appropriate assistance to individuals unemployed as the result of a major natural disaster. Assistance is to continue no longer than one year after the disaster is declared. The amount of disaster assistance is deductible from regular UI, and cannot exceed the maximum weekly benefit amount of the state in which the disaster occurs. This program operates through agreements with state agencies.	93-288 1974

June 1974	Suspension of the 120 percent trigger for an extended benefits period is continued through July 1974.	93-329 1974
August 1974	Suspension of the 120 percent trigger for an extended benefits period is continued through April 30, 1975.	93-368 1974
January 1975	<p>The Trade Act of 1974 (effective in January 1975) creates the Trade Adjustment Assistance Program (TAA) to provide services and benefits to certified individuals, employed in manufacturing, who permanently lose their jobs or have their work hours and wages reduced due to increased foreign imports or production shifts to Canada or Mexico.</p> <p>Benefits include up to 26 weeks of Trade Readjustment Allowance (TRA) payments, in addition to the maximum 26 weeks of regular unemployment benefits, to workers enrolled in TAA-approved training programs. Extended unemployment benefits payments are reduced by these TRAs, which are also federally funded. The TAA Program is scheduled to expire on September 30, 1982.</p>	93-618 1974
January 1975	<p>The Emergency Unemployment Compensation Act of 1974 renews temporary legislation providing additional benefits to claimants who have exhausted extended benefits (see January 1972). Emergency benefits, also known as Federal Supplemental Benefits (FSB), are payable to a claimant for 13 weeks or half of the state's maximum of regular benefits, if less. The termination date is March 31, 1977, but new claims will not be accepted after December 31, 1976.</p> <p>The triggers for activating or deactivating a period of emergency benefits are the same as those for an extended benefits period, except that an emergency benefits period remains in effect for at least 26 weeks. The program is fully financed by the federal government through repayable advances from federal general revenues to the Extended Unemployment Compensation Account. The Act also extends waiver of the 120 percent requirement for the state "on" trigger for an extended benefits period to December 31, 1976. States in which an extended benefits period has not been triggered "on" are given the option until December 31, 1976 of paying extended benefits, which are fully reimbursed by the federal government, whenever the national average insured unemployment rate is 4.0 percent instead of the regular national "on" trigger rate of 4.5 percent.</p>	93-572 1974
January 1975	The Emergency Jobs and Unemployment Assistance Act of 1974 provides temporary Special Unemployment Assistance (SUA) to workers who are not covered by the state laws, but otherwise meet the state's earnings and eligibility requirements. These workers are	93-567 1974

January 1975 (continued)	mainly state and local government workers, domestic workers and farmworkers. The self-employed are not included. Benefits are payable under the state's benefit scale for a maximum of 26 weeks; the base period is the 52 weeks before the first claim.	93-567 1974 (continued)
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This program, financed from federal general revenues, is operative in participating states when the national total unemployment rate averages 6 percent or more for three consecutive months. If the national trigger is not "on," the program is operative in an area if its three-month unemployment rate averages 6.5 percent, if that area is a prime sponsor area under the Comprehensive Employment and Training Act of 1973. SUA benefit periods continue for at least 13 weeks, starting with the third week after the week of the "on" trigger and end with the third week after the week of the "off" trigger. SUA is scheduled to expire at the end of 1975, but successive legislation extends it through June 25, 1978, and no new claims are allowed after December 28, 1976. The Act also provides emergency jobs under expanded public service and public works programs.

April 1975	The Tax Reduction Act of 1975 increases the maximum duration of emergency benefits from 13 weeks to 26 weeks until June 30, 1975.	94-12 1975
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July 1975	With the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975, the Emergency Benefits Program is extended through March 31, 1977. It continues the 26-week maximum benefit period through 1975. For 1976 and through March 1977, the "on" trigger for the payment of emergency benefits is modified. A state's insured unemployment rate determines the duration of emergency benefits as follows: up to 26 weeks of benefits if the rate is 6 percent or higher, up to 13 weeks of benefits if the rate is 5 percent or more but less than 6 percent, and no emergency benefits, if the state's rate is below 5 percent. An emergency benefits period must remain in effect for at least 26 weeks, except that a period starting in 1975 may not end before January 1, 1976.	94-45 1975
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The eligibility requirements for receiving emergency benefits are modified as follows: unemployed workers must be willing to apply for or attend vocational training courses if the state determines that such training is needed. Total emergency or federal supplemental benefits received by unemployed workers must be reduced by the amount of any special unemployment assistance they receive during the 65 weeks before their first claim for emergency benefits.

Suspension of the 120 percent requirement for triggering "on" or "off" an extended benefits period is continued to March 31, 1977.

July 1975 (continued)	<p>The maximum duration for Special Unemployment Assistance (SUA) benefits is increased to 39 weeks. This program is extended to March 31, 1977, but December 31, 1976 is the deadline for new claims. Teachers and other professional school personnel may not collect SUA benefits between academic terms or years if they have contracts for both periods. SUA benefits will be reduced by the amount of any other unemployment benefits a claimant has received during an overlapping state benefit year. A SUA benefit year is the 52-week period after the filing of a valid SUA claim.</p> <p>The law suspends, until January 1, 1978, reduction of tax credits to employers in states which borrow from the federal Unemployment Trust Fund and do not repay the loan by November of the second taxable year following the loan. If the state acts appropriately to restore financial soundness to its unemployment insurance account, January 1, 1978 will start the first taxable year after January 1, 1974.</p>	94-45 1975 (continued)
October 1976	<p>The federal Unemployment Compensation Amendments of 1976 broaden coverage, raise the taxable wage base and the federal unemployment tax rate, revise the trigger mechanism for extended benefit periods, and modify benefit provisions. The Act permits states to apply to the federal Unemployment Trust Fund for loans for a three-month period instead of a one-month period, although funds are still to be advanced only one month at a time. Coverage is extended to the Virgin Islands, subject to the approval of its unemployment insurance law by the U.S. Secretary of Labor. Weekly unemployment benefits for retirees will be reduced by the total amount of their weekly pension, effective October 1979. Other provisions become effective on different dates, as described below.</p>	94-566 1976
January 1977	<p>Under the Unemployment Compensation Amendments of 1976, the FUTA tax is raised temporarily by 0.2 percent and the net federal tax increases from 0.5 percent to 0.7 percent. This rate increase is scheduled to remain in effect until all advances to the federal Extended Unemployment Compensation Account have been repaid.</p> <p>The federal Special Unemployment Assistance Program (SUA), the temporary program that provides unemployment benefits to workers not currently covered by state law, is extended until January 1, 1978 for new claims, and June 26, 1978 is set as the final cutoff date for all payments.</p>	94-566 1976
April 1977	<p>The state trigger for activating an extended benefits period is modified permanently. The 120 percent trigger requirement is mandatory when the state unemployment rate is between 4 percent and 5 percent, and becomes optional for the state when its insured unemployment rate</p>	94-566 1976

April 1977 (continued)	averages 5 percent or more. The insured unemployment rate for the federal "on" and "off" trigger is now based on a 13-week average instead of a three-month average.	94-566 1976 (continued)
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April 1977	The Emergency Unemployment Compensation Act of 1977 extends the Emergency Benefits Program through October 31, 1977 for new claimants. For claimants already in the Program by that date, it's extended through January 31, 1978. The maximum duration of emergency or Federal Supplemental Benefits is limited to 13 weeks after April 1977. These benefits will be financed hereafter from general tax revenues. The combined maximum duration for regular, extended and Federal Supplemental Benefits will be 52 weeks.	95-19 1977
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Claimants must actively seek work and accept any suitable job offer to be eligible for emergency benefits. Emergency benefits cannot be paid to claimants more than two years after the end of their last benefit year, and over-payments of emergency benefits must be repaid. The cost of emergency benefits paid after March 31, 1977 will be financed through federal general revenues, rather than through employer contributions to payroll taxes.

States may be granted a further extension to January 1980 to repay any funds borrowed from the U.S. Treasury for unemployment insurance costs without incurring a reduction in tax credits. If the state takes appropriate action to restore the financial soundness of its unemployment insurance account, then January 1, 1980 will be deemed to be the start of the first taxable year after January 1, 1974. The law also postpones until April 1980 the date when states must reduce unemployment benefits to claimants by the amount of any pension they are receiving.

January 1978	Under the federal Unemployment Compensation Amendments of 1976, the taxable wage base of the employer's payroll is raised from the first \$4,200 of each employee's wages to \$6,000, effective January 1, 1978.	94-566 1976 and 95-19 1977
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Coverage is expanded in the state, effective with new claims on or after January 1, 1978, to include the following groups: employers of 10 or more agricultural workers in each of 20 weeks in the current or preceding calendar year, or employers who paid cash wages of \$20,000 or more for agricultural labor in a calendar quarter (crew leaders are considered to be employers under certain conditions); employers who paid domestic workers cash wages totaling \$1,000 or more in any calendar quarter; states, cities and other local governmental organizations (certain specified categories of employees, such as elected or judicial officials, may be excluded);

January 1978 (continued)	nonprofit elementary and secondary schools. Benefit costs that are attributable to pre-1978 services with newly covered employers will be federally financed, but states will finance benefits based on employment in 1978 and thereafter.	94-566 1976 and 95-19 1977
	The 1976 and 1977 amendments contain disqualification provisions as follows: states must deny benefits to teachers and other professional school staff between two successive academic years or regular terms if they have a reasonable assurance of continuing their employment; states <i>may</i> deny them benefits during vacations or holiday recesses; states <i>may</i> deny benefits to nonprofessional employees of elementary and secondary schools during similar periods if they have a reasonable assurance of continuing their employment; benefits are not payable to professional athletes between successive sports seasons; benefits are not payable to aliens who are not authorized to work in the United States. States are prohibited from disqualifying a claimant solely because of pregnancy. These provisions are effective with 1978 certification of a state's law by the Secretary of Labor (or with 1979 certification if the state's legislature does not meet during 1977).	(continued)
January 1978	Under the Social Security Amendments of 1977, requirements go into effect for detailed wage reporting by employers under the Federal Insurance Contributions Act (FICA), for the purpose of detecting fraud in unemployment insurance and public assistance programs. Information must be provided on request, on an annual rather than a quarterly basis.	95-202 1978 and 95-216 1978
January 1979	The Revenue Act of 1978 amends the federal Income Tax Law to make unemployment insurance benefits subject to federal income taxes for certain individuals, but does not require tax withholding from their benefits. Benefits are taxable for heads of households with adjusted gross incomes exceeding \$25,000 and single filers with incomes above \$20,000.	95-600 1978
April 1980	The Unemployment Compensation Amendments of 1976 (as modified by P.L. 95-19 of 1978, which changed the effective date from September 1979 to April 1980) required all states to reduce an individual's weekly unemployment insurance benefit amount by the amount of any pension, retirement pay, annuity, or similar periodic payment based on the previous work history of the individual.	94-566 1976

July 1980 and January 1983	The Social Security Disability Amendments of 1980 require state employment security agencies to begin disclosure of unemployment benefit information to child support enforcement agencies in July 1980. The Food Stamp Act Amendments of 1980 require that this information be reported to the U.S. Department of Agriculture and food stamp agencies beginning in January 1983.	96-265 1980 and 96-249 1980
September 1980	Legislation limits the disqualification provisions pertaining to pension offsets against unemployment insurance benefits; tightens Unemployment Compensation for Ex-servicemembers eligibility (effective October 1980) by requiring 365 days of active service rather than the former 90-day period; and effective June 1981, prohibits agent states not in an extended benefits period from paying more than two weeks of extended benefits on any interstate claims.	96-364 1980
November 1980	Pension deduction provisions (P.L. 566 of 1976) are modified to apply pension deductions only if the pension is paid under a plan maintained (or contributed to) by a base-period employer. In determining the amount of the deduction, states could take into consideration the amount of contributions made by the individual.	96-364 1980
December 1980	The Omnibus Budget Reconciliation Act of 1980 terminates special federal funding of unemployment insurance benefits (funded since October 1976 under the Emergency Jobs Program Extension Act of 1976, P.L. 94-444, from the federal Unemployment Benefit Account) based on earnings from CETA Public Service Employment jobs. It also increases the severity of disqualification provisions for extended benefits, starting April 1981.	96-499 1980
January 1981	With the Economic Recovery Tax Act of 1981, certain fishing boat employment is excluded from coverage under FUTA, but only for calendar year 1981.	97-34 1981
August 1981	The Omnibus Budget Reconciliation Act of 1981 (OBRA) repeals use of the national extended benefits trigger so that only a state trigger is used, and extended benefit claims are excluded from calculation of the insured unemployment rate (IUR) for state trigger purposes. As of September 25, 1982, extended benefits are only payable in states with a 13-week IUR of at least 5 percent and also 120 percent of its IUR in the same period of the two previous years, or 6 percent without the 120 percent requirement; and only payable to claimants with 20 or more weeks of base-period employment.	97-35 1981
	As of October 1, 1981, OBRA also stipulates that if the benefit year of a Trade Readjustment Allowance (TRA) claimant ends in an extended benefits period, the number of weeks of federal sharing in	

August 1981 (continued)	<p>the claimant's extended benefits is reduced by the number of TRA weeks the claimant had in their benefit year. Also eliminated is federal augmentation of the regular state benefit amount to the TRA claimant, limiting the TRA to a federally funded continuation of that benefit amount for up to 26 additional weeks. OBRA also extends the Trade Adjustment Assistance Program (TAA) through September 30, 1983.</p> <p>Effective July 1981, no claim for Unemployment Compensation for Ex-servicemembers (UCX) can be established for anyone who resigns or voluntarily leaves military service. This effectively excludes ex-servicemembers who could re-enlist, but do not.</p> <p>Effective September 1982, state employment security agencies are required to deduct and withhold amounts owed by unemployment insurance claimants for child support obligations and forward them to child support enforcement agencies, along with a claimant's agreement or court order.</p> <p>Beginning with taxable year 1981, numerous provisions are added to the Federal Unemployment Tax Act dealing with repayment of loans made to a state from the federal Unemployment Trust Fund for payment of unemployment insurance benefits and specifying interest charges and tax penalties to be imposed for failure to make timely repayment.</p>	97-35 1981 (continued)
September 1982	<p>The Tax Equity and Fiscal Responsibility Act of 1982 creates the temporary Federal Supplemental Compensation Program (FSC), which is active from September 12, 1982 to April 3, 1983. This program provides up to six, eight or 10 weeks of federally financed benefits to eligible claimants whose regular benefits are exhausted during an unexpired benefit year, or who cannot, on or after June 6, 1982, establish a new benefit year. Entitlement to these benefits is linked to extended benefits triggers and availability standards. These benefit payments are not chargeable to employer accounts.</p> <p>Effective January 1, 1983, the taxable wage base under FUTA is raised from \$6,000 to \$7,000 and the gross tax rate increases from 3.4 percent to 3.5 percent (with a further increase to 6.2 percent effective January 1, 1985, when the state tax offset credit will rise to 5.4 percent). In addition, states that do not "experience rate" specific industries are required to raise their maximum tax rate for these industries to at least 5.4 percent by 1990. States are given the option of reaching the new rate in graduated steps over five years, beginning in 1985.</p>	97-248 1982

September 1982 (continued)	<p>Changes also exempt licensed real estate agents and direct sellers from FUTA coverage and extend the alien farmworker exemption until the end of 1984. Also, the threshold for subsection of unemployment insurance benefits to the federal Income Tax Law (set by P.L. 95-600 at \$20,000 in adjusted gross income) is lowered to \$12,000 for individual tax filers, or \$18,000 for joint returns.</p> <p>In addition, the Short-Time Compensation Act of 1982 calls for developing model legislation to incorporate "work sharing" into the unemployment insurance system, allowing payment of partial benefits to employees whose work hours have been reduced in lieu of their temporary layoff. Shared Work plans must be approved by the employer, any labor unions involved and the state's administering agency, and adopted by the U.S. Secretary of Labor. The Secretary is required to submit a report by October 1, 1985 recommending implementation, and encourage states to experiment with this program concept.</p> <p>Under certain conditions, states are allowed to repay loans from their state trust fund account in lieu of further reductions in the credit against the gross FUTA tax. For tax years beginning after December 31, 1982, limits are set on the fifth-year credit reduction.</p> <p>In addition, states with high unemployment are allowed to reduce interest payments on loans over a four-year period (effective December 31, 1982).</p> <p>FUTA coverage provisions for certain students are also changed, and the authority for states to use Reed Act funds for administration is extended for 10 years.</p> <p>The option for denying unemployment benefits to nonprofessional employees of institutions of higher education is also extended.</p>	97-248 1982 (continued)
November 1982	<p>Under the Miscellaneous Revenue Act of 18982, eligibility is restored for up to 13 weeks of Unemployment Compensation for Ex-servicemembers (UCX) benefits, without jeopardizing claimants for refusing to re-enlist. However, claimants cannot collect these benefits for a four-week period following their discharge.</p>	97-362 1982
January 1983	<p>The December 1982 amendments to the Federal Supplemental Compensation Program (FSC) set criteria for weeks of FSC payable with regard to a state's level of insured unemployment. Payments range from up to 16 weeks in states with an insured unemployment rate (IUR) of 6 percent or more, to up to eight weeks in states with IURs of less than 3.5 percent.</p>	98-13 1983

March 1983 Amendments provided that the FSC Program would not expire on March 31, 1983 even though the bill extending it for six months had not been signed by that date. 98-13  
1983

April 1983 The Social Security Amendments of 1983 provided for FSC payments ranging from up to eight weeks in states with an average IUR of less than 4.0 percent, to up to 14 weeks for states with an IUR of at least 6.0 percent. Additional FSC benefits, up to three-fourths of the basic entitlement for up to six, eight or 10 weeks, were provided for individuals exhausting FSC on or before April 1, 1983. Individuals who began receiving FSC before April 1, 1983 could also receive additional weeks through September 30, 1983, but the total of their entitlement after April 1, 1983 and additional weeks could not exceed the maximum number of weeks of basic FSC payable in the state. 98-21  
1983

Amendments require states to pay interest on loans from the Federal Unemployment Account when due for employers to continue receiving offset credits against their federal taxes, and for states to continue receiving grants for administration. They also require between-terms denial for certain employees of certain educational institutions; permit the payment of extended benefits to individuals who are on jury duty and/or are hospitalized, if the same conditions applied to regular UI claimants.

States are given the option of deducting an amount for voluntary health insurance.

Changes are made to FUTA coverage provisions regarding the definition of "wages" to include employer contributions made under certain deferred compensation and salary reduction arrangements, and to exclude the value of employer-provided meals and lodging if they are excluded from the employee's gross income (effective for remuneration paid after December 31, 1984).

States are given the option to make provisions for nonprofit organizations to elect to switch from paying contributions to the reimbursement method for financing benefits.

Changes are specified in the requirements for cash-flow loans, dates for interest payments, the cap on credit reductions and the interest provisions for Title XII advances.

For taxable years beginning in 1983, *all* of a state's wages subject to contribution, rather than just the federal taxable wage, are included in determining the state's average rate.

September 1983	Some states lost four or more weeks of benefits between March 27 and July 24, 1983 under the FSC Program. Benefits for these states are frozen at the July 24 level, from August 7 through the expiration date of the FSC Program.	98-82 1983
	For FSC accounts established before June 5, 1983, an individual's weeks of entitlement cannot be less than the weeks payable in the state for the week beginning March 27, reduced by four weeks. (New York State was not affected by either of these provisions.)	
October 1983	The Federal Supplemental Compensation Act of 1982 is extended until October 18, 1983.	98-82 1983
October 1983	Public Law 98-120 enacts an extension of the Trade Adjustment Assistance Program (TAA) through September 30, 1985.	98-120 1983
October 1983	FUTA is amended by the Federal Supplemental Compensation Amendments of 1983 to exclude from taxable wages any payments made by an employer to the survivors or the estate of a former employee after the calendar year in which such employee dies. The Amendments also extend for two years (to December 31, 1985) the exclusion from coverage of wages paid to certain alien farmworkers brought into the country under contracts for fixed time periods.	98-135 1983
	The Secretary of Labor must report to Congress by April 1, 1984 on the feasibility of using area triggers in UI programs and determining the structural unemployment of UI claimants. In addition, the Secretary, the Director of the Office of Personnel Management and the Attorney General are directed to enter into cooperative arrangements to assist state UI agencies in reviewing and acting appropriately on information concerning the eligibility of retired federal employees and federal prisoners for UI benefits. (A Report to Congress on appropriate arrangements is due by January 1984.)	
	The Federal Supplemental Compensation Act of 1982 is amended to extend provisions to March 31, 1985 to eliminate the phase-out of payments after the March 31, 1985 expiration date, and set basic FSC benefits (as of October 23, 1983) of from eight to 14 weeks depending on a state's IUR or long-term IUR. Additional FSC benefits are also allowed for individuals who began receiving them on or after April 1, 1983 -- up to five weeks for those who exhausted prior to October 12, 1983; up to four weeks for states with 12 or 14 weeks of basic FSC; and up to two weeks for states with eight to 10 weeks of basic FSC.	
July 1984	The Deficit Reduction Act of 1984 extends the definition of wages to include all tips (via credit cards as well as cash) reported by the	98-369 1984

July 1984 (continued)	employee to their employer. The exclusion of services performed on fishing vessels with crews of fewer than 10, and whose remuneration involves a share of the catch, is extended through December 31, 1984. State unemployment insurance agencies are required to exchange information with agencies administering other programs, for purposes of income and eligibility verification.	98-369 1984 (continued)
	All states are mandated to require employers to submit quarterly reports of their wages to a state agency.	
October 1984	States are permitted to allow businesses with quarterly total wages under \$50,000 to phase-in to a maximum tax rate of 5.4 percent between 1985 and 1989.	98-601 1984
October 1984	An amendment provides a two-year extension (for 1984 and 1985) of employer credits against FUTA and FICA taxes for employer-paid costs of educational assistance to employees.	98-611 1984
October 1984	Changes also provide a one-year extension (for 1985) of employer credits against FUTA and FICA taxes for employer-paid costs of group legal services for employees.	98-612 1984
March 1986	Weekly benefits payable under the Trade Readjustment Allowances Program (TRA) are reduced by 4.3 percent, but the maximum amount of TRA payable is not reduced. The amount of the weekly reduction may be payable for later weeks of unemployment if claimants exhaust their TRA benefits.	99-177 1985
April 1986	The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) extends the Trade Adjustment Assistance Program (TAA) through September 30, 1991, retroactive to December 19, 1985. Temporary legislation passed during the first session of the 99 <sup>th</sup> Congress (Public Laws 99-107, 99-181 and 99-189) had extended TAA from September 30, 1985 to December 19, 1985.	99-272 1986
	The exclusion becomes permanent for services performed on fishing vessels with crews of fewer than 10, whose remuneration involves a share of the catch.	
October 1986	Under the Tax Reform Act of 1986, all unemployment insurance benefits become taxable, effective January 1, 1987.	99-514 1986
	The credits against FUTA and FICA taxes for employer-paid costs of educational assistance and group legal services for employees are extended through December 31, 1987.	

October 1986	The exemption from FUTA coverage of certain nonresident farmworkers admitted into the United States to work temporarily is extended through December 31, 1992.	99-595 1986
November 1986	Changes enacted under the Immigration Reform and Control Act of 1986 include various technical provisions concerning the state agency verification of alien eligibility for unemployment benefits.	99-603 1986
December 1987	<p>The Omnibus Budget Reconciliation Act of 1987 (OBRA 87), extends the temporary increase of 0.2 percent in the FUTA tax (enacted in October 1976 and effective in January 1977) through December 31, 1990, leaving the federal tax at 0.8 percent. However, distribution of this tax changes, placing 0.52 percent into the Employment Security Administration Account (up slightly from 0.48 percent); 0.18 percent into the Extended Unemployment Compensation Account (down from 0.32 percent); and the remaining 0.1 percent into the Federal Unemployment Account. (Previously, this account had only received the overflow from the other accounts.)</p> <p>The statutory limit for the Extended Unemployment Compensation Account rises from 0.125 percent to 0.375 percent, and the limit for the Federal Unemployment Account is increased from 0.125 percent to 0.625 percent of total wages in covered employment during the preceding calendar year. Also, interest will be charged on new loans which these accounts obtain from the general fund.</p> <p>Another change authorizes up to three three-year demonstration projects, under which states would continue paying benefits to unemployed persons while they attempt to set up their own small businesses. A state's general revenues must be used to meet the administrative costs of these projects, and to make up any losses to the unemployment insurance program.</p>	100-203 1987
August 1988	The Omnibus Trade and Competitiveness Act of 1988 (OTCA) extends the Trade Adjustment Assistance Program (TAA) from September 30, 1991 through September 30, 1993.	100-418 1988
October 1988	Changes enacted under the Immigration Reform and Control Act of 1986 mandate that the unemployment insurance system will participate in the Systematic Alien Verification for Entitlement Program (SAVE), requiring verification of the immigration status of aliens applying for benefits under certain federally funded programs, including unemployment insurance.	99-603 1986

November 1988	<p>The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, one of several Disaster Relief and Emergency Assistance Amendments enacted that year, modifies the Disaster Relief Act of 1974 (P.L. 93-288). This Act grants up to 26 weeks of Disaster Unemployment Assistance (DUA) benefits to individuals who are unemployed as the result of a major disaster, and would not otherwise be entitled to unemployment benefits under any other program. DUA benefits and their administrative costs are funded through the Federal Emergency Management Administration (FEMA).</p> <p>DUA benefits are reduced by payments received as compensation or insurance for lost wages; unemployment benefits provided under collective bargaining agreements; workers' compensation death benefits; payments under public or private retirement pension or annuity plans; or wages applied to weekly earnings allowances specified under state unemployment insurance laws.</p>	100-707 1988
September 1989	<p>The Stuart B. McKinney Homeless Assistance Amendments Act of 1988 requires unemployment insurance agencies to disclose wage and claims information to the Department of Housing and Urban Development and to public housing agencies.</p>	100-628 1988
January 1990	<p>Provisions of the Family Support Act of 1988 require all state unemployment insurance agencies to cross-match their information with the Federal Parent Locator Service, Office of Child Support Enforcement and Department of Health and Human Services, to facilitate collection of child support payments.</p>	100-485 1988
November 1990	<p>Under the Omnibus Budget Reconciliation Act of 1990 (effective in January 1991) the temporary 0.2 percent federal tax (enacted in October 1976 and previously extended through December 31, 1990) is extended through December 31, 1995, leaving the federal tax at 0.8 percent. Effective in 1991, distribution of this tax is modified again, placing 0.72 percent (up from 0.52 percent) into the Employment Security Administration Account and 0.08 percent (down from 0.18 percent) into the Extended Unemployment Compensation Account. Only the overflow (as originally enacted) will go into the Federal Unemployment Account.</p> <p>The Reed Act is made permanent, and future distributions will be based on each state's share of total wages subject to the federal taxable wage base, rather than the state's wage base.</p> <p>The employer credits against FUTA and FICA taxes for employer-paid costs of educational assistance and group legal services for employees are both extended through December 1992.</p>	101-508 1990

November 1991	<p>The Emergency Unemployment Compensation Act of 1991 (EUC) establishes a temporary program through July 4, 1992 to provide six, 13 or 20 weeks of emergency benefits, depending on the level of unemployment in each state. This program provides a reach-back to March 1, 1991 for persons who had exhausted their benefit entitlement in states where 13 and 20 weeks of emergency benefits are payable; in some states with six weeks of duration, benefits are limited to claimants who exhaust benefits after November 17, 1991.</p>	102-164 1991
	<p>The EUC Act also extends the 0.2 percent FUTA surtax through December 31, 1996.</p>	
	<p>Demonstration programs are established in three states to test the feasibility of implementing job search assistance programs.</p>	
	<p>The maximum benefit duration provision for ex-military personnel is changed, from a 13-week period after a four-week waiting period, to a potential 26 weeks with the same waiting period requirement that applies to all other claimants under each state's law.</p>	
	<p>States are allowed to pay unemployment benefits to nonprofessional school employees between consecutive academic years or terms. An Advisory Council on Unemployment Compensation is created to periodically re-evaluate the Unemployment Insurance Program, including its purpose, goals, counter-cyclical effectiveness, coverage, benefit and financial adequacy, and other aspects of the Program and offer recommendations for improvements.</p>	
December 1991	<p>The EUC Program is amended by eliminating the six-week tier of emergency benefits, providing a minimum of 13 weeks of benefits in all states and a reach-back to claimants who exhausted regular benefits before March 1, 1991 in all states. In addition, the program's termination date is changed to June 13, 1992.</p>	102-182 1991
February 1992	<p>The Emergency Unemployment Compensation Amendments of 1992 provide, through June 14, 1992, an additional 13 weeks of benefits for all EUC claimants, up to a maximum of 33 weeks (20 weeks plus 13 weeks) or 26 weeks of benefits, depending on the level of unemployment in each state. They also provide, between June 15, 1992 and July 3, 1992, for 20 or 13 weeks of benefits. Funding for these additional benefits is provided from the Extended Unemployment Compensation Account, and is offset by \$2.2 billion in carryover "pay-as-you-go" financing from prior entitlement legislation and an increase in estimated corporate tax deposits.</p>	102-244 1992

July 1992

The Emergency Unemployment Compensation Amendments of 1992 extend the EUC Program through March 6, 1993, providing 26 or 20 weeks of benefits, based upon state levels of unemployment. Benefits will be phased down to 15 or 10 weeks if the national unemployment rate falls below 7.0 percent, and 13 or seven weeks if the rate falls below 6.8 percent. Benefits are to be paid from general revenues and will be offset by: (1) extending the phase-out period for personal exemptions until 1996; (2) increasing estimated corporate taxes; (3) imposing penalties dealing with the rollover of pension distributions; and (4) carrying over the "pay-as-you-go" financing enacted in prior entitlement legislation.

102-318  
1992

The Extended Benefits Program is amended effective March 7, 1993, allowing states to use an optional trigger to activate the Program when the state's seasonally adjusted Total Unemployment Rate (TUR) is at least 6.5 percent for a three-month period and that rate is at least 10 percent higher than the state's TUR for the same three-month period in the first or second preceding year. An additional seven weeks will be paid if the state's TUR is 8 percent or more and the 10 percent higher requirement is also met. The job search, suitable work and re-employment eligibility requirements are suspended until January 1, 1995, but states are allowed to use one or more of these three eligibility criteria to satisfy the "20 week equivalency" test.

States are granted permanent authorization to operate short-time compensation programs, which prorate unemployment insurance benefits to individuals working less than full-time if their employer has an approved plan providing for a reduction in work hours rather than temporary layoffs.

Provisions are added to extend, through December 31, 1995, the FUTA exemption of certain nonresident farmworkers admitted into the United States to work temporarily.

An amendment grants a one-year extension of the grace period for avoiding the imposition of "penalty" FUTA taxes on employers in states with overdue "Title XII" loans, if the state amends its UI law during 1992 or 1993 to increase estimated tax revenues by at least 25 percent during the first year after enactment.

The portion of the 0.8 percent FUTA tax that goes into the federal Employment Security Administration Account (ESAA) is reduced from 0.72 percent to 0.64 percent, and the portion that goes into the Extended Unemployment Compensation Account (EUCA) is increased from 0.08 percent to 0.16 percent. The ceiling for the Federal Unemployment Account (the Reed Act Load Fund) is reduced from 0.625 percent of total wages in covered employment to

July 1992 (continued)	0.25 percent; and the EUCA ceiling increases from 0.375 percent to 0.5 percent of total wages in covered employment. Interest-free borrowing among the federal accounts is also authorized.	102-318 1992 (continued)
March 1993	<p>The Emergency Unemployment Compensation Amendments of 1993 extend both the EUC and Railroad Unemployment Benefits Programs through October 2, 1993, with no new claims accepted after that date. No benefits will be paid for weeks of unemployment after January 15, 1994, and the cost for these extensions will be financed through general revenues.</p> <p>The Secretary of Labor is instructed to establish a program to encourage the adoption and implementation of a system of profiling new claimants for regular unemployment insurance benefits, to identify those claimants most likely to exhaust these benefits and need special re-employment assistance services for their successful transition to new employment.</p> <p>All direct spending amounts provided are determined to be for emergency purposes, and require no offsets under provisions of the Balanced Budget and Emergency Deficit Control Act of 1985.</p>	103-6 1993
August 1993	<p>Under the Omnibus Budget Reconciliation Act of 1993 (OBRA), employer-provided educational assistance is excluded from the definition of wages through December 31, 1994.</p> <p>OBRA also extends the temporary 0.2 percent FUTA surtax through December 31, 1998.</p> <p>In addition, OBRA reauthorizes the Trade Adjustment Assistance Program (TAA) through September 30, 1998.</p>	103-66 1993
November 1993	<p>The Unemployment Compensation Amendments of 1993 extended the Emergency Unemployment Compensation Program (EUC) through April 30, 1994, with no new EUC claims accepted after February 5, 1994. Benefit duration is reduced to 13 weeks in high unemployment states and to seven weeks in all others. A similar extension is provided to recipients of Railroad Unemployment Benefits. Provisions giving certain claimants the choice between filing a claim for EUC or regular state benefits are also repealed.</p> <p>Each state's unemployment administrative agency is required to establish a profiling system to identify those claimants most likely to exhaust their regular benefits, and refer them to re-employment services available under any state or federal law. Changes effective November 1994 provide that, as a condition for unemployment</p>	103-152 1993

November 1993 (continued)	<p>insurance benefits eligibility, a claimant referred for re-employment services pursuant to the profiling system must participate in these or similar services, unless the state agency determines that the claimant has completed such services or there is justifiable cause for their failure to participate.</p> <p>Financing provisions of the bill meet the requirements of the Budget Enforcement Act. The components of the financing are an increase in the sponsorship period for aliens under the Supplemental Security Income Program, from three to five years, and savings as a result of states implementing a system of worker profiling.</p>	103-152 1993 (continued)
November 1993	<p>As of January 1, 1994 the North American Free Trade Agreement Implementation Act (NAFTA) amends the Trade Act of 1974 and provides special benefits and services to certified individuals who become permanently unemployed or have their work hours and wages permanently reduced due to foreign imports from or shifts in production to Canada or Mexico.</p> <p>NAFTA allows states to establish voluntary Self-Employment Assistance Programs (SEAP) for individuals adversely affected by imports or identified (under a worker-profiling system) as likely to exhaust regular unemployment insurance benefits, who participate in self-employment assistance activities and engage full-time in activities relating to the establishment of a small business enterprise.</p> <p>These individuals are eligible to receive allowances -- in the same amount, on the same terms, and subject to the same conditions as regular unemployment insurance -- for the purpose of becoming self-employed. They would be exempt from state requirements pertaining to availability for work, active work search, refusal of acceptable work, and disqualifying income normally applicable to income earned from self-employment.</p> <p>The total number of participants in SEAP can not exceed 5 percent of the number of individuals receiving compensation under the state law, and the costs of the program will not exceed costs incurred by the state (and chargeable to the Unemployment Insurance Trust Fund) had it not participated in the program. The program will terminate on December 7, 1998.</p>	103-182 1993
August 1994	<p>Effective December 31, 1994, the Social Security Independence and Program Improvements Act of 1994 gives states the option of excluding from coverage the services performed by aliens who are admitted to the United States under a "q" visa (temporary visas issued to aliens for a period not to exceed 15 months), who are participating in an international cultural exchange program to provide practical</p>	103-296 1994

August 1994 (continued)	training, employment and sharing of the history, culture and traditions of their native country, and who will be employed under the same wages and working conditions as domestic workers.	103-296 1994 (continued)
October 1994	Under the Social Security Domestic Employment Reform Act of 1994, the U.S. Secretary of the Treasury is authorized to voluntarily enter into agreements with states to collect state unemployment contributions from employers of domestic workers by allowing individuals to report wages paid to these workers on Form 1040 of their federal income tax returns.	103-387 1994
December 1994	FUTA is amended under the Uruguay Round Agreements Act, requiring each state to establish a system for withholding federal income taxes from unemployment insurance benefits, with the amount withheld being a flat 15 percent rate. The withholding of federal taxes (and state and local taxes, at the option of the state) will be at the option of each claimant, and effective for benefits paid after December 31, 1996.	103-465 1994
August 1996	Changes enacted with the Small Business Job Protection Act of 1996 make permanent the exclusion from FUTA coverage of aliens admitted to the United States to perform work under sections 214(c) and 101(a)(15)(h) of the Immigration and Naturalization Act.	104-188 1996
August 1996	Under the Health Coverage Availability and Affordability Act of 1996, the definition of FUTA wages is amended to exclude remuneration paid to an employee for a Medical Savings Account if it is reasonable to assume that a corresponding deduction is allowed under Section 106(b) of the Internal Revenue Code.	104-191 1996
August 1996	With passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, states are required to establish and operate an automated State Directory of New Hires (SDNH) by October 1, 1997, that will contain specified information supplied by employers on each of their newly hired employee. As of May 1, 1998, state agencies will then compare the Social Security Numbers of new hires with SSNs in the Child Support Case Registry.	104-193 1996
	The Social Security Act is amended to require state and local governmental entities and labor organizations to submit quarterly wage reports to a state agency. Wage and unemployment insurance data contained in the records of the state UI agency must also be furnished to the U.S. Department of Health and Human Services for the purpose of maintaining the National Directory of New Hires.	

August 1997	<p>The Balanced Budget Act of 1997 clarifies the federal law to indicate that states are not required to adopt an alternate base period. The statutory ceiling on the Federal Unemployment Account is increased from 0.25 percent to 0.5 percent of covered wages, effective October 1, 2001. Other changes provide for special FUTA distributions for administrative funding in Fiscal Years 2000 through 2002. Interest-free advances are provided to state accounts in the Unemployment Trust Fund for states that meet funding goals established under regulations issued by the Secretary of Labor.</p> <p>Services performed by inmates of penal institutions are removed from the FUTA definition of employment. New FUTA exemptions are created for services of elected officials receiving less than \$1,000 during a calendar year, and for employees of elementary or secondary schools operated primarily for religious purposes. Additional funding is authorized to carry out program integrity activities for Fiscal Years 1998 through 2002.</p>	105-33 1997
August 1997	<p>The Taxpayer Relief Act of 1997 extends the temporary 0.2 percent FUTA surtax through December 31, 2007.</p>	105-34 1997
August 1998	<p>Passage of the Workforce Investment Act of 1998 (WIA) amends, consolidates and improves existing programs established under the Job Training Partnership Act (JTPA), the Adult Education Act, and the Wagner-Peyser Act, consolidating over 60 existing employment, training, and literacy programs through the establishment of three block grants to states and localities.</p>	105-220 1998
October 1998	<p>The Trade Adjustment Assistance Program (TAA) is allowed to expire on September 30, 1998, but the Omnibus Consolidated and Emergency Supplemental Appropriations Act for fiscal year 1999 extends it retroactively through June 30, 1999.</p>	105-277 1998
October 1998	<p>Technical amendments are made to clarify the benefit provision for noncitizens, and improve provisions for unemployment insurance, child support and supplemental security income benefits. The Personal Responsibility and Work Opportunity Act of 1996 is amended to impose new restrictions on alien eligibility. The North American Free Trade Agreement Implementation Act (NAFTA) is also amended to permanently extend authorization for the Self-Employment Assistance Program.</p>	105-306 1998
November 1999	<p>Provisions of the Consolidated Appropriations Act for fiscal year 2000 extended the Trade Adjustment Assistance Program (TAA) through September 30, 2001.</p>	106-113 1999
December 2000	<p>The Consolidated Appropriations Act of 2001 amends federal law to treat Indian tribes similarly to state and local governments.</p>	106-554 2000

December 2000 (continued)	Services performed for Indian tribes will generally no longer be subject to the FUTA tax and, with some specified exceptions, coverage will be required under state unemployment insurance laws. Indian tribes must be offered the reimbursement option and, if a tribe fails to make any required payments to the state's unemployment insurance fund or any interest or penalty due, the tribe will become liable for the FUTA tax and the state may remove tribal services from state coverage. States will also lose the federal share of extended benefits with respect to services performed for Indian tribes. States with Indian tribes will be required to amend their laws to implement these requirements, which become effective on December 21, 2000.	106-554 2000 (continued)
June 2001	The Economic Growth and Tax Relief Reconciliation Act of 2001 lowers the rate for voluntary withholding of federal income taxes on state unemployment benefits from 15 percent to 10 percent.	107-16 2001
March 2002	Title II of the Job Creation and Worker Assistance Act of 2002, formally known as the Temporary Extended Unemployment Compensation Act of 2002 (TEUC), resurrects a like-named program that had expired in 1962. Claimants in all states can receive up to 13 weeks of 100-percent federally funded TEUC benefits, and up to 13 weeks of additional TEUC-X benefits in states that are in extended benefit periods, or would be using the 4.0 percent insured unemployment rate trigger. A reach-back provision allows these extended benefits to individuals who filed claims for regular unemployment benefits during or after the week of March 15, 2001 and exhausted those benefits, but could not establish new claims for regular benefits.	107-147 2002
March 2002	The Robert T. Stafford Disaster Relief and Emergency Assistance Act is amended to allow the payment of federally funded Disaster Unemployment Assistance (DUA) benefits for up to 39 weeks to eligible individuals who became unemployed as a result of the September 11, 2001 terrorist attacks.	107-154 2002
August 2002	At the start of fiscal year 2002, Congress passes eight continuing resolutions extending authorization of the Trade Adjustment Assistance Program (TAA) from September 30, 2001 through January 10, 2002. After this expiration date, TAA reforms are debated until passage of the Trade Adjustment Assistance Reform Act of 2002 extends TAA through September 30, 2007. This Act, and earlier amendments to the Trade Act of 1974, allows claimants enrolled in TAA-approved training programs to receive 26 weeks of regular unemployment, 26 weeks of Basic Trade Readjustment Allowances (TRA) and 52 weeks of Additional TRA,	107-210 2002

August 2002 (continued)	for 104 total weeks of benefits. If training includes remedial education, 26 weeks of additional Remedial TRA payments could increase this total to 130 weeks of benefits.	107-210 2002 (continued)
August 2003	Passage of Public Law 108-1 amends the TEUC Act, and extends the deadline for filing new TEUC claims until May 31, 2003 and the benefit payment period through the week of August 30, 2003.	108-1 2003
April 2003	The Emergency Wartime Supplemental Appropriations Act of 2003 further amends the TEUC Act by extending benefits (as TEUC-X) through December 29, 2003. It also includes provisions creating the TEUC-A Program authorizing payment of benefits to workers displaced within the air transportation industry, and certain related businesses, resulting from the September 11, 2001 terrorist attacks, security measures taken in response to them, or the military conflict with Iraq.	108-11 2003
	Qualified individuals can receive up to 39 weeks of TEUC-A benefits. In states with insured unemployment rates satisfying the requirements of an extended benefits period, TEUC-A claimants could also receive up to 13 weeks of TEUC-AX, for 52 total weeks of TEUC benefits. New TEUC-A claims can be filed through December 28, 2003 and benefits could be collected through December 26, 2004.	
May 2003	The Unemployment Compensation Amendments of 2003 further amend the TEUC Act, by extending the filing deadline for new TEUC claims from May 31, 2003 to December 31, 2003 and extending the last date for receiving regular TEUC benefits from August 30, 2003 to March 31, 2004.	108-26 2003
October 2005	Beginning on or after August 28, 2005, the Hurricane Katrina Unemployment Relief Act of 2005 permits any state to use amounts received under Title III of the Social Security Act to assist in administration of claims on behalf of any other state if a major disaster was declared in such other state (or any area within such other state) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.	109-91 2005
December 2007	The Energy Independence and Security Act of 2007 extends the 0.2 percent FUTA surtax through December 31, 2008.	110-140 2007
December 2007	The Consolidated Appropriations Act extends the Trade Adjustment Assistance program under the Trade Act of 1974 through September 30, 2008.	110-161 2007

June 2008	<p>The Supplemental Appropriations Act of 2008 provides \$110 million for the administration of the unemployment insurance program by the states through September 30, 2008, with funds available until December 31, 2008. The Act makes 13 weeks of Emergency Unemployment Compensation (EUC08) available for eligible recipients under agreements made between the Secretary of Labor and the states. EUC08 is effective once agreements are made through March 31, 2009. States in an Extended Benefit (EB) period may choose to pay EUC08 prior to the payment of EB. Individuals may collect EUC08 through June 30, 2009. To be eligible, claimants must have exhausted all rights to regular compensation, have no rights to regular or extended compensation, not be receiving compensation under the unemployment insurance law of Canada and have a benefit year ending on May 1, 2007, or later. Additionally, each claimant must have a base period of at least 20 weeks of full-time, insured employment or the equivalent (1 ½ times the high quarter wages or 40 times the weekly benefit amount).</p>	110-252 2008
September 2008	<p>The SSI Extension for Elderly and Disabled Refugees Act of 2008 enables states to recover unemployment insurance debts from federal income tax refunds. Debts include monies owed to the state due to erroneous payments of unemployment insurance benefits resulting from fraudulent claims, contributions not paid due to fraud for which an employer was found responsible, and any penalties and interest determined by the state. Debts are recoverable under this Act for up to 10 years. In order for a state to obtain an offset for a debt, the address on the federal return during the year of overpayment must be within that state. Additionally, the state must notify the person of the offset by certified mail and allow 60 days for the person to present evidence that shows that that the liability is not legally enforceable or due to fraud.</p>	110-328 2008
September 2008	<p>The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 extends the Trade Adjustment Assistance program under the Trade Act of 1974 through March 6, 2009.</p>	110-329 2008
October 2008	<p>The Energy Improvement and Extension Act of 2008 extends the 0.2 percent FUTA surtax through December 31, 2009.</p>	110-343 2008
November 2008	<p>The Unemployment Compensation Extension Act of 2008 provides up to an additional 7 weeks of Emergency Unemployment Compensation (EUC08) entitlement for a total of up to 20 weeks of benefits. A second tier of EUC08, with 13 weeks of benefits, is established in states with “high unemployment.” High unemployment is defined as having a level of unemployment that</p>	110-449 2008

November 2008 (continued)	surpasses one of the thresholds to trigger the permanent Extended Benefits program: having insured unemployment at or above 4% for twelve continuous weeks or having the three month seasonally adjusted total unemployment at or above 6%. This determination is to be made retroactive to the EUC08 enactment on June 30, 2008. Eligibility for EUC08 for new entrants ends on March 31, 2009, and individuals may continue to collect benefits through November 27, 2009. Prohibition of federal cost-sharing of the first week of EB or sharable regular compensation for states that do not have a waiting period is temporarily suspended through December 8, 2009.	110-449 2008 (continued)
December 2008	The Worker, Retiree, and Employer Recovery Act of 2008 includes a technical amendment to Section 2203(a)(15) of the Internal Revenue Code of 1986. Unemployment insurance benefits shall not be reduced due to pensions, retirement pay, annuity or related payments that are not included in an individual's gross income because of a rollover distribution.	110-458 2008
February 2009	The American Recovery & Reinvestment Act of 2009 appropriates \$250 million to provide reemployment services for claimants. The Act amends the Trade Act of 1974, to cover civil servants, service industry workers and other workers meeting group eligibility criteria under the Trade Adjustment Assistance program (TAA). Funding for training is increased for 2009 and 2010, from \$220 million to \$575 million. Protections and waivers are given to increase accessibility to TAA. TAA funded training is made accessible to workers before separation from employment. Cooperating State agencies are given the authority to ensure that service members are afforded equal eligibility for program benefits had they not served. Trade-affected workers can choose to forgo unemployment insurance for Trade Readjustment Assistance (TRA) when a second unemployment insurance benefit year would provide a lower weekly benefit amount due to part-time or short term work during that year. The maximum allotment of TRA is increased to 78 weeks for workers in long-term training over a period of 91 weeks and provides an additional 26 consecutive weeks to cover prerequisite education as necessary to qualify for the TAA training. Group certification for Reemployment Trade Adjustment Assistance (RTAA) is no longer required and workers may now qualify while working part time. Workers receiving RTAA may also receive regular TAA benefits. The wage limit for reemployment and benefit cap are increased to \$55,000 and \$12,000, respectively.	111-5 2009

The Health Coverage Tax Credit (HCTC) program is expanded to apply to TAA recipients that had been previously ineligible, and to

cover a greater percentage of worker's premiums.

For 2009, the first \$2,400 in unemployment insurance benefits is excluded from federal income tax.

For states whose unemployment insurance laws include certain provisions, \$7 billion in unemployment insurance modernization incentive payments are made available through September 30, 2011. To be eligible, states must determine eligibility for unemployment insurance benefits based on a base period that includes the most recently completed calendar quarter or allow for an alternative base period that includes the most recent calendar quarter. To receive the full amount of incentive payment, the state law must also include at least two of the following four provisions:

1. Individuals must not be denied benefits for seeking only part-time work if the majority of work in their base-period qualified as part-time.
2. Individuals must not be denied benefits due to separation of employment if that separation is for a compelling family reason, including: verifiable domestic violence which would cause an individual to reasonably believe that continued employment would threaten their or their immediate family member's safety; illness or disability of an immediate family member; or because of a relocation due to a spouse's employment that would make a commute unreasonable.
3. Individuals enrolled in state-approved training programs who have exhausted regular unemployment insurance benefits are eligible for an additional 26 weeks of benefits.
4. Eligible beneficiaries are entitled to a minimum of \$15 per week as an additional allowance for dependents.

Additionally, the Act allocates \$500 million from the employment security administration account to the state accounts in the Unemployment Trust Fund, to aid states in the implementation of unemployment insurance modernization.

The Act defers payment and accrual of interest on advances of funds to states for unemployment insurance through December 31, 2010.

The ARRA also extends EUC for new entrants through December 31, 2009 and extends the ending date for current beneficiaries through May 31, 2010. Federal Additional Compensation (FAC) is allocated in the amount of \$25 for weekly beneficiaries. Funds are appropriated from the Treasury to provide for these benefits.

February 2009 (continued)	Federal funding of the EB program is provided in full for weeks beginning before January 1, 2010, through June 1, 2010. Individuals are determined eligible for EB benefits any week after they exhaust EUC08. Railroad unemployment insurance is temporarily increases to 130 days through December 31, 2009.	111-5 2009 (continued)
March 2009	The Omnibus Appropriation Act appropriates \$422 million for advances to the Unemployment Trust Fund to fund compensation and extended compensation through September 30, 2010.	111-8 2009
August 2009	Public Law 111-46 amends the Omnibus Appropriations Act, 2009 to appropriate funds as needed to the Unemployment Trust fund, without fiscal year limitation.	111-46 2009
November 2009	The Worker, Homeownership, and Business Assistance Act of 2009 makes second tier EUC08 available to all states, with an additional 1 week of benefits, totaling 14 weeks. States with an unemployment rate of 4% or above for a week and the preceding 12 weeks or with a 3 month seasonally adjusted unemployment rate of 6% or above are determined to be in an “extended benefit period” and are eligible for a third tier of EUC08 with 13 weeks of additional benefits. States with an unemployment rate of 6% or above for a week and the preceding 12 weeks or with a 3 month seasonally adjusted unemployment rate of 8.5% or above are determined to be in an “extended benefit period” and are eligible for a fourth tier of EUC08 with 6 weeks of additional benefits. These determinations are to be made as if they were included in the EUC08 enactment on June 30, 2008. States may pay EB in advance of the additional fourteenth week of second tier benefits, third and fourth tier benefits of EUC08, if an individual has already claimed at least one week of EB following the exhaustion of the first tier of EUC08. States may also pay third tier benefits in advance of the additional fourteenth week of second tier benefits, if the payment of this additional week would be unduly delayed.	111-92 2009

The unemployment insurance modernization incentive payments provision of “compelling family reason” is amended to include verifiable sexual assault, which would cause an individual to reasonably believe that continued employment would threaten their or their immediate family member’s safety.

The Act excludes Federal Additional Compensation from affecting an individual’s eligibility for Supplemental Nutritional Assistance benefits.

Railroad unemployment insurance EB is extended through

November 2009 (continued)	December 31, 2010.  The 0.2 percent FUTA surtax is extended through June 30, 2011.	111-92 2009 (continued)
December 2009	The Department of Defense Appropriations Act, 2010 extends the end date for new entrants into EUC08 and EB through February 28, 2010 and the phase out for current EUC08 and EB beneficiaries through July 31, 2010. It also extends the end date for the FAC program to February 28, 2010.	111-118 2009
March 2010	The Temporary Extension Act of 2010 extends the end date for new entrants to EUC08, FAC, and EB to April 5, 2010. Phase out for current beneficiaries of EUC08 and EB is extended through September 4, 2010. Phase out for current beneficiaries of FAC is extended through October 5, 2010.	111-144 2010
April 2010	The Continuing Extension Act of 2010 extends the end date for new entrants to EUC08, FAC, and EB to June 2, 2010. Phase out for current beneficiaries of EUC08 and EB is extended through November 6, 2010. Phase out for current beneficiaries of FAC is extended through December 7, 2010. These provisions are retroactive to the Temporary Extension Act of 2010, enacted on March 2, 2010.	111-157 2010
July 2010	<p>The Unemployment Compensation Extension Act of 2010 extends the end date for new entrants to EUC08 to November 30, 2010. Phase out for current beneficiaries of EUC08 is extended through April 30, 2011. The end date for EB is extended through December 1, 2010. Phase out for current beneficiaries is extended through May 1, 2011. In states with no waiting week, Federal funding of the first week of EB is extended through April 30, 2011. These provisions are retroactive to the Continuing Extension Act of 2010 enacted on April 15, 2010.</p> <p>The EUC08 Non-reduction Rule is established to proscribe states from changing how they compute regular compensation if the change would result in an average weekly benefit amount that is lower than it was on June 2, 2010.</p> <p>The Act provides options for a state to determine whether a claimant will receive regular unemployment insurance benefits or EUC08 when a claimant has remaining entitlement to EUC08 in an expired benefit year and a new benefit year's weekly benefit amount would be at least \$100 or 25% less. A state may establish a new benefit year for the individual and either wait until EUC08 is exhausted to pay regular compensation, or pay regular</p>	111-205 2010

July 2010 (continued)	<p>compensation but increase the weekly benefit amount to the amount paid under EUC08, with funds from the individual’s EUC08 account. A state may also “freeze” current base period wages until an individual’s EUC08 is exhausted and postpone establishing a new benefit year or continue to pay EUC08 if the individual chooses not to file a claim for regular unemployment insurance benefits in the new benefit year.</p> <p>The preceding provision takes effect after enactment; all other provisions are retroactive to the Continuing Extension Act of 2010 enacted on April 15, 2010.</p>	111-205 2010 (continued)
December 2010	<p>The Claims Resolution Act of 2010 amends the Internal Revenue Code of 1986 to modify how states can collect unemployment insurance debts under the Treasury Offset Program. States may offset overpayments of federal income tax from residents of any state. States are no longer required to notify taxpayers of the offset for unemployment insurance debts. Covered unemployment insurance debt includes past due debt due to a claimant’s failure to report earnings and employer contributions owed to the unemployment fund of a state for which the person has been found liable. Collection of debts is no longer limited to ten years. The Social Security Act is also amended to require employers to report new hires on the date an employee begins work to the National Directory of new Hires.</p>	111-291 2010
December 2010	<p>The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 extends the end date for new entrants to EUC08 to January 3, 2012. Phase out for current beneficiaries of EUC08 is extended through June 9, 2012. The end date for EB is extended through January 4, 2012. Phase out for current beneficiaries is extended through June 11, 2012. In states with no waiting week, federal funding of the first week of EB is extended through June 10, 2012. The “look-back” provision regarding EB triggering on and off is temporarily increased from two to three years. This temporary provision applies to compensation after December 17, 2010 through December 31, 2011. These provisions take effect retroactive to the Unemployment Compensation Extension Act of 2010, enacted on July 22, 2010.</p>	111-312 2010
October 2011	<p>The Trade Adjustment Assistance Extension Act of 2011 requires states to exact a penalty of at least 15% of the amount of the erroneous payment from persons committing fraud involving state or federal unemployment claims after October 21, 2013. Penalties collected are to be deposited in the state’s unemployment fund. When an erroneous unemployment insurance benefit payment is</p>	112-40 2011

October 2011 (continued)	made due to an employer's repeated failure to respond in a timely manner to a state's requests for information, no credit of charges will be made to the employer's account. The Act also requires that newly hired employees are reported to the state directories of new hires.	112-40 2011 (continued)
December 2011	The Temporary Payroll Tax Cut Continuation Act of 2011 extends the end date for new entrants to EUC08 to March 6, 2012. Phase out for current beneficiaries of EUC08 is extended through August 15, 2012. The end date for EB is extended through March 7, 2012. Phase out for current beneficiaries is extended through August 15, 2012. In states with no waiting week, federal funding of the first week of EB is extended through August 15, 2012. The look-back provision regarding EB triggering on and off is temporarily increased from two to three years. This temporary provision applies to compensation after December 17, 2010, and ending by February 29, 2012. These provisions take effect retroactive to the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, enacted on December 17, 2010.	112-78 2011
February 2012	<p>The Middle Class Tax Relief and Job Creation Act of 2012 extends the end date for EUC08 to January 2, 2013. Effective June 1, 2012, the TUR for the most recent 3 months must equal at least 6% for Tier 2, 7% for Tier 3 and 9% for Tier 4 for a state to qualify for the EUC08 program. Effective September 1, 2012, EUC08 benefits are reduced for Tier 1 to 14 weeks and for Tier 3 to 9 weeks. For states on EB, Tier 4 remains unchanged. For those states not on EB, Tier 4 total benefits are increased to 16 weeks for current beneficiaries or new entrants from March 1, 2012, through May 31, 2012. From June 1, 2012 through August 31, 2012, Tier 4 benefits are reduced to 6 weeks, and from September 1, 2012, through January 2, 2013, Tier 4 benefits are increased to 10 weeks. All EUC08 must be paid to an individual before payment of EB. If a state is on EB, when EUC08 is increased, the EUC08 must be paid out before the remainder of EB.</p> <p>EB is extended through December 31, 2012. Phase out for current beneficiaries is extended through August 15, 2012. In states with no waiting week, federal funding of the first week of EB is extended through August 15, 2012. The three year look-back for EB is extended through December 31, 2012.</p> <p>The act amends section 303 (a), Social Security Act, to add a work</p>	112-96 2012

February 2012  
(continued)

search requirement for individuals maintain their unemployment insurance eligibility, effective following the end of a state legislature's first session after enactment. States must audit a minimum number of claims for compliance with work search. States are allowed to drug test applicants and deny benefits if the applicant was discharged for unlawful drug use or if the applicant is only available for work which requires drug testing.

112-96  
2012  
(continued)

States are required to provide reemployment services and Reemployment and Eligibility Assessment (REA) Activities for individuals receiving EUC08. These services and REA activities are funded from general revenues at the determination of the Secretary of Labor. States must require claimants referred to these services to participate. States must also provide claimants with labor market and career information, skills assessments, orientation to one-stop center services and reviews of eligibility based on work search activities.

The Social Security Act is also amended to allow title III grant monies to fund state re-employment demonstration projects in up to ten states. These projects must subsidize employer-provided training, partially cover wages not exceeding the weekly benefit amount, must run for 1-3 years and must end by December 31, 2015.

FUTA and the Social Security Act are amended to require states to offset overpayments against benefit payments, including EUC08 and FAC payments, effective following the end of a state legislature's first session after enactment.

States that have enacted a law prior to March 1, 2012, which would violate the EUC08 nonreduction rule, are not subject the rule.

Section 3306 of FUTA is amended to redefine the Short-time Compensation (STC) Program. Employers may voluntarily participate in the program, in which employee hours are reduced by at least 10 percent and not more than 60 percent in lieu of layoffs. Employees receive prorated unemployment benefits. Employees may participate in training funded by employers or under the Workforce Investment Act of 1998. Employers must not reduce health and retirement benefits due to participation. Employers must submit a plan describing how the requirements will be implemented, how many layoffs would have occurred otherwise, and must adhere to employer obligations under Federal law. Following enactment, states that already have a STC program in place have 2.5 years to comply with new regulations. Funding for

February 2012  
(continued)

STC payments will come from state accounts in the Unemployment Trust Fund and are to be temporarily funded by general revenues. For states in which the law provides for payment of STC, full funding is provided for 156 weeks, ending on or before 3.5 years following enactment. Funding covers permanent employees, at up to 26 times the amount of regular compensation. In states that do not have an STC program under the law, a federal STC program may be created. Employers participating in the program must provide for one-half of the STC payment, paid by the state.

112-96  
2012  
(continued)

Administrative costs of the program and the other half of payments are federally funded for up to 104 weeks. Funding covers permanent employees, at up to 26 times the amount of regular unemployment insurance. If a state enacts a law to provide payment of STC, full funding is provided for 156 weeks, ending on or before 3.5 years following enactment. The Act also appropriates \$100 million in grants from general revenues, to be used to implement and improve administration and enroll employers in STC programs that meet FUTA and SSA requirements. An additional \$150 million from general revenues is appropriated for the Secretary of Labor to develop and provide guidance for STC programs and to report outcomes to Congress within 4 years of enactment.

The Act amends the Federal-State Extended Unemployment Compensation Act of 1970 and Supplemental Appropriations Act of 2008 to enable states to provide Self-Employment Assistance Programs (SEAP) to EUC08 and EB beneficiaries. Participation is limited to individuals will likely be compensated for at least 13 weeks of EUC08 and/or EB, but not identified through profiling as likely to exhaust. Individuals may receive up to 26 weeks of SEAP payments based on EUC08/EB eligibility, and may drop out SEAP and collect up to the remainder of their initial eligibility. EUC08/EB participation in SEAP is limited to up to 1% of total individuals receiving unemployment insurance benefits. The Act also appropriates \$35 million in grants from general revenues to be awarded by the Secretary of Labor to states implementing SEAP for 2012-2013. The Secretary of Labor is required to develop and provide guidance for SEAP and to report outcomes to Congress within 5 years of enactment.

January 2013

The American Taxpayer Relief Act of 2012 extends the end date for EUC08 to January 1, 2014 and extends 100% federal funding of sharable EB costs through December 31, 2013. Phase out for current beneficiaries are extended through June 30, 2014. States are also able to continue to utilize a three-year look-back through

112-240  
2012

January 2013 (continued)	December 31, 2013. In states that do not having a waiting week, federal funding of the first week of EB is extended through June 30, 2014. Funding for reemployment services and REA services are continued through 2014. These provisions take effect retroactive to the Unemployment Benefits Extension Act of 2012, enacted on February 22, 2012.	112-240 2012 (continued)
December 2013	The Bipartisan Budget Act of 2013 amends the Social Security Act to require states to use the Treasury Offset Program to recover overdue unemployment insurance debts.	113-67 2013

## **APPENDIX B**

### **Chronology of Significant Changes in the New York State Unemployment Insurance Law, by General Subject Category and Effective Date 1935 - 2014**

**Note: Public Law citations denote the chronological sequence number of a bill's introduction during a Congressional session and the year it became law. Items in this Appendix are listed by effective dates, which may be in a different year.**



## COVERAGE

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1935	<p>The New York State Unemployment Insurance Law is enacted on April 25, 1935 and declared constitutional by the U.S. Supreme Court in November 1936. Revenue provisions are effective January 1936; and benefits are first payable on January 1, 1938.</p> <p>Employers of four or more persons for 13 or more weeks in a calendar year are liable for contributions. The following kinds of employment are excluded or exempted from coverage: government; agriculture (as defined in the law); nonprofit religious, charitable, scientific, literary or educational organizations; and services by an individual's spouse or minor children. Also excluded from coverage are nonmanual employees paid more than \$2,500 per year or more than \$50 per week. Exempted employers may elect coverage with the consent of the Industrial Commissioner.</p>	468 1935
January 1936	The yearly wage limit for nonmanual employees is raised from \$2,500 to \$2,600.	117 1936
January 1937	Employers of four or more persons on 15 or more days in any calendar year are liable for contributions. All employees whose annual wages exceed \$3,000 are excluded from coverage.	142 1937
January 1938	Coverage is extended to all workers of covered employers, irrespective of the amount of their annual wages	10 1938
June 1939	Part-time employment of students under 21 years of age regularly attending daytime school is excluded from coverage.	662 1939
July 1939	Employment covered under the federal Railroad Unemployment Insurance Act is excluded from State unemployment insurance coverage.	662 1939
January 1940	Coverage is extended to certain federal instrumentalities, such as national banking associations.	506 1940
March 1940	Employment as a golf caddy is excluded from coverage.	217 1940
April 1940	Part-time employment of daytime students, regardless of their age, is excluded from coverage.	799 1940

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
July 1941	Coverage is extended to persons temporarily employed by nonprofit organizations for the construction, remodeling or demolition of buildings.	357 1940
October 1942	The New York State Court of Appeals rules that maritime workers are covered under the Unemployment Insurance Law.	(Not applicable)
May 1943	The U.S. Supreme Court upholds the constitutionality of covering maritime workers under state unemployment insurance systems.	(Not applicable)
October 1945	New York State participates in the Interstate Maritime Reciprocal Arrangement for the coverage of maritime workers in interstate and foreign commerce. Employer liability for contributions begins January 1, 1945.	623 1945
June 1947	Coverage is extended to employees of the State of New York in the classified service who are employed continuously for one year, with the State required to reimburse the Unemployment Insurance Fund for benefits paid to former employees.	505 1947
April 1948	Municipal corporations and other governmental subdivisions that elect coverage are required to reimburse the Unemployment Insurance Fund for benefits paid to their former employees instead of paying contributions on wages.	844 1948
July 1950	Persons employed as custodians or custodial engineers under contract to a Board of Education in cities with populations of 500,000 or more (New York City and Buffalo) are covered on a compulsory basis.	648 1951
April 1951	An exempt operator of a building may elect coverage exclusively for his building maintenance employees.	695 1951
March 1952	Coverage is extended to nonprofit organizations engaged in the production of plays and musicals.	397 1952
April 1955	Coverage is extended to employees of the New York State Division of Military and Naval Affairs.	597 1955
July 1955	Coverage is extended to nonprofit organizations engaged in the production of concerts.	129 1954
July 1955	All State employees in the classified service are covered, regardless of their length of service.	598 1955

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 1956	Coverage is extended to employers of three or more persons on any day beginning January 1, 1956. For personal or domestic service, however, only employers of four or more persons are covered.	621 1955
January 1957	Coverage is extended to employers of two or more persons on any day beginning January 1, 1957. Coverage for personal or domestic service continues as enacted in 1956.	621 1955
July 1958	Employment of a babysitter under 18 years of age is excluded from coverage.	757 1958
April 1959	Patients in State mental institutions who are employed in sheltered workshops are excluded from coverage.	Mental Hygiene Law 34-19 1959
April 1959	Services of minors employed in casual labor that does not involve the use of power-driven machinery at a residence or nonprofit organization are excluded from coverage.	642 1959
January 1960	Coverage is extended to all employers who pay wages of \$300 or more in any calendar quarter. Coverage of personal or domestic service continues only for employers of four or more workers.	419 1959
January 1962	Coverage is extended to additional federal agencies, such as federal credit unions, Federal Reserve banks and federal land banks.	212 1962
January 1963	Municipal corporations and other governmental entities that elect coverage may pay contributions or reimburse the Unemployment Insurance Fund for benefits paid to their former employees.	901 1962
July 1963	Exempt employers who elect coverage are allowed to exclude certain categories of employees – namely, executive, administrative and professional personnel, teachers, volunteers, students and their spouses, recipients of charitable aid and ministers or members of religious orders.	991 1962
July 1963	Employment of children under age 14 is excluded from coverage.	799 1963
July 1963 Indefinite date. Law enacted July 1965, became effective January 1971 (See below.)	Employees of nonprofit organizations with payrolls of \$1,000 or more in a calendar quarter are to be covered on a compulsory basis. This act is to be inoperative until the federal government approves the provisions permitting these organizations to reimburse the Unemployment Insurance Fund for benefits paid to their former employees rather than pay contributions on their payrolls.	740 1965

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
July 1965	Coverage is extended to full-time, year-round employees of the State Legislature who work in Albany.	863 1965
January 1966	Personal or domestic workers in a private home are covered if the employer pays an aggregate of \$500 in cash to such workers in the calendar quarter.	103 1965
January 1967	Compulsory coverage is extended to workers engaged in processing agricultural products for an employer who is not an operator of a farm. Previously, coverage of agricultural processing workers was limited to those engaged in commercial canning or freezing, or handling products after their delivery to a terminal.	196 1966
May 1969	Voluntary coverage is extended to agricultural labor, provided the employer elects such coverage. Short-time employees and foreign workers may be excluded.	554 1969
July 1969	Daytime students who attend colleges or technical schools above the high-school level are no longer excluded from coverage.	1091 1969
January 1971	Mandatory coverage of nonprofit organizations becomes effective after the approval of New York's 1965 statute (see above) by the U.S. Secretary of Labor in September 1970. The extensions of coverage applies to nonprofit organizations with payrolls of \$1,000 or more in a calendar quarter, if they are operated exclusively for religious, charitable, scientific, literary or educational purposes. Ministers or other persons employed in religious functions, doctors, teachers and certain other specified categories of personnel are excluded from coverage. Nonprofit organizations are given the option of paying unemployment insurance contributions on their payrolls or of reimbursing the Fund for benefits paid to former employees.	740 1965
January 1971	Nonprofit organizations covered before 1969 that elect the benefit reimbursement option for 1971 will have their positive account balance credited against their benefit charges in 1971 before being assessed for reimbursement. Municipal corporations and other government subdivisions may elect coverage limited to the schools and hospitals which they operate.	1027 1971
June 1971	Cities with a population of 400,000 or more are required to cover school custodial employees.	509 1971

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 1972	<p>Provisions on the extension of coverage to nonprofit organizations and other activities are brought into conformity with corresponding provisions of the federal Employment Security Amendments of 1970 that are effective in 1972. In addition to nonprofit employers with quarterly payrolls of \$1,000 or more, mandatory coverage is extended to nonprofit employers of four or more in 20 weeks, and to some previously excluded occupations – doctors, professional scientific workers and college teachers, administrators and research staff. Coverage is also extended to the unclassified service – including teachers – in State hospitals and State educational institutions. Teachers and other professional staff in nonprofit primary or secondary schools may be voluntarily covered by their employer. Teachers and other professional educational personnel who are covered are not entitled to benefits between two successive academic years or regular terms if they have a contract for both years or terms.</p> <p>Employment of students by their schools and that of their spouses under a program of financial assistance is excluded from coverage.</p>	1027 1971
January 1972	Coverage is also extended to services by the following groups: outside salesmen and drivers who are paid on a commission basis; some additional categories of agricultural processing workers; employment in the United States, the U.S. Virgin Islands or Canada that is directed from New York State, if it is not covered under any other unemployment insurance law; and United States citizens who are working for American firms outside the U.S., but whose principal place of business is in New York State.	607 1971
May 1972	Compensation paid to principal stockholders by corporations that are not subject to the federal unemployment tax is no longer excluded from taxable remuneration.	212 1972
September 1972	Employment of students less than 22 years of age in full-time work-study programs at colleges or universities is excluded from covered employment.	967 1972
September 1974	Under the exclusions from coverage, the definition of service by minors is modified to specify persons under 21 years of age engaged in casual labor or working for a parent, and to omit any reference to age in the case of minors working as babysitters.	939 1974

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 1975 (Temporary federal program)	Local government employees are covered under a temporary federal program, called Special Unemployment Assistance ( <i>see Appendix A, Federal Legislations – PL 567 of 1974, effective January 1975</i> ). Also covered by this program are several other groups of workers not covered under the regular State unemployment insurance system who meet the State’s earnings and eligibility requirements.	(Not applicable)
January 1978	To conform to federal legislation, compulsory coverage is expanded to include persons working for businesses employing 10 or more agricultural workers in each of 20 weeks in a calendar year, and employees of municipal and other local governmental organizations. Teachers and other professional workers in elementary and high schools are brought under compulsory coverage (see also the following section on “Disqualifications”). Most teachers working for religious-affiliated schools are excluded, as they are considered to be performing religious services. Also covered are some regularly excluded groups of workers if they are employed in nonprofit or governmental organizations, e.g., high school students working after school or during school vacations.  Persons employed in religious functions and persons performing and receiving services at rehabilitation facilities or sheltered workshops, and college students employed by their schools and college students in full-time work-study programs continue to be excluded from coverage. Work of prison inmates is added to the exclusions from coverage.	675 1977
July 1978	Services of free-lance shorthand reporters are exempted from coverage under the Unemployment Insurance Law.	600 1978
July 1986	Voluntary coverage is provided for persons employed at places of religious worship as caretakers, or who perform duties of a religious nature, or both.	330 1986
July 1986	Coverage is extended to nonprofit organizations or government entities for all services performed by individuals enrolled in Job Training Partnership Act Title II, Part B Summer Youth Employment Programs.	445 1986

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
October 1986	Coverage is extended to musicians and other persons engaged in the performing arts, unless it is stipulated by a written contract that they are to be employees of another covered employer. Services of real estate brokers and sales associates are excluded, under certain circumstances.	903 1986
July 1991	Excluded from coverage are any services rendered to a nonprofit organization by a person participating in a youth service program, if that person receives a stipend and is eligible for an award or scholarship upon leaving the program.	413 1991
August 1992	Coverage is extended to professional models when they consent in writing to the transfer of exclusive legal rights to their name or image to another person or entity, which dictates assignments and hours of work and provides compensation in return for the waiver of such rights.	668 1992
November 1994	Coverage is excluded for services by certain full-time students of any age (previously only for those under the age of 22) who are enrolled in nonprofit or public educational institutions in certain work-study programs.	375 1994
August 1996	Exclusion of coverage is extended to services of less than 13 weeks duration in a calendar year performed by a full-time student in the employ of an organized camp, providing such camp did not operate for more than seven months in both the current and preceding year, and the camp's gross receipts for any six months in the previous year were not more than one third of its average gross receipts in the other six months.	464 1996
October 1997	To comply with the Federal Personal Responsibility and Work Opportunity Reconciliation Act, coverage is extended to include any "labor organization" entity (also known as a "hiring hall") used by the organization and an employer to implement an agreement specified in the Act. Such organizations are required to submit information to the statewide wage reporting system.	398 1997
November 2002	Excludes licensed insurance agents and brokers from coverage under unemployment insurance and workers' compensation provisions under certain circumstances by classifying insurance agents and brokers as independent contractors for purposes of employment insurance and workers' compensation.	574 2002

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
December 2002	Services rendered by fellows, residents and intern physicians are included within the definition of employment for purposes of unemployment insurance.	576 2002
December 2002	To comply with the Federal Consolidated Appropriations Act of 2001, coverage is extended to Indian tribes similar to that for State and local governments. Briefly, services performed in the employ of Indian Unemployment Tax Act tax and, with some specified exceptions, will be required to be covered under State unemployment insurance laws. Further, tribes must be offered the reimbursement option and, if a tribe does not make all required payments to the State's Unemployment Insurance Fund or payments of interest or penalties, then the tribe will become liable for the Federal unemployment Tax and the State may remove tribal services from State coverage. The State will also lose the Federal share of extended benefits with respect to services performed for Indian tribes.	102 2002
December 2002	All Professional Employer Organizations (PEOs), commonly known as employee leasing companies, are required to register with the New York State Department of Labor and must also meet minimum registration standards.	565 2002
December 2004	Clarifies the term educational institution to include the State University of New York, the City University of New York and any public community colleges for the purpose of benefits based on professional employment.	734 2004
March 2013	When an employer contests a determination of liability for contributions, the statute of limitations -- for both the determination of the liability for and the amount of contributions for the contested period and subsequent periods -- is extended while the determination of a liability is pending.	57 2013
March 2013	Clarifies that non-citizens who are currently eligible for benefits shall continue to be eligible for benefits as set forth in the federal law.	57 2013

## **BENEFIT RATES**

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1935	Benefits payable for a full week of unemployment are set at a minimum amount of \$5 and a maximum of \$15. This rate is set at 50% of full-time weekly wages – wages that would be earned in the worker’s usual employment at current rates for the full number of hours in a customary work week. Benefits are first payable in January 1938. No provision is made for benefits for part-week unemployment.	468 1935
January 1937	The minimum benefit amount for full-week unemployment is raised from \$5 to \$7; the maximum remains at \$15. The benefit rate is set at 50% of full-time weekly wages, defined as one of the following: (1) the weekly equivalent of a wage rate that is fixed for a day, week, or longer period; or, in the absence of a fixed rate (2) the highest weekly wages in a base-year calendar quarter, when that is the only quarter of employment; or (3) the average of the highest weekly wages in two calendar quarters of base-year employment.	142 1937
April 1938	Earnings under \$2 in a week are to be disregarded in determining unemployment.	265 1938
July 1939	The rate for computing benefits is based on the highest quarterly earnings in the base period. Earnings under \$3 in a week are to be disregarded in determining unemployment.	662 1939
June 1942	The maximum benefit amount for full-week unemployment is raised from \$15 to \$18; the minimum remains at \$7.	640 1942
November 1942	Benefits for part-week unemployment begin, and are payable for each accumulation of four “effective days”. The amount of “allowable earnings” that a claimant can be paid in a week and still be eligible for part-week unemployment benefits is set at \$24.	640 1942
June 1943	The minimum weekly benefit amount is raised from \$7 to \$10; the maximum remains at \$18.	672 1943
June 1945	The maximum weekly benefit amount is increased from \$18 to \$21; the minimum remains at \$10.	646 1945
June 1948	The maximum weekly benefit amount is raised from \$21 to \$26.	363 1948

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
July 1951	Part-week unemployment benefits are payable at a fraction of the weekly benefit rate, depending upon the number of effective days accumulated within the week. The limit for allowable earnings is increased from \$24 to \$30.	645 1951
January 1952	The maximum weekly benefit amount is increased from \$26 to \$30; the minimum remains at \$10. Benefit rates are computed based on average weekly wages, defined as base-period earnings divided by the number of weeks of base-period employment. Weeks in which earnings are less than \$15 are excluded from the rate computation, unless they are needed to satisfy entitlement requirements.	645 1951
July 1955	The maximum weekly benefit amount and the allowable earnings limit are both raised from \$30 to \$36; the minimum weekly benefit amount remains at \$10.	622 1955
July 1957	The maximum weekly benefit amount is raised from \$36 to \$45. Benefit rates of \$36 or more are set at approximately 50% of average weekly wages, up to the specified earnings limit.	387 1958
April 1958	The allowable earnings limit is raised from \$36 to \$45.	387 1958
July 1960	The maximum weekly benefit amount and the allowable earnings limit are both increased from \$45 to \$50.	783 1960
July 1963	Unemployment benefits paid to claimants receiving company retirement pensions are made subject reduction if the benefits are charged to an employer who financed at least one half of all pension costs. The weekly benefit amount is reduced by one half or the entire weekly pension amount, depending on whether the employer financed between 50% and 99%, or all pension costs.	793 1963
July 1965	The maximum weekly benefit amount and the allowable earnings limit are both increased from \$50 to \$55.	390 1965
September 1968	The maximum weekly benefit amount and the allowable earnings limit are both increased from \$55 to \$65. The minimum weekly benefit is raised from \$10 to \$20 (the first increase since 1943), based on average weekly wages of \$30. Benefits based on average weekly wages between \$30 and \$61 are increased slightly, as a result of the increase in the minimum benefit amount and the minimum weekly earnings requirement.	832 1968

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
September 1970	The maximum weekly benefit amount and the allowable earnings limit are both raised from \$65 to \$75.	281 1970
July 1974	The maximum weekly benefit amount and the allowable earnings limit for part-week benefits are both increased from \$75 to \$95. Benefit rates of \$36 or higher continue to be based on one half of the average weekly wage, up to the specified earnings limit.	583 1974
September 1977	The maximum weekly benefit amount is raised from \$95 to \$115. The allowable earnings limit is set at the “highest benefit rate applicable to any claimant” in the week. The minimum weekly benefit is raised from \$20 to \$25, based on an average weekly wage of \$40. In September 1978, the maximum weekly benefit amount is increased from \$115 to \$125.	675 1977
April 1980	A claimant’s monthly benefit amount is reduced by the amount of any pension they receive (private, governmental, military, railroad, Social Security, IRAs or Keogh Plans), even if the pension is not from any of their base-period employers and even if they paid all pension costs.	362 1980
November 1980	Changes curtail the reduction of unemployment insurance benefits to pensioned claimants, to be in conformity with amended federal requirements. Pension deductions are modified to include only those pensions received from base-period employers, with these deductions based upon the employer’s contributions to the pension plan relative to total contributions to the plan.	362 1980 and 895 1980
September 1982	Deductions are required to be made from unemployment insurance benefits for child support obligations and forwarded to appropriate State and local child support enforcement agencies, with a court order or claimant’s agreement (conforming to federal regulations).	204 1982
September 1983	The maximum weekly benefit amount is raised from \$125 to \$170. The minimum weekly benefit is raised from \$25 to \$35, based on an average weekly wage of \$67.	415 1983
July 1984	The maximum weekly benefit amount is increased from \$170 to \$180. The minimum weekly benefit is raised from \$35 to \$40, based on an average weekly wage of \$80.	415 1983

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1989	The maximum weekly benefit amount is increased from \$180 to \$245; will rise to \$260 in April 1990; to \$280 in April 1991; and to \$300 in February 1992. The minimum benefit remains at \$40.	38 1989
September 1996	Unemployment insurance benefits for individuals who are receiving Workers' Compensation are limited to the difference between the amount of their Workers' Compensation benefits and 100% of their average weekly wage.	635 1996
April 1997	Claimants are provided the option to have Federal income taxes withheld from their weekly benefit amount.	29 1997
August 1997	Deductions from unemployment insurance benefits are allowed for uncollected overissuances of Food Stamps at the greater of \$10 or 10% of the weekly benefit amount, unless a larger amount is requested in writing by the claimant. These amounts are to be forwarded to the appropriate Food Stamp administrative agency.	436 1997
September 1998	The maximum weekly benefit amount is raised from \$300 to \$365, and the weekly minimum is increased from \$40 to \$64.	589 1998
September 2000	The maximum weekly benefit amount is increased from \$365 to \$405, representing one half the average weekly wage, as calculated between July 1, 2000 and August 1, 2000. The minimum remains unchanged at \$64.	589 1998
July 2008	Claimants are provided the option to have state income taxes withheld from their weekly benefit amount.	369 2008
January 2014	<p>The benefit rate calculation is changed for some claimants. If a claimant has earnings in all four base period (or alternate base period) quarters, there is no change from the previous method. The rate calculation is as follows:</p> <ul style="list-style-type: none"> <li>• If the high quarter wages are &gt; \$3,575, the benefit rate is 1/26 of high the quarter (minimum \$143).</li> <li>• If the high quarter wages are &lt;= \$3,575, the benefit rate is 1/25 of the high quarter.</li> </ul> <p>If, however, the claimant has earnings in only 2 or 3 base period (or alternate base period) quarters, the calculation is as follows:</p> <ul style="list-style-type: none"> <li>• If the high quarter wages are &gt; \$4,000, the benefit rate is 1/26 of the average of the two high quarters.</li> </ul>	57 2013

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 2014 (continued)	<ul style="list-style-type: none"> <li>• If the high quarter wages are &gt; \$3,575 and &lt;= \$4,000, the benefit rate is 1/26 of the high quarter (minimum \$143).</li> <li>• If the high quarter wages are &lt;= \$3,575, the benefit rate is 1/25 of high quarter.</li> </ul>	57 2013 (continued)
January 2014	<p>The maximum benefit rate increases annually on the first Monday of October, as follows:</p> <p>2014: \$420  2015: \$425  2016: \$430  2017: \$435  2018: \$450  2019: 36% of the average weekly wage  2020: 38% of the average weekly wage  2021: 40% of the average weekly wage  2022: 42% of the average weekly wage  2023: 44% of the average weekly wage  2024: 46% of the average weekly wage  2025: 48% of the average weekly wage  2026 and each year thereafter: 50% of the average weekly wage, but in no event will the maximum benefit amount be reduced from the previous year.</p>	57 2013
January 2014	<p>A new trigger is added to suspend benefit rate increases when the Department of Labor determines that New York State has had a decrease in private sector jobs in each month of the first two calendar quarters of the year. Increases may resume in the following year to the amount scheduled for the prior year so long as the Department of Labor determines that New York State has not had a decrease in private sector jobs in each month of the first two calendar quarters in the year. This trigger is effective from January 1, 2014 to December 31, 2016.</p>	57 2013
January 2017	<p>A new trigger is added to suspend benefit rate increases when the Department of Labor determines that the balance of the Unemployment Insurance Trust Fund is less than the amount of funds projected to be needed to pay for the benefit rate increase. Increases may resume in the following year to the amount scheduled for the previous year so long as the Department of Labor determines that the fund revenues are sufficient. This trigger is effective from January 1, 2017, to December 31, 2018.</p>	57 2013

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 2019	<p>A new trigger is added to suspend benefit rate increases when the Department of Labor determines that the Unemployment Insurance Trust Fund balance has not reached or exceeded the solvency threshold on at least one day between April 1 and June 30 of that year. The solvency threshold is thirty percent of the average high cost multiple. The average high cost multiple is determined by dividing the reserve ratio (the balance of Unemployment Insurance Trust Fund expressed as a percentage of total wages paid in covered employment) by the average high cost rate (ratio of benefits paid to total wages paid in covered employment in three high cost years). In other words, an average high cost multiple of 1.0 is the amount of funds required to cover 1 year at the historic high level of benefit payments. If, following such suspension of an increase, it is determined that the balance is greater than 30% of the average high cost multiple on at least one day between April 1 and June 30 of that year, this suspension will be lifted and maximum benefit rate increases will resume.</p>	57 2013

## WAITING PERIOD

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1935	A waiting period is established during which benefits are not paid – three weeks during the first spell of unemployment and a maximum of five weeks during the benefit year – to give the administering agency sufficient time to process claims and avoid paying benefits for short periods of unemployment.	468 1935
April 1938	The waiting period is changed to three consecutive weeks during the first spell of unemployment. The five-week maximum waiting period during a benefit year is retained. Part of the waiting period may be served during the preceding benefit year.	10 1938
July 1939	Three weeks, consecutive or not, during the benefit year are set as the waiting period, part of which may be served during the preceding benefit year.	662 1939
June 1942	The waiting period is reduced to two weeks, part of which may be served during the preceding benefit year.	640 1942
November 1942	Eight effective days are set as the waiting period, all of which may be served during the preceding benefit year.	640 1942
June 1945	The waiting period is reduced to four effective days, all of which may be served during the preceding benefit year.	646 1945
July 1951	Four effective days remain as the waiting period, but the preceding benefit year must have expired.	645 1951
April 1956	In cases of unemployment due to major disasters, no waiting period will be required.	554 1956
September 1983	The waiting period waiver is deleted for unemployment due to major disasters.	415 1983

## **DURATION OF BENEFITS**

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1935	The benefit duration varies, up to a maximum of 16 weeks – with one week for each 15 days worked during the 12 months preceding the benefit year.	468 1935
January 1937	Benefits are not to exceed one sixth of base period earnings, and vary from a minimum of three weeks to a maximum of 16 weeks.	142 1937
July 1939	A uniform 13 weeks of benefits are allowed. For April-May 1942, an additional three weeks of benefits are allowed for the transition to the new benefit year.	662 1939
June 1942	The benefit duration is increased to a uniform 20 weeks.	640 1942
November 1942	The benefit duration is a uniform 20 weeks, or equivalent to 80 effective days.	640 1942
June 1945	The benefit duration period is increased from 20 to 26 weeks, and the equivalent effective days are increased from 80 to 104.	646 1945
June 1958 (Temporary federal program)	New York State signs an agreement with the U.S. Secretary of Labor to pay up to 13 additional weeks of benefits to persons who exhausted benefits between July 1, 1957 and April 1, 1958, under the federal Temporary Unemployment Compensation Act of 1958 (TUC). This program will expire on April 10, 1959.	(Not applicable)
April 1959	Up to 13 weeks of additional benefits are payable to claimants who received one or more federal TUC payments. Only those claimants whose benefit year has not expired are eligible. This temporary State measure, enacted as a tapering-off device for TUC benefits, will expire in July 1959.	229 1959
February 1961	Up to 13 weeks of additional benefits are payable to claimants who have exhausted their benefits, as long as the total number of unemployment insurance exhaustions during 13 consecutive weeks is more than 1% of insured employment. This State program, legislated to expire in April 1962, was superseded in April 1961 by the federal TEUC Act (see the following item).	38 1961

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1961	New York State agrees to pay up to 13 weeks of additional benefits to claimants who exhaust benefits between July 1, 1960 and April 1, 1962 under the federal Temporary Extended Unemployment Compensation Act of 1961 (TEUC). TEUC expires July 1, 1962.	194 1961
January 1971	New York State agrees to provide extended benefits during periods of economic recession, in accordance with the federal Employment Security Amendments of 1970. Up to 13 additional weeks of benefits are to be paid to exhaustees whenever the State unemployment rate for workers insured under unemployment insurance averages 4% or more for 13 consecutive weeks, and is at least 120% of the average of that rate for the same periods in each of the two preceding years. An extended benefits period, which starts three weeks after the specified rates are reached, lasts for a minimum of 13 weeks. Benefit costs are to be shared equally by the State and federal governments.	2 1971
January 1972	The Extended Benefits Program applies to all states and becomes operative or “triggers on” when the seasonally adjusted unemployment rate of insured workers is 4.5% or more <i>nationally</i> for three consecutive months.	2 1971
January 1972 (Temporary federal program)	New York State agrees to act as agent state for the federal government to pay up to 13 additional weeks of emergency benefits under the federal Emergency Unemployment Compensation Act of 1971 to those persons who have exhausted extended benefits or who cannot qualify for a new benefit year after their old benefit year has expired. This program will remain in effect in New York from January 30, 1972 through July 23, 1972.	2 1971
June 1973	The Governor is allowed to issue an Executive Order suspending the 120% trigger requirement for extended benefits, if it does not conflict with the federal law (see January 1971 entry above).	492 1973
April 1981 and June 1981	Extended benefits provisions in the Unemployment Insurance law are amended to conform with 1980 federal amendments, adding more explicit eligibility conditions regarding acceptance of “suitable work” offers (effective April 6, 1981) and limiting extended benefits payments on interstate claims (effective June 1, 1981).	1034 1981 and 1035 1981

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
September 1982	The State trigger for extended benefits changes from a 4% to a 5% Insured Unemployment Rate (IUR), and 120% of the average of that rate for the same 13-week period in each of the two preceding calendar years. The Governor is allowed to suspend the 120% requirement, if needed, <i>if the IUR is greater than or equal to 6%</i> . Extended benefits payments are reduced by a claimant's entitlement for Trade Readjustment Act allowances.	554 1982
July 1983	The national extended benefits trigger is deleted retroactively, to August 1981.	554 1982
October 1987	A three-year demonstration program is created which allows claimants enrolled in approved training courses or programs to receive up to 13 additional weeks of unemployment benefits beyond the 26-week maximum for regular benefits (and, if in effect, any extended benefits), and complete their training.	457 1987
June 1990	Legislation makes permanent the demonstration program noted above, allowing claimants in approved training to receive additional benefits to allow completion of their training.	233 1990
July 1991	The maximum number of additional weeks of benefits allowed for enrolled claimants to complete their approved training (as discussed in the October 1987 and June 1990 entries above) is increased from 13 weeks to 26 weeks, beyond the 26-week maximum of regular benefits and any extended benefits in effect.	593 1991
July 1991	The maximum duration for participation in a Shared Work Program is increased from 20 weeks to 21 weeks.	248 1991
May 1992	The maximum number of partial benefit weeks a person can receive while participating in the Shared Work Program is increased from 20 to 52. As of January 1995, the maximum reverts to 20 weeks.	81 1992
May 2009	A claimant's eligibility period for EB shall include any alternative eligibility period. EB eligibility conditions now include that benefits shall be payable to claimants with remuneration of one and one half times the high calendar quarter earnings. EB amounts shall be paid to a claimant for periods of high unemployment for no more than 80 effective days with respect to the applicable benefit year, with a total maximum amount payable equal to 80% of the maximum amount of regular benefits.	35 2009

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
<b>Temporary Federal Programs, 1975 to Date</b>		(This information does not apply for federal programs included within this section)
January 1975	<p>New York State agrees to act as agent for the federal government in the following activities:</p> <ol style="list-style-type: none"> <li>1. To pay up to 13 weeks of emergency unemployment benefits, under the Emergency Unemployment Compensation Act of 1974, to persons who have exhausted extended benefits.</li> <li>2. To pay up to 26 weeks of benefits, called Special Unemployment Assistance (SUA), under the federal Emergency Jobs and Unemployment Assistance Act of 1974, to certain categories of workers whose employment is not covered by state law.</li> </ol>	
April 1975	The duration of emergency benefits is increased to 26 weeks under federal legislation.	
July 1975	Federal legislation increases the duration of SUA benefits to 39 weeks. (This program ends on December 31, 1977 for new claimants and on June 25, 1978 for all claimants, based on 1976 federal legislation.)	
May 1977	The duration of emergency benefits is reduced to 13 weeks after April 1977 in accordance with federal legislation. This program ends on October 30, 1977 for new claimants and on January 29, 1978 for all claimants in New York State.	
August 1981 and September 1982	<p>Under the Federal Supplemental Compensation Program (FSC), established through April 1983 and 100% federally financed, New York agrees to pay supplemental benefits to the following groups:</p> <ol style="list-style-type: none"> <li>1. Claimants with unexpired benefit years who have exhausted regular benefits.</li> <li>2. Claimants with benefit years that expired on or after June 6, 1982 and who have no further rights to benefits.</li> </ol> <p>FSC Benefits of six, eight, or 10 weeks were payable, depending on the State's Insured Unemployment Rate (IUR) and whether it was in an extended benefits program.</p>	

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 1983	The minimum number of FSC benefit weeks payable is increased from six to eight for states with IURs of less than 3.5%, and the maximum is raised from 10 to 16 weeks for states with rates of 6% or more.	
March 1983	Legislation stops the FSC Program's March 31, 1983 expiration.	
April 1983	The Federal Supplemental Compensation Program is extended until October 1983, with the number of weeks payable based on Insured Unemployment Rates (IURs) as noted below: <ol style="list-style-type: none"> <li data-bbox="418 678 967 709">1. Fourteen weeks for rates of 6% or more.</li> <li data-bbox="418 716 1045 747">2. Twelve weeks for rates between 5% and 5.9%.</li> <li data-bbox="418 753 1003 785">3. Ten weeks for rates between 4% and 4.9%.</li> <li data-bbox="418 791 899 823">4. Eight weeks for rates less than 4%.</li> </ol> <p data-bbox="370 865 1252 928">Additional weeks are also payable, based on the IUR, to individuals exhausting FSC prior to April 1983:</p> <ol style="list-style-type: none"> <li data-bbox="418 970 911 1001">1. Ten weeks for IURs of 6% or more.</li> <li data-bbox="418 1008 1019 1039">2. Eight weeks for rates between 4% and 5.9%.</li> <li data-bbox="418 1045 906 1077">3. Six weeks for rates of less than 4%.</li> </ol> <p data-bbox="370 1119 1252 1182">When the Insured Unemployment Rate changes, the maximum weeks payable also changes, effective the third week after the rate changes.</p>	
October 1983	Federal supplemental benefits are extended through March 1985. A new trigger for a high "long-term average" Insured Unemployment Rate is added, to pay 12 or 14 weeks of benefits regardless of the current rate. The potential duration cannot change for an individual, and only once every three months in a state. <p data-bbox="370 1444 1252 1623">Individuals who became eligible for FSC after April 1, 1983 and exhausted their benefits prior to October 23, 1983 are eligible for five additional weeks of FSC. Those eligible on April 1, 1983 who did not exhaust are eligible for four or two additional weeks, depending on the State's Insured Unemployment Rate.</p>	
November 1991	The Emergency Unemployment Compensation Program (EUC) is established through July 4, 1992 and is 100% federally financed. This program provides for six, 13 or 20 weeks of emergency benefits, depending on a state's level of unemployment.	

<b><u>Effective Date</u></b>	<b><u>Description of Legislated Changes</u></b>	
December 1991	The EUC Program is amended to provide a minimum of 13 weeks of benefits and changes its termination date to June 13, 1992.	
February 1992	The EUC Program is amended further, by providing an additional 13 weeks of benefits for all claimants, raising the maximum to 33 weeks of emergency benefits (the original 20 weeks, plus the additional 13), depending on the State's level of unemployment.	
July 1992	The EUC Program is amended further, by reducing the maximum from 33 weeks to 26 weeks of emergency benefits, depending on the state's unemployment level. These benefits will be phased down to a maximum of 15 weeks if the national unemployment rate falls below 7.0% and to 13 weeks if it falls below 6.8%. The Program is extended through March 6, 1993.	
March 1993	The EUC Program is extended through October 2, 1993.	
November 1993	The EUC Program is extended again, with benefits finally ending on April 30, 1994.	
March 2002	Temporary Extended Unemployment Compensation 2002 (TEUC) resurrects a like-named program that had expired in 1962. Claimants in all states can receive up to 13 weeks of 100% federally funded TEUC benefits and up to 13 weeks of additional TEUC-X benefits in states that are in extended benefit periods, or would be using the 4.0 percent insured unemployment rate trigger. A reach-back provision allows these extended benefits to individuals who filed claims for regular unemployment benefits during or after the week of March 15, 2001, and exhausted those benefits but could not establish new claims for regular benefits.	
March 2002	Legislation is enacted for the payment of federally funded Disaster Unemployment Assistance (DUA) benefits for up to 39 weeks to eligible individuals who became unemployed as a result of the September 11, 2001 terrorist attacks.	
August 2003	The deadline for filing new TEUC claims is extended until May 31, 2003, and the benefit payment period through the week of August 30, 2003.	

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 2003	<p>TEUC-X is extended through December 29, 2003. The TEUC-A Program is enacted, authorizing payment of benefits to workers displaced within the air transportation industry and certain related businesses due to the September 11, 2001 terrorist attacks, security measures taken in response to them or the military conflict with Iraq.</p> <p>Qualified individuals can receive up to 39 weeks of TEUC-A benefits. In states with insured unemployment rates satisfying the requirements of an extended benefits period, TEUC-A claimants could also receive up to 13 weeks of TEUC-AX, for 52 total weeks of TEUC benefits. New TEUC-A claims can be filed through December 28, 2003, and benefits could be collected through December 26, 2004.</p>	
May 2003	<p>The filing deadline for new TEUC claims is extended from May 31, 2003, to December 31, 2003, and the last date for receiving regular TEUC benefits is extended from August 30, 2003, to March 31, 2004.</p>	
June 2008	<p>Emergency Unemployment Compensation (EUC08) is established for eligible recipients under agreements made between the Secretary of Labor and the states. EUC08 is effective, once agreements are made, through March 31, 2009. States in an extended benefit period may choose to pay EUC08 prior to the payment of EB. Individuals may collect EUC08 through June 30, 2009. To be eligible, claimants must have exhausted all rights to regular unemployment insurance benefits, have no rights to regular or extended benefits, not be receiving benefits under the unemployment insurance law of Canada and have a benefit year ending on or after May 1, 2007. Additionally, each claimant must have a base period of at least 20 weeks of full time insured employment or the equivalent (1 ½ times the high quarter wages or 40 times the weekly benefit amount).</p>	

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
November 2009	<p>Second tier EUC08 gains an additional week of benefits, bringing the total to for Tier 2 to 14 weeks. States with an unemployment rate of 4% or above for a week and the preceding 12 weeks or with a 3 month seasonally adjusted unemployment rate of 6% or above are determined to be in an extended benefit period and are eligible for a third tier of EUC08 with 13 weeks of additional benefits. States with an unemployment rate of 6% or above for a week and the preceding 12 weeks or with a 3 month seasonally adjusted unemployment rate of 8.5% or above are determined to be in an extended benefit period and are eligible for a fourth tier of EUC08 with 6 weeks of additional benefits. These determinations are to be made as if they were included in the EUC08 enactment on June 30, 2008. States may pay EB in advance of the additional fourteenth week of second tier benefits and third and fourth tier of EUC08 benefits, if an individual has already claimed at least one week of EB following the exhaustion of the first tier of EUC08. States may also pay third tier benefits in advance of the additional fourteenth week of second tier benefits, if the payment of this additional week would be unduly delayed.</p>	
December 2009	<p>The end date for new entrants into EUC08 and EB is extended through February 28, 2010, and the phase out for current EUC08 and EB beneficiaries is extended through July 31, 2010. The end date for the FAC program is extended until February 28, 2010.</p>	
March 2010	<p>The end date for new entrants to EUC08, FAC and EB is extended to April 5, 2010. Phase out for current beneficiaries of EUC08 and EB is extended through September 4, 2010. Phase out for current beneficiaries of FAC is extended through October 5, 2010.</p>	
April 2010	<p>The end date for new entrants to EUC08, FAC and EB is extended to June 2, 2010. Phase out for current beneficiaries of EUC08 and EB is extended through November 6, 2010. Phase out for current beneficiaries of FAC is extended through December 7, 2010.</p>	

**Effective Date**

**Description of Legislated Changes**

July 2010

The end date for new entrants to EUC08 is extended to November 30, 2010. Phase out for current beneficiaries of EUC08 is extended through April 30, 2011. The end date for EB is extended through December 1, 2010. Phase out for current beneficiaries is extended through May 1, 2011.

The EUC08 Non-reduction Rule is established to proscribe states from taking action that would result in an average weekly benefit amount that is lower than it was on June 2, 2010.

States are given options to determine whether a claimant will receive regular unemployment insurance benefits or EUC08 when a claimant has remaining entitlement to EUC08 in an expired benefit year and a new benefit year's weekly benefit amount would be at least \$100 or 25% less. A state may establish a new benefit year for the individual and either wait until EUC08 is exhausted to pay regular unemployment insurance benefits, or pay regular benefits but increase the weekly benefit amount to the amount paid under EUC08 with funds from the individual's EUC08 account. A state may also "freeze" current base period wages until an individual's EUC08 benefits are exhausted and postpone the establishment of a new benefit year, or continue to pay EUC08 if the individual chooses not to file a claim for regular unemployment insurance in the new benefit year.

December 2010

The end date for new entrants to EUC08 is extended to January 3, 2012. Phase out for current beneficiaries of EUC08 is extended through June 9, 2012. The end date for EB is extended through January 4, 2012. Phase out for current beneficiaries is extended through June 11, 2012.

The "look-back" provision pertaining to the EB trigger is temporarily increased from two to three years. This temporary provision ends on December 31, 2011.

**Effective Date**

**Description of Legislated Changes**

December 2011 The end date for new entrants to EUC08 is extended to March 6, 2012. Phase out for current beneficiaries of EUC08 is extended through August 15, 2012. The end date for EB is extended through March 7, 2012. Phase out for current beneficiaries of EB is extended through August 15, 2012.

The look-back provision pertaining to the EB trigger is extended to February 29, 2012.

February 2012 The end date for EUC08 is extended to January 2, 2013. Effective June 1, 2012, the TUR for the most recent 3 months must equal at least 6% for Tier 2, 7% for Tier 3 and 9% for Tier 4 for a state to qualify for the EUC08 program. Effective September 1, 2012, EUC08 benefits are reduced for Tier 1 to 14 weeks and for Tier 3 to 9 weeks. For states on EB, Tier 4 remains unchanged. For those states not on EB, Tier 4 total benefits are increased to 16 weeks for current beneficiaries or new entrants from March 1, 2012, through May 31, 2012. Individuals are limited to a maximum of 73 weeks of combined EUC08 and EB. From June 1, 2012, through August 31, 2012, Tier 4 benefits are reduced to 6 weeks, and from September 1, 2012, through January 2, 2013, Tier 4 benefits are increased to 10 weeks. All EUC08 must be paid to an individual before payment of EB. If a state is on EB when EUC08 is increased, then EUC08 must be paid out before the remainder of EB is paid.

EB is extended through December 31, 2012. Phase out for current beneficiaries is extended through August 15, 2012.

The three year look-back for EB is extended through December 31, 2012.

January 2013 EUC08 is extended until January 1, 2014 and 100% federal funding of EB is extended through December 31, 2013. Phase out for current beneficiaries is extended through June 30, 2014.

States are also able to continue to utilize a three-year look-back through December 31, 2013.

## ENTITLEMENT PROVISIONS

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1935	To be eligible for benefits, a claimant must have at least 90 days of employment covered by unemployment insurance in the 12 months preceding the benefit year, or 130 days of covered employment in the 24 months preceding the benefit year.	468 1935
January 1937	A claimant must have earnings in their base period of 18 times their benefit rate, with minimum annual earnings of \$126.	142 1937
July 1939	The earnings requirement in the base period is increases from 18 to 25 times the benefit rate, with minimum earnings raised from \$126 to \$175 in the base period, and \$43 in the highest quarter.	662 1939
June 1943	The minimum earnings requirements are raised from \$175 to \$250 in the base period and from \$43 to \$100 in the highest quarter, as the result of an increase in the minimum benefit payment.	672 1943
June 1945	The base-period earnings requirement is raised from 25 to 30 times the benefit rate and minimum base-period earnings are increased from \$250 to \$300, but highest-quarter earnings remain at \$100.	646 1945
July 1951	Base-period employment of 20 weeks is required to qualify for benefits, with average weekly earnings of \$15 and minimum base-period earnings of \$300. An original claim must be “valid”, that is the claimant must meet all the eligibility requirements for benefits.	645 1951
July 1958	An alternative to the requirement for 20 weeks of base-period employment is provided: 15 to 19 weeks of employment in the base period, with average weekly earnings of \$15, and 40 weeks of employment with average weekly earnings of \$15 in the two years (104 weeks) before filing an original claim.	387 1958
August 1968	The minimum average weekly earnings requirement is raised from \$15 to \$30; the required minimum number of weeks worked is unchanged for both the regular and alternate base periods.	832 1968
September 1977	The average weekly earnings minimum is raised from \$30 to \$40.	675 1977

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 1978	Legislation broadens the use of previously non-covered employment in determining base-period wages. The State may qualify for the maximum federal reimbursement of benefits to newly covered workers during transition from SUA coverage to State coverage.	254 1978
September 1983	For the period from September 5, 1983 through July 8, 1984, the minimum average weekly wage is raised from \$40 to \$67 for benefit entitlement. On July 9, 1984, it increases from \$67 to \$80.	415 1983
April 1991	The minimum weekly earnings requirement is set at 21 times the hourly minimum wage in effect on April 16, 1990, or \$80, whichever is greater. Effective in February 1992 the minimum weekly earnings requirement will be 21 times the hourly minimum wage in effect on February 4, 1991, or \$80, whichever is greater. (Since 21 times the \$3.80-per-hour minimum wage in effect on February 4, 1991 was \$79.80, the minimum weekly earnings requirement to qualify for unemployment benefits remained at \$80.)	38 1989
April 1999	To be eligible for benefits, a claimant must have worked in two calendar quarters of their base period. Minimum earnings in their high calendar quarter must be \$1,600, with base-year earnings of at least one and one half times their high calendar quarter. Earnings from employers with which the claimant lost their employment under disqualifying conditions are excluded.	589 1998
	Any remuneration used to establish a valid original claim prior to April 1, 1999 may be used to establish a subsequent original claim.	
	If a claimant's base period includes a completed calendar quarter for which a wage data report has not yet been received, appropriate data supplied by the claimant will be used in the calculation of their benefit rate. If the employer provides new or corrected information in response to the initial notice of monetary entitlement, then adjustments to the claimant's benefit rate and the employer's experience rating account will be prospective, unless: (1) the new or corrected information results in a higher benefit rate, or (2) the new or corrected information results in the claimant's failure to establish a valid original claim, or (3) the amount of the previously established benefit rate was based upon the claimant's willful false statement or misrepresentation. In such cases, adjustments to the claimant's benefit rate and adjustments to the employer's account will be retroactive to the beginning of the benefit claim.	

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1999 (continued)	Legislation disallows the filing of a valid original claim until the claimant has had earnings equal to at least five times their weekly benefit amount subsequent to the prior valid original claim.	589 1998 (continued)
January 2014	Minimum qualifying high quarter earnings increase to 221 times the minimum wage (rounded down to the nearest \$100). Based on the extant scheduled increases in the minimum wage, the high quarter earnings requirement will be \$1,700 in 2014 and \$1,900 in 2015.	57 2013

## **BASE PERIOD**

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1935	The base period, the period during which eligibility requirements must have been met, is set at: (a) the 12 months preceding the benefit year, or (b) the 24 months preceding the benefit year.	468 1935
January 1937	The base period is redefined as the first four of the last five completed calendar quarters preceding the benefit year.	142 1937
April 1938	The base period is changed to the calendar year preceding the benefit year. If the claimant is not entitled to benefits on this basis, the first four of the last five completed calendar quarters are used.	265 1938
July 1939	The base period is limited to the calendar year preceding the benefit year.	662 1939
July 1951	The base period is defined as the 52 weeks preceding the week of filing a valid original claim.	645 1951
July 1984	The base period is extended for claimants with insufficient weeks of employment, but who received Workers' Compensation payments or any benefits paid pursuant to the Volunteer Firefighters' Benefit Law during their base period. This extension equals the number of weeks during which the claimant received such payments, up to a maximum of six months.	381 1984
April 1999	The base period is set as the first four of the last five completed calendar quarters preceding the filing of an original claim. However, a claimant may elect to use the last four completed calendar quarters as an alternative.	589 1998
April 1999	Legislation modifies the extended base period for claimants who received Workers' Compensation payments or benefits paid pursuant to the Volunteer Firefighters' Benefit Law during their base period. This extension equals the number of quarters during which a claimant received such payments, up to a maximum of two quarters.	589 1998

## **BENEFIT YEAR**

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1935	The benefit year is defined as the 52-week period following the filing of the initial claim.	468 1935
April 1938	A uniform year, beginning on April 1, becomes the benefit year for all claimants.	265 1938
July 1942	June 1 is set as the new beginning date of the uniform benefit year for all claimants.	2 1942
July 1951	The benefit year is redefined as the 52-week period starting on the Monday after the week in which the valid original claim is filed.	645 1951

# ELIGIBILITY AND INELIGIBILITY PROVISIONS

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
<b>Unavailability and Incapability</b>		
April 1935	Benefits are denied to claimants who are unwilling or incapable of working in their usual occupation, or any other for which they are fitted by training and experience, until they convincingly evidences their availability and capability.	468 1935
April 1960	A section is added to the law which deems that a claimant is not ineligible for benefits if they are attending an approved vocational training course. Approval is based on the following factors: (a) there is a lack of reasonable employment opportunities for the claimant with their existing skills; (b) the training is related to areas of expected employment opportunities; (c) the training is being offered by a competent and reliable agency; (d) the claimant has the qualifications and aptitudes to successfully complete their training.	783 1960
March 1962	The Industrial Commissioner is required to consider existing and prospective labor market conditions in terms of supply and demand when approving training courses. A claimant's opportunities for employment should be impaired because of: (1) labor market conditions; (2) technological changes; plant closings, etc.; (3) limited employment opportunities throughout the year due to their industry's seasonal nature. Training should be in occupational areas with reasonable employment opportunities within the State.	218 1962
April 1964	Claimants are allowed to attend "basic educational skills classes as a prerequisite for vocational training" without penalty.	410 1964
March 1966	Legislation eliminates the requirement that basic educational skills classes be a "prerequisite for vocational training" and includes factors limiting employment opportunities, such as physical or mental handicaps.	410 1966
July 1981	Jury duty is eliminated as a reason to disqualify recipients from receiving unemployment insurance benefits.	446 1981
September 1982	Claimants are not disqualified or ineligible for benefits if they are enrolled in training approved under the Federal Trade Act of 1974.	554 1982

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
October 1987	Claimants can be approved for training programs if the training would upgrade their existing skills or train them for an occupation likely to lead to more regular long-term employment. Previously, the law only allowed training to be approved in instances where employment opportunities for the claimant were or might be substantially impaired.	457 1987
October 1994	Claimants will be eligible to receive unemployment benefits only if they participate in re-employment services, if they are determined as likely to exhaust their regular benefits under an established profiling system. The unavailability and incapability provisions are suspended for these potential exhaustees.	596 1994
January 1995	Persons participating in the Self-Employment Assistance Program (SEAP) are not required to be available for work.	596 1994
April 2013	Participants in the Self-Employment Assistance Program do not have to comply with the new work search requirement to be eligible for benefits.	57 2013

### **Job Refusal**

April 1935	Benefits are denied to any claimant who refuses an offer of employment, except under those circumstances stipulated in federal and State legislation. This disqualification can be lifted only by the claimant's re-employment.  "Good cause" is added as an acceptable reason for a job refusal. Withdrawal from the labor market is cause for denial of benefits.	468 1935
June 1958	A definite period of disqualification is legislated – six week from the date of a job refusal – and references to refusals for "good cause" and "bona fide" return to the labor market are eliminated.	387 1958
May 1960	To regain eligibility for benefits, a claimant must be employed for at least three days in each of four weeks or earn at least \$200 after the disqualifying act.	783 1960

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
July 1983	The definition of “good cause” for job refusals that are based on unfavorable wages, compensation, hours or conditions is expanded so that the duration of offered employment is not taken into account in determining whether wages, compensation, hours or conditions offered are substantially less favorable than those prevailing for similar work in the locality.	554 1983
September 1983	The disqualification from benefits is to continue until the claimant is re-employed for at least three days in each of five weeks and earns at least five times their weekly benefit rate.	415 1983
January 1995	The disqualification for refusing to accept employment is not applicable to persons who are participating in the Self-Employment Assistance Program.	596 1994
April 1999	A disqualification from benefits will continue until the claimant has subsequent earnings equal to at least five times the claimant’s benefit rate. (Previously, the provision had also specified a minimum of three days of work in each of five weeks.)  After 13 weeks of benefits, a claimant who is not subject to a definite recall date or employment through a union hiring hall is required to accept any employment offered which they are capable of performing, providing such employment pays quarterly wages that are equal to at least 80% of the high calendar quarter wages received in their base period and meets the prevailing wage for similar work in the locality.  The definition of “good cause” for job refusal is modified to include any employment that would interfere with a claimant’s right to join or retain membership in any labor organization or interfere with or violate the terms of a collective bargaining agreement.	589 1998
May 2009	Individuals are considered eligible for unemployment insurance benefits if they have worked on a part-time basis for the majority of time during their base period, are available to work a corresponding number of hours in new employment, and may not be disqualified from receiving benefits due to their refusal to accept full-time employment.	35 2009
January 2014	Re-qualification requirements are increased for claimants to receive benefits after refusal of employment. Unemployment shall be deemed to occur after a claimant has subsequently worked in employment and earned remuneration equal to at least 10 times their weekly benefit rate.	57 2013

Chapter

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>and Year</u>
<b>Industrial Controversy</b>		
April 1935	When unemployment is the result of an industrial dispute, benefits are withheld for an extended waiting period of 10 weeks, to be concurrent with the normal three-week waiting period.	468 1935
September 1941	Benefits are suspended for seven weeks from the day of the loss of employment that is due to a dispute or until the end of the dispute, if earlier. The normal waiting period must also be served.	783 1941
June 1958	The suspension period for withholding benefits continues to be seven weeks plus the normal waiting period of four effective days, from the day of the loss of employment that is due to a dispute or until the end of a dispute, if earlier. However, the suspension of benefits is to apply even if a claimant has had other employment before filing for benefits.	787 1958
September 1983	Included as a basis for the suspension of benefit rights are “concerted activity not authorized or sanctioned by the recognized or certified bargaining agent conducted in violation of any existing collective bargaining agreement”.	415 1983
August 2007	The standard waiting period for unemployment insurance benefits is removed for workers affected by an industrial controversy who are displaced due to the hiring of temporary or permanent replacement workers.	512 2007
September 2008	The standard waiting period for unemployment insurance benefits is restored for workers affected by an industrial controversy who are displaced due to the hiring of temporary replacement workers.  The waiting period for benefits is still waived if the employer hires a permanent replacement. A replacement worker shall be presumed to be permanent unless the employer specifies otherwise. If the employer so specifies and later reneges, the employee is entitled to lost benefits and the employer is penalized.  The waiting period no longer applies in the case of a lockout.	609 2008
July 2010	The seven week waiting period for unemployment insurance benefits is removed for claimants who lost their job due to a strike or industrial controversy, where the claimants are “innocent bystanders,” meaning they are not working for an employer or bargaining unit involved in the controversy and are not otherwise participating in the controversy.	177 2010

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
<b>Voluntary Quit</b>		
April 1941	Benefits are suspended for six weeks from the day of filing a claim after a job separation that is without “good cause”.	695 1941
	A voluntary job separation in order to withdraw from the labor market results in a disqualification that will continue until the certification of a bona fide return to the labor market.	
June 1958	A suspension of benefits continues for six weeks from the day of a job separation without “good cause”.	387 1958
May 1960	A disqualification from benefits will continue until the claimant is re-employed on three days in each of four weeks or has subsequent earnings of \$200 after the job separation without “good cause”. A voluntary quit because of marriage or to follow a spouse to another locality automatically disqualifies a claimant.	783 1960
June 1981	A claimant who elects to waive seniority rights in a temporary layoff will not be disqualified as a quit without “good cause” if: (a) such temporary layoff was due to lack of work, (b) the employer consents to such waiver, and (c) it is authorized under a collective bargaining agreement or written employer plan.	234 1981
September 1983	A disqualification from benefits will continue until the claimant is re-employed on three days in each of five weeks and has subsequent earnings equal to at least five times their weekly benefit rate.	415 1983
July 1987	The automatic disqualification is removed for voluntarily leaving employment without “good cause” to follow a spouse to another locality. However, a claimant is still subject to a disqualification after a voluntary separation from employment if the voluntary separation is due to the claimant getting married.	418 1987
July 1991	The General Account, rather than the base-period employer’s account, will be charged for benefits paid to inmates of correctional institutions enrolled in work release employment programs that end when they relocate from the area after their release from prison.	241 1991
April 1999	Subsequent to a voluntary separation without “good cause” from any base-period employer, a claimant’s disqualification from benefits will continue until they have earnings equal to at least five times their benefit rate. (Previously, the disqualification for voluntary separation	589 1998

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1999	was restricted to the last base-period employer.)	589 1998 (Continued)
July 1999	A voluntary separation may be deemed for “good cause” if it occurred as a consequence of circumstances directly resulting from the claimant being a victim of domestic violence.	268 1999
May 2009	Individuals who are voluntarily separated from employment due to compelling family reasons are considered eligible for unemployment insurance benefits.	35 2009
January 2014	Any base period employer may protest charges that are based on voluntary separations and misconduct within the time frame specified in the Department of Labor’s notice to the employer of such charges. These employers must request a hearing for such protest.	57 2013
January 2014	Re-qualification requirements are increased for claimants to receive benefits after a voluntary separation without good cause. Unemployment shall be deemed to occur after a claimant has subsequently worked in employment and earned remuneration equal to at least ten times their weekly benefit rate.	57 2013
<b>Misconduct</b>		
April 1935	When unemployment results from a claimant’s misconduct, benefits are suspended for an extended waiting period of 10 weeks, to be concurrent with the normal three-week waiting period.	468 1935
September 1941	Benefits are denied for seven weeks from day of job separation. The normal waiting period must also be served.	783 1941
June 1958	The disqualification period is reduced to six weeks from the day of job refusal, plus the regular waiting period of four effective days.	387 1958
May 1960	To regain benefit eligibility after an act of misconduct, a claimant must be re-employed on three days in each of four weeks or have earned \$200. In cases of criminal misconduct – where a claimant is convicted of or admits in writing to a job-connected felony that brought about their discharge – benefits are denied for 12 months.	783 1960

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
September 1983	A disqualification from benefits continues until the claimant has been re-employed on three days in each of five weeks and earned remuneration equal to at least five times their weekly benefit rate.	415 1983
July 1991	Benefits will no longer be withheld pending the outcome of criminal proceedings following an indictment brought against a claimant.	248 1991
July 1991	The General Account, rather than the base-period employer's account will be charged for benefits paid to a person after the expiration of a disqualification from benefits for misconduct against an employer.	241 1991
April 1999	Subsequent to the discharge from employment for misconduct from any base-period employer, a disqualification from benefits is to continue until the claimant has earnings equal to at least five times their benefit rate. (Previously, the disqualification for misconduct was restricted only to the last employer.)  In cases of criminal misconduct, the wages paid to the claimant by the affected employer prior to the claimant's loss of employment due to their criminal act are not utilized in the establishment of a subsequent valid original claim.	589 1998
January 2014	Re-qualification requirements are increased for claimants to receive benefits after a separation due to misconduct. Unemployment shall be deemed to occur after a claimant has subsequently worked in employment and earned remuneration equal to at least ten times their weekly benefit rate.	57 2013
January 2014	A determination of misconduct allows for the cancellation of wages for <u>all</u> base period employers.	57 2013

### **Willful Misstatement**

April 1935	A claimant who deliberately makes a false statement to obtain unemployment insurance benefits is guilty of a misdemeanor, but no specific penalty or disqualification is stated within the law.	68 1935
January 1937	Benefits are denied for an extended waiting period of 10 weeks, to be concurrent with the normal three-week waiting period.	142 1937
April 1940	A penalty is specified for the misdemeanor of willful misstatement: a fine up to \$500, or imprisonment for one year, or both.	404 1940

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
September 1941	Benefits are forfeited for a period of from five to 13 weeks following discovery of the willful misstatement and total potential benefits are reduced accordingly. The claimant is also subject to the misdemeanor penalty.	783 1941
November 1942	The benefit forfeiture period is changed from five to 20 weeks, and the claimant is still subject to the misdemeanor penalty.	640 1942
April 1968	The benefit forfeiture period is changed from one to 20 weeks; and the misdemeanor penalty may also be imposed.	139 1968
	When a willful misstatement occurs in connection with any other circumstance that is subject to a disqualification, the disqualification for the other circumstance is also imposed.	

## DISQUALIFYING INCOME

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
July 1958	Workers receiving vacation pay during a plant shutdown are not eligible for benefits if they were fully employed during the weeks before and after the vacation shutdown.	387 1958
April 1963	Benefits are not payable to a claimant for any day during a paid vacation period or a paid holiday.	794 1963
June 1963	Weekly benefits are reduced for claimants receiving company retirement pensions if their employer financed 50% or more of the pension plan and would be charged for the benefits paid.	793 1963
January 1972	A provision denying benefits based on State employment to retirees is repealed. Retired State employees are subject to a pension deduction on the same basis as other retirees.	1027 1971
January 1995	Income earned from participation in the Self-Employment Program does not disqualify a person from receiving unemployment benefits.	596 1994
January 2004	Clarification to when unemployment benefits may be reduced if a claimant is receiving "pension or retirement benefits." Previously, "pension or retirement benefits" excluded payments for Social Security or for disability. The clarification is that a rollover distribution from a claimant's pension is also excluded. This correction makes New York's rules consistent with the federal government's guidelines.	176 2004
November 2004	The term "employment" shall not include recreational bowling, such as bowling in a league where an individual may occasionally win prize money. Any money won while participating in recreational bowling is not to be considered income for unemployment purposes.	716 2004
August 2005	In reference to pension rollovers, disability pensions are now considered deductible pursuant to FUTA.	391 2005
January 2014	No benefits shall be payable to a claimant for any week during a dismissal period for which a claimant receives dismissal pay/severance pay in weekly payments that are greater than the maximum benefit rate, unless the initial payment of dismissal pay is more than thirty days from the last day of the claimant's employment.	57 2013

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 2014	<p>A claimant's benefit rate is reduced while the claimant is receiving a pension payment from a base period employer. If the employer contributed to the pension at all, the claimant's rate is reduced by the pro-rated weekly amount of the pension.</p> <p>If the claimant was the sole contributor to the pension, no reduction applies.</p>	57 2013
<b>Educational Personnel and Professional Athletes</b>		
January 1972	Teachers, research workers or administrators who are employed in educational institutions are not eligible for unemployment benefits between successive academic years or two regular terms if they have a contract of employment for both periods.	1927 1971
January 1978	The above provision is amended to include "reasonable assurance" of continued employment as grounds for denying benefits to professional school personnel. Nonprofessional staff of elementary and high schools are denied benefits between successive academic years or terms, or during vacations or holiday periods, if they have contracts to continue employment. Professional athletes reasonably assured of continued employment are denied benefits between successive sports seasons. Illegal aliens are also denied benefits.	675 1977
July 1983	Legislation requires the existence of a written contract assuring the continued employment of nonprofessional employees of educational institutions to deny them benefits between terms, and extends between terms the denial provisions to nonprofessional employees of institutions of higher education. Retroactive benefits are allowed if an employee has no job for the second term.	554 1983
April 1984	Legislation extends to educational services agencies the provisions relating to benefits of claimants in professional and nonprofessional employment with education institutions. Benefits are denied between terms and during vacation periods and holiday recesses to both categories, if they have a reasonable assurance of continued employment.	121 1984
August 1993	Not-for-profit community art schools that are chartered as schools by the State Board of Regents are granted an extension of the same provisions relating to benefits of claimants in professional and nonprofessional employment with educational institutions.	628 1993

## **OVERPAYMENTS AND RECOVERY**

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
September 1941	Claimants are required to repay any monies received because of false statements or misrepresentations when filing their claims.	783 1941
September 1942	Overpayments resulting from a redetermination or decision by a referee, the appeal board, or the courts (because of new or corrected wage information) are considered to be nonrecoverable, provided the benefits were accepted by the claimant in good faith, the claimant did not make any false statements or representations and did not willfully conceal any pertinent facts in connection with their claim for benefits.	551 1942
September 1960	Any benefits paid prior to a criminal act disqualification can “not be considered to have been accepted by the claimant in good faith” and are always recoverable.	783 1960
September 1961	Overpayments resulting from retroactive payment of remuneration are recoverable.	42 1961
September 1972	Overpayments resulting from the reversal of a referee’s decision that had allowed benefits are always recoverable.	843 1972
September 1976	The September 1972 amendment (stated above), allowing the recovery of overpayments by the reversal of referee decisions, is repealed.	962 1976
September 1983	The Commissioner of Labor is granted the right to recoupment of all erroneously paid benefits (i.e., those resulting from a new determination or a decision which decreases or denies benefits that were previously allowed).	415 1983
May 1998	Legislation provides that, unless a new determination or decision is based on a retroactive payment of remuneration, benefits already received by the claimant under a previous decision or determination will not be affected, provided they were accepted by the claimant in good faith and the claimant did not make any false statements or misrepresentations and did not conceal any pertinent facts in connection with their claim for benefits.	61 1998
October 2013	In the case of a false statement or representation, the claimant not only refunds all monies but must now pay a fraud penalty equal to 15% of the total overpaid benefits or \$100, whichever is greater. The penalties, which apply to all overpayments established after October 1, 2013, are to be deposited in the Unemployment Insurance Trust Fund general account.	57 2013

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
October 2013	Extends the date on which a penalty for willful filing of a false claim or misrepresentation can be assessed until two years from the date of a final determination that the fraudulent activity has occurred. This two year period is extended while a claimant has an appeal pending.	57 2013
October 2013	<p>The Department of Labor can collect willfully fraudulent benefit overpayments by commencing a civil action or judgment filed with the county clerk of the claimant's county of residence when:</p> <p>(1) the claimant has responded to requests for information prior to the determination;</p> <p>(2) The Department of Labor has made efforts to collect on final determinations;</p> <p>(3) The Department of Labor has sent notice to the claimant.</p> <p>This is a federal requirement and is applied to all overpayments after October 1, 2013.</p>	57 2013
October 2013	Legislation requires the Department of Labor to offset New York State unemployment insurance benefit payments for overpayments established under any other state or federal unemployment program, and prohibits §594 penalties or interest from being offset from future unemployment insurance benefits.	57 2013
October 2013	<p>An employer will not be relieved of charges when it or its agents fail to timely or adequately submit requested information for determination of a claim. There are exceptions if the failure was a result of a Department of Labor error or a natural disaster declared by the U.S. president or New York State Governor.</p> <p>The Department of Labor can relieve charges if the employer shows good cause on the first time it fails to provide timely and adequate information.</p>	57 2013

# STATE FINANCING

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1935	The New York State Unemployment Insurance Law is enacted, providing for a statewide-pooled fund for contributions collected from employers of four or more workers in those types of employment that are specifically covered. Revenue provisions become effective in January 1936.	468 1935
January 1936	A uniform rate of 1% is levied on total wages paid to employees covered under the law.	468 1935
January 1937	The rate is raised to a uniform 2% on total wages paid to covered employees.	468 1935
January 1938	The uniform rate is raised to 3%, but is assessable only on the first \$3,000 of wages paid to each worker covered under the law.	468 1935
January 1940	The uniform rate is reduced to 2.7% of payrolls subject to contribution, the maximum State unemployment insurance payment which could be credited against the 3% federal tax.	369 1940
July 1945	A limited experience rating system is instituted in the form of the Tax Credit Plan. Under this plan, the State Unemployment Insurance Trust Fund's legal reserve is set at 10.8% of annual payrolls subject to contribution. The surplus is distributed to employers in the form of credits against future liabilities. The total credits allowed in any one year cannot exceed 60% of the annual contributions due at 2.7%. Each individual employer's experience with unemployment is measured by the following three factors: (1) the annual factor, related to the percentage decrease in the employer's annual payroll subject to contribution; (2) the quarterly factor, related to the percentage decrease in an employer's quarterly total payroll; and (3) the age factor, a point score based on the number of years an employer has been in the unemployment insurance system. Based on the total score for all three factors, an employer is assigned to one of six experience classes for determining the amount of the credit to which it is entitled.	646 1945
April 1947	Under the Tax Credit Plan, the Unemployment Insurance Trust Fund's legal reserve is reduced from 10.8% to 9.45% of annual payrolls subject to contribution. A benefit-wage factor (wages earned by claimants from base-year employers in relations to employer payrolls subject to contribution) is substituted for the annual payroll factor.	809 1947

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
June 1947	Coverage is extended to employees of the State of New York, and the State is required to reimburse the Fund for benefits paid to its former employees.	507 1947
March 1948	The legal reserve in the Unemployment Insurance Trust Fund is reduced to \$900 million, or 9.45% of payrolls subject to contribution, whichever is less.	363 1948
April 1948	Municipal corporations and other governmental subdivisions that elect voluntary coverage are required to reimburse the Fund for benefits paid to their former employees rather than pay an assigned rate on their payrolls.	844 1948
April 1951	The Unemployment Insurance Law is amended to eliminate the Tax Credit Plan and the concept of a legal reserve. A new experience rating system is established, effective with rates for 1952. Under this new system, contribution rates of less than 2.7% are assigned to employers based on the condition of the State Unemployment Insurance Fund and the unemployment experience of each individual employer. The condition of the State Fund is measured by the Size-of-Fund Index, the ratio of the reserve in the Fund as of July 1 to statewide annual payrolls subject to contribution. Eight rate schedules are established, with the schedule applicable for any given year dependent upon the Size-of-Fund Index.	645 1951

The assignment of a contribution rate to an individual firm depends upon its experience rating. The employer's experience is measured by four factors: (1) annual factor; (2) quarterly factor; (3) age factor; and (4) employer's rating, and is based on the balance in the employer's account in relation to its annual payroll subject to contribution. The employer's account is an individual account set up within the Fund for each firm only as a bookkeeping device, to which contributions are credited and benefits are charged.

To qualify for experience rating, an employer must have been in the unemployment insurance system for 14 full quarters prior to the July 1 computation date; had no negative balances in its account as of July 1 in any of the preceding three years; paid some wages in the last calendar year; and filed all its required contribution reports within the specified time period. Employers that are not qualified for experience rating are required to pay the full 2.7% rate on their payrolls subject to contribution.

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1951 (continued)	A General Account is created as a bookkeeping device to monitor the condition of the Fund. This General Account is charged with negative balances that are transferred from individual employer accounts and with benefits and refunds that are not chargeable to individual firms. It is credited with interest on the Fund, the balances of employers no longer in the system and other income. Provision is made for a subsidiary rate on employers ranging from 0.5% to 1.0% of payrolls subject to contribution when the General Account is less than 1.5% of payrolls subject to contribution.	645 1951 (continued)
April 1955	The subsidiary rate schedule is amended to range from a minimum rate of 0.1% to a maximum of 1.0% of payrolls subject to contribution.	415 1955
July 1956	The minimum length of employer coverage required for experience rating is reduced from 14 quarters to the four completed calendar quarters prior to the computation date.	829 1956
April 1958	Provisions relating to the General Account are modified as follows: (1) addition of a provision to divert amounts from individual employer accounts in order to replenish the General Account. The rate of this diversion will range from 0.1% to 0.5% of payrolls subject to contribution, depending on the General Account balance; (2) imposition of a cash subsidiary contribution if the General Account, after taking into account the results of the diversion, is still less than \$100 million; and (3) retention in an employer's account of a negative balance of up to 2% of its payroll subject to contribution, thereby reducing charges to the General Account.	387 1958

Generally, the rate schedule is increased, effective in 1959, by changes in the Size-of-Fund Index, so that larger reserves are required before more favorable rates are applicable, and by raising rates for each of the employer's experience factor scores. Two rate classes are added to each schedule to provide lower rates for employers with the best experience. Firms with negative accounts will pay the following amounts: (a) 3% in the first calendar year following a negative balance; (b) at least 2.7% in the three succeeding calendar years, if part of their negative balance has been transferred to the General Account; and (c) starting with contributions paid in 1960, 3.2% if they show negative balances for the two preceding fiscal years ending on June 30. Delinquent firms failing to file all required reports on time will pay 3% in the following calendar year.

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
July 1959	An employer is permitted to make voluntary contributions to the Fund in order to raise its account balance and thereby reduce the contribution rate for the following year, beginning with 1961 rates.	770 1959
January 1963	Municipal corporations and other governmental subdivisions that elect voluntary coverage for their employees may either pay an assigned contribution rate or reimburse the Unemployment Insurance Fund for benefits paid to their former employees.	901 1962
April 1963	<p>An employer's quarterly and annual payroll variations and its period of coverage are eliminated in the experience rating formula. The benefit factor is retained as the sole factor in determining an employer's experience rating. The benefit factor (the employer's account percentage) is the balance in the employer's account as a percentage of its annual payroll subject to contribution, and is related directly to the Size-of-Fund schedule in establishing the contribution rate. The rate for employers whose negative account balances are transferred to the General Account within the four preceding payroll years is restricted to not less than 2.9%.</p> <p>The computation date is changed from July 1 to December 31 – so that the rate is based on the most recent experience – and the payroll year is the 12-month period ending on September 30.</p> <p>The provision for diversion of amounts from employer accounts to the General Account is eliminated.</p>	630 1963
March 1966	The rate schedule for subsidiary contributions is revised. To reduce the year-to-year fluctuations in rates, a subsidiary rate is to be imposed only when the General Account balance is less than \$120 million. The subsidiary rate will range from 0.1% to 1.0% of payrolls subject to contribution, depending on the size of the General Account balance. The rate will vary in 0.1% intervals, up to the 1.0% maximum, when the balance is less than \$120 million.	108 1966
December 1970	The year-to-year increase in the subsidiary rate is limited to a maximum of 0.3%.	48 1971
January 1971	The account balances of nonprofit organizations that were covered prior to 1969 (largely on a voluntary basis) will be credited against benefit charges to those organizations that elect to reimburse the Fund for benefits paid instead of submitting contributions.	1027 1971

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 1972	The annual wage base is increased from \$3,000 to \$4,200. A transitional provision compensates for the new wage base by reducing contribution rates calculated on the old account percentage basis by 20% for 1972. For employers with rates that are not based on their account percentage, rates for 1972 are set as follows: new employers and employers who paid no remuneration in the payroll year will pay 2.3%; employers who are late in reporting and employers with a negative account balance transferred to the General Account within the three preceding payroll years will pay 2.7%. A range of rates from 2.4% to 2.8% is set for employers with negative account balances. These rates do not include subsidiary contributions.	565 1971
May 1972	The maximum contribution rate of 2.7% is required for newly covered employers (those with less than five calendar quarters of coverage).	208 1972
January 1973	For 1973 and 1974, the contribution rate schedule sets rates for negative account employers based on their account percentage, and the number of rate classes for employers with positive account balances is increased. New employers and employers who paid no remuneration in the payroll year will pay the same rate as employers with positive account percentages under 1%. Employers that are late in reporting and those with a negative account balance transferred to the General Account within the three preceding payroll years will pay at least 2.7%. Employers primarily engaged in the freezing or canning locally grown fruits or vegetables may elect to pay a fixed rate of 3.2% for three years instead of a rate based on experience rating. These specified rates do not include subsidiary contributions. However, the total rate – regular and subsidiary – for any employer may not be lower than 0.3%.	565 1971
February 1974	An employer's contribution rate will be corrected, whenever established, if the change results from a referee, appeal board or court decision.	12 1974
July 1974	Contribution rates established for 1973 to 1974 are extended through 1977.	583 1974
January 1978	The annual wage base is increased from \$4,200 to \$6,000. Employers in the apparel and construction industries may elect to pay a fixed rate for three years instead of a rate based on experience rating. The fixed rate is 3.2% for the construction industry and 3% for the apparel industry. Contribution rates modified by 1977 legislation will continue through June 30, 1981.	675 1977

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 1979	The accounts of governmental entities are chargeable for the full amount of extended benefits.	675 1977
January 1979	An additional contribution rate of 0.3% is created, for one year, on all 1979 payrolls subject to contribution. Proceeds from additional contributions will be applied to the outstanding balance of \$336 million owed by the New York State Unemployment Insurance Fund to the Federal Unemployment Account in the federal Unemployment Trust Fund.	353 1979
June 1981	The experience rating provision ( <i>Section 581, Subdivision 2 of the UI Law</i> ) is extended for two years, to June 30, 1983.	379 1981
January 1982	The annual interest rate charged for late payments of unemployment insurance contributions is increased from 9% to 12%.	639 1981
January 1983	The annual wage base is increased from \$6,000 to \$7,000.	918 1983
September 1983	Experience rating becomes permanent, with repeal of the provision that would have allowed it to expire on June 30, 1983.	415 1983
January 1985	The contribution rate table is changed by adding new rates from 4.3% to 5.4%, and reducing the Size-of-Fund Index to range from 0% to 5%. Also, the fixed rate is increased to 5.4% for the apparel, construction and cannery industries, and will be phased in over five years.	765 1984
March 1985	The maximum credit under FUTA is increased from 2.7% to 5.4%. The normal contribution rates, assignable each year to employers based upon their experience, are charged by adding rates between 4.2% and 5.4%. A 5.4% normal rate is assigned to the following groups: employers who failed to file all required contribution reports by December 31, 1984; employers who have had a portion of their negative account balance transferred to the General Account on any of the three previous computation dates; and employers who have had a portion of their negative account balance transferred to the General Account as of December 31, 1984 (the normal rate for next three years will be no less than 5.4%). (Certain employers were excepted.)	7 1985
January 1986	The State is required to pay interest on refunds of unemployment insurance contributions or penalty and interest payments, for which an application has been made, if they were collected as the result of a State error. Interest is payable at an annual rate of 9%.	595 1985

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
December 1986	Legislation permits the averaging of wages for the last three payroll years, or for all completed quarters if an employer has been liable for contributions for fewer than 13 quarters, for determining an employer's account percentage in rate calculations. Previously, only payrolls subject to contribution for the last payroll year were used for calculations.	522 1986
October 1987	Additional benefits beyond the 26-week maximum for individuals enrolled in approved training courses will be charged to the General Account. The maximum yearly amount chargeable is \$10 million.	457 1987
April 1989	If the Size-of-Fund Index is less than 2, every employer will pay a supplemental contribution with respect to their wages paid in the four calendar quarters immediately subsequent to the computation date, equal to 0.7% of these wages.	38 1989
July 1991	The maximum yearly amount of additional benefits payable to individuals enrolled in approved training courses (charged to the General Account) is increased from \$10 million to \$20 million.	593 1991
July 1991	Benefits paid to a person after the expiration of their disqualification for misconduct against an employer, and benefits paid to an inmate of a correctional institution enrolled in a work release program when their employment terminates because they relocate to another area after their release from prison, are charged to the General Account rather than the account of their base-period employer.	241 1991
July 1993	The time period during which employers may submit payment of voluntary unemployment insurance contributions to limit their experience rating charges is changed, from February 1 through January 31 of the following year to April 1 through March 31 of the following year.	226 1993
June 1994	Legislation provides that charges to a base-period employer's account for benefits paid to a claimant cannot exceed the amount of wages that the employer paid to the claimant. Excess charges are made to the account of another base-period employer or, if there are none, to the General Account.	164 1994
June 1994	The law is amended to provide that charges will be made to the General Account, not the account of the base-period employer, when a claimant receives benefits after serving a disqualification period that resulted from a final determination that the claimant had voluntarily left their employment with "good cause".	165 1994

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 1999	<p>The annual wage base is increased from \$7,000 to \$8,500. The number of columns in the contribution rate table is increased from seven to 12 by adding columns for half-percentage point increases in the Size-of-Fund Index. The maximum rate for negative balance and restricted employers is increased from 5.4% to a range of 5.9% to 8.5%, depending on the column. Changes also provide for reductions in rates for positive balance employers (when compared with the previous schedule) when the Size-of-Fund Index is 2% or higher.</p> <p>Every contributory employer is required to pay a contribution to the new Re-employment Services Fund equal to 0.075% of its quarterly wages subject to contribution. All money from this Fund is to be used exclusively to provide additional automated systems and staffing for enhanced re-employment services and claimant management activities, and for the payment of associated administrative costs relating to unemployment insurance claimants.</p>	589 1998 and 590 1998
January 1999	<p>The subsidiary rate schedule is changed from a flat rate to one that is experienced-based. Subsidiary contributions are required when the General Account balance is less than \$650 million. When activated, and depending on the employer's account percentage, the subsidiary rate will range from 0.525% to 0.925% when the General Account balance is negative, and range from zero percent to 0.0025% when its balance is between \$600 million and \$650 million.</p> <p>On the computation date (December 31), the employer's account will maintain a negative balance of up to 21% (up from negative 2%) of its payroll subject to contribution, with any excess balance transferred as a charge to the General Account.</p> <p>The 0.7% supplemental contribution rate, which was enacted in April 1989, is repealed.</p> <p>The 0.3% minimum rate, which had been in effect since January 1973 is also repealed.</p> <p>The formula is changed for determining an employer's account percentage to be used in unemployment insurance rate calculations, from an average of wages in the last three to the last five payroll years preceding the computation date, or for all quarters if the employer has been liable for contributions for fewer than 21 (previously 13) calendar quarters.</p>	589 1998

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 1999 (continued)	<p>The comparison denominator used in determining the Size-of-Fund Index is changed from the average of payrolls subject to contribution in the last three to the last five payroll years.</p> <p>The maximum rate for employers who fail to file all prescribed reports by the computation date is increased from 5.4% to the maximum rate in the rate columns, which can range from 5.9% to 8.5%.</p> <p>The maximum rate for newly covered employers (those with fewer than five calendar quarters of coverage) or employers who paid no remunerations in the payroll year preceding the computation date is increased from 2.7% to 3.4%.</p> <p>Legislation provides that on the computation date, and subject to a 6.1% minimum rate, a 4-percentage point reduction is made to a negative-balance employer's account percentage if total wages paid by the employer in the preceding payroll year are at least 80% of the average total wages paid in the three previous payroll years.</p>	589 1998 (continued)
April 1999	<p>When a valid original claim is established based on wages that were previously used (those received prior to April 1, 1999), the General Account, rather than the employer's account, is charged for the portion of experience rating that is attributable to the employer.</p> <p>Initial benefits are charged to the account of a claimant's last base period employer in an amount equal to seven times the claimant's benefit rate. Subsequent charges are made to the account of each base period employer in the same proportion that each employer's wages paid represent of the claimant's total base period earnings.</p>	589 1998
April 2003	<p>An Interest Assessment Surcharge Fund is created to receive additional contributions levied on all employers liable for unemployment insurance contributions to repay interest assessed on loans received from the federal government to meet state unemployment insurance benefit obligations whenever the state's Unemployment Insurance Trust Fund becomes insolvent due to adverse economic conditions.</p> <p>The rate for this Surcharge is computed annually and applied to wages subject to contribution paid in the most recently completed payroll year (October-September). When interest is no longer due and this Surcharge is no longer necessary, any amount remaining in the Interest Assessment Surcharge Fund is credited to employer accounts on a proportional basis for experience rating purposes.</p>	62 2002

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
August 2002	For claimants whose last employment was at an educational institution, the federal government or an out of state employer, such employer shall not be liable for benefit charges for the first twenty-eight effective days of benefits paid. Instead, benefits paid shall be charged to the general account.	282 2002
May 2005	Annually, as soon as practicable after May 1st, the Commissioner of the Department of Labor and the New York State Comptroller shall ascertain the total amount of administrative expenses incurred during the preceding fiscal year (previously, the date was April 1 <sup>st</sup> ).	666 2005
January 2009	The last employer of a person who has filed a valid original claim for benefits, and for which would normally be charged 100% of computed benefits for the first seven weeks of the claim, may apply to the Department of Labor to have benefit charges recalculated if the employer can demonstrate that it paid the claimant less in total wages than the seven weeks of benefits.	106 2007
February 2011	New York State amends its law in regards to extended benefits to conform to the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (see Appendix A, Chapter 312 Year 2010).	7 2011
March 2013	The average annual wage will be determined by the Commissioner on May 31 <sup>st</sup> of each year. (This will eventually affect the following year's wage base and maximum benefit rate – see following page.)	57 2013

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 2014	<p>Each year on January 1<sup>st</sup> the wage base for unemployment insurance contributions will be increased. The wage base for each year will be as follows:</p> <p>January 2014: \$10,300            January 2015: \$10,500            January 2016: \$10,700            January 2017: \$10,900            January 2018: \$11,100            January 2019: \$11,400            January 2020: \$11,600            January 2021: \$11,800            January 2022: \$12,000            January 2023: \$12,300            January 2024: \$12,500            January 2025: \$12,800            January 2026: \$13,000</p> <p>After 2026, the wage base for unemployment insurance contributions will be either 16% of the annual average wage in New York State (see above), rounded up to the nearest \$100, or the previous year's amount, whichever is greater. The new wage base would take effect each January 1st.</p>	57 2013
January 2014	The six lowest rows of contribution rates in each rate schedule are eliminated.	57 2013

# SHARED WORK PROGRAM

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
January 1986	The Shared Work Program is created as a three-year demonstration project, for employers of at least 10 full-time employees who apply to participate. Employees are eligible for partial unemployment benefits if their wages and hours are reduced by between 20% and 60% in lieu of workforce reductions.	438 1985
January 1986	Claimants eligible under the Shared Work Program receive benefits in any week equal to their benefit rate multiplied by the percentage of reduction in their wages resulting from reduced hours of work, but only if this percentage is at least 20%. Total benefits paid to a claimant in their benefit year under the Shared Work Program cannot exceed the maximum amount they would otherwise be eligible for without the Program.	438 1985
January 1986	Claimants participating in the Shared Work Program are limited to 20 weeks of benefits during a benefit year.	438 1985
January 1986	Claimants who are participating in the Shared Work Program are not required to be available for work with any other employer.	438 1985
July 1987	Technical changes are made in unemployment insurance provisions relating to the Shared Work Program, including the waiving of requirements to register or report to State employment offices.	430 1987
July 1988	The expiration date for the Shared Work Program demonstration project is extended for an additional year, until January 1, 1990.	277 1988
June 1989	The Shared Work Program is made permanent, and the employer eligibility requirement for program participation is reduced from 10 employees to five employees.	222 1989
July 1991	The maximum duration for participation in a Shared Work Program is increased from 20 weeks to 21 weeks.	248 1991
May 1992	The maximum number of partial benefit weeks a person can receive while participating in the Shared Work Program is increased from 20 to 52. As of January 1995, the maximum reverts to 20 weeks.	81 1992

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
September 2002	The eligibility conditions for the Department of Labor's Shared Work program are amended to include claimants who derive over 5% of their wages from piece work is removed. Retroactive to Oct 1, 2001.	564 2002
April 2013	The employer eligibility requirement for Shared Work program participation is reduced from five employees to two full-time employees.  Part-time employees are able to participate in the Shared Work Plans.	57 2013
April 2013	The requirement that employers may not eliminate or diminish certain benefits for Shared Work participating employees was changed so that it would not apply if the benefits provided to employees that do not participate in the Shared Work program are reduced to the same extent.  The employer must provide a description of how workers in the work force will be notified of the shared work program in advance of it taking effect, if feasible, and if such notice is not feasible, provides an explanation of why such notice is not.  Employers must provide an estimate of the number of workers who would be laid off if the employer could not participate in the program.  Employers must certify that the terms of the employer's written plan and implementation shall be consistent with employer obligations under applicable federal and state laws.	57 2013
April 2013	Participants in the Shared Work Program may participate in Department of Labor-approved training, including employer-sponsored training or worker training funded under the Workforce Investment Act.	57 2013
April 2013	Employers that participate in the Shared Work Program will not be charged where such benefits are reimbursed to the state by the federal government pursuant to the Middle Class Tax Relief and Job Creation Act of 2012.	57 2013
April 2013	An employee participating in the Shared Work Program does not need to comply with work search and availability requirements if the participant is available for his or her usual hours of work with the Shared Work employer.	57 2013

## WAGE REPORTING

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
July 1978	The New York State Department of Taxation and Finance is authorized to establish a statewide system of quarterly wage reporting by employers, including information on each employee, to detect fraud within the unemployment insurance and public assistance programs. This authorization is scheduled to terminate on March 31, 1981.	545 1978
April 1981	Authorization for the statewide wage reporting system is extended for three years, through March 31, 1984.	45 1981
April 1984	The wage reporting system is extended for another three years, until March 31, 1987.	37 1984
March 1987	The quarterly wage reporting system is authorized for an additional two years, through March 31, 1989.	9 1987
March 1989	An additional two-year extension is granted for the statewide wage reporting system, through March 31, 1991.	21 1989
July 1995	The Department of Labor is provided with complete access to the quarterly wage reporting files maintained by the Department of Taxation and Finance as the first stage in the transition to an unemployment insurance system based on these wage reporting files, with the expressed requirement that the Department of Labor will design and operate the system so that individuals eligible for benefits under the current law would be eligible for the same amount of benefits under the new system based upon these wage reporting files. Complete access is also granted for administration of employment security programs, and to evaluate the effect on earnings of participation in training programs for which the Department has reporting, monitoring or evaluating responsibilities.	302 1995
January 1999	The Department of Labor's access to the quarterly wage reporting files maintained by the Department of Taxation and Finance is made permanent. All employers liable for unemployment insurance contributions, or payments in lieu of contributions, are required to file a combined withholding, wage reporting and unemployment insurance return providing all requisite information for the previous calendar quarter.	477 1998

## OTHER

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
August 1984	The provisions relating to the registration of claimant agents in New York City are extended until December 31, 1988.	278 1984
October 1986	The request reporting penalty for an employer's late response or failure to respond to a request for employment data is increased from \$10 to \$25.	648 1986
April 1987	Authorization is provide to make benefit payments and payments under the Trade Adjustment Act totaling up to \$62.7 million.	20 1987
July 1987	Legislation provides that unemployment insurance decisions issued by a referee, the Appeal Board, or a court shall be given collateral estoppels (the ability to present cases without regard to past rulings) only with respect to benefit issues.	258 1987
July 1988	Legislation extends, until December 31 , 1992, the expiration date relating to the Appeal Board's establishment of qualifications and procedures for the registration of claimants agents and maintenance of an active list of these authorized agents.	278 1988
May 1990	The request reporting penalty for an employer's late response or failure to respond to employment data requests is increased from \$25 to \$50. Also increased, from seven to 10, is the number of days allowed from the date of mailing for the employer to respond to these requests without incurring this penalty.	190 1990
July 1991	The amount of time that an employer has to request a hearing on a decision is increased from 20 days to 30 days.	248 1991
July 1991	Technical changes are made to unemployment insurance provisions retaining to claimant eligibility for benefits beyond the 26-week maximum duration for regular benefits (and any extended benefits in effect) if they enroll in approved training courses, including broadening of the definition of eligible training from "vocational" to "career" and ensuring that their training does not require more than 24 months to complete.	593 1991
August 1991	Legislation strengthens the definition of a "qualified interpreter of the deaf" in a situation where a deaf person is a party to a hearing conducted by an Unemployment Insurance Referee.	703 1991

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1992	The membership of the State Advisory Council on Employment and Unemployment is reduced from nine to five and per diem payments made to Council members are eliminated.	55 1992
July 1993	Technical changes are made relating to the payment of extended benefits to reflect the suspension of federal extended benefit eligibility requirements for the period March 6, 1993 through January 1, 1995 in favor of the existing State requirements for determining eligibility for regular benefits.	342 1993
July 1994	Legislation provides for integration of the names of individuals receiving unemployment insurance into lists of prospective jurors.	442 1994
January 1995	The Self-Employment Assistance Program (SEAP) is established, providing allowances in lieu of regular unemployment insurance benefits to assist persons participating in programs for establishing small business enterprises and becoming self-employed. Program participants must be identified through a worker profiling system as individuals who are likely to exhaust their regular unemployment insurance benefits. Participation is limited to 5% of the number of individuals receiving regular unemployment insurance benefits at any given time. The program is scheduled to expire on December 7, 1998.	596 1994
August 1996	Legislation extends, until December 31, 1998, the expiration date relating to the Appeal Board's establishment of qualifications and procedures for the registration of claimant agents and maintenance of the active list of authorized agents.	590 1996
October 1997	Legislation provides for the release of claimant benefit information, as required by the U.S. Department of Health and Human Services and the New York State Department of Social Services, for the establishment of the National Directory of New Hires to be used in carrying out child support enforcement programs.  Access to wage and withholding information is limited to those individuals responsible for employment security, training, public assistance work programs or other appropriate purposes.	398 1997
January 1998	Deadlines are suspended for the payment of moneys and the filing of reports, etc., including interest and penalties, in declared areas and time frames pursuant to a State disaster emergency.	15 1998

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
July 1998	The expiration date is extended again, until December 31, 2000, relating to the Appeal Board's establishment of qualifications and procedures for registering claimant agents and maintaining the active list of authorized agents.	490 1998
July 1998	Department of Labor responsibilities are specified for implementing the Welfare Reform Act of 1997 with respect to its providing unemployment insurance data to other agencies.	214 1998
August 1998	Authorization for the Self-Employment Assistance Program is extended until December 7, 2002.	626 1998
October 1998	An employer amnesty program is established on October 1, 1998. All penalties imposed (but not interest assessed) are to be waived on any contributions that were due prior to January 1, 1996 if an application is filed prior to January 1, 1999 and an acceptable repayment plan is agreed to. Those employers failing to make a timely application for this waiver shall have their penalty increased by 5%.	589 1998
January 1999	<p>If an employer fails to file a completed quarterly combined withholding, wage reporting and unemployment insurance return, the employer will pay a penalty of \$50 for each employee shown on their last combined return, with a minimum penalty of \$1,000 and a maximum of \$10,000.</p> <p>The law provides for the automatic abatement of these penalties if the employer files a return either prior to notification or within 30 days of notification by the Department of Taxation and Finance (DTF), with this automatic abatement permitted only for the first failure within five successive calendar quarters. If, within the subsequent four quarters, the employer fails to report within 30 days of notice, the employer will pay the lesser of a \$50 penalty for each employee shown on their last combined return, with a minimum penalty of \$1,000 and a maximum of \$10,000, or the imposition of both DTF penalties and the highest unemployment insurance rate applicable. The law also stipulates that if an employer does not file until after the 30-day "grace period", the employer shall pay the greater of these penalties. An audit following a failure to file will result in the imposition of both penalties. Penalties may also apply to submitted returns that are incomplete or inaccurate, or contain information that is not in the prescribed format. In no instance, however, will a penalty be assessed if the failure to report is due to a reasonable cause and not to willful neglect.</p>	477 1998

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 1999	<p>An employer is excused from the request reporting penalty for failure to respond to a request for wage information for the last completed quarter of the base period for which a wage data report is not yet due or has not yet been received.</p> <p>Any employer whose account percentage might be affected by a determination made as the result of a hearing shall have free access to all records of that hearing.</p>	589 1998
April 1999	The law provides for the confidentiality of all information received or obtained by the Department of Labor, authorizing disclosure only when required by law. However, provision is made for the utilization and dissemination of aggregate information.	590 1998
August 2003	Provisions that allow authorized agents to represent claimants in a dispute with an employer regarding entitlement to unemployment insurance benefits are extended to December 31, 2004.	307 2003
August 2003	<p>To be eligible for SEAP, individuals must:</p> <ol style="list-style-type: none"> <li>(1) be eligible to receive regular unemployment benefits.</li> <li>(2) be identified pursuant to a worker profiling system as individuals likely to exhaust regular unemployment benefits.</li> <li>(3) be participating in self-employment assistance activities.</li> <li>(4) be actively engaged on a full-time basis in activities, which may include training, relating to the establishment of a business and becoming self-employed.</li> <li>(5) not have previously participated in self-employment assistance programs.</li> </ol> <p>Among individuals seeking to participate in the SEAP, the Department of Labor shall give preference to those individuals who propose businesses not likely to compete directly with the business of any base period employer of the individual.</p> <p>Authorization for the SEAP is extended until December 7, 2005.</p>	413 2003
November 2004	Provisions that allow authorized agents to represent claimants in a dispute with an employer regarding entitlement to benefits are extended to December 31, 2006.	704 2004

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
April 2005	The New York State Unemployment Insurance Advisory Council, Asbestos Advisory Board, Minimum Wage Standards for Farm Workers Advisory Council, and the Laser Operating Examination Board are eliminated.	57 2005
April 2005	The Fair Wages Task Force is established. This task force is empowered to investigate and conduct inspections to books and records and will refer to the appropriate authorities in any instance in which there is reasonable cause to believe that the payment of federal, state and local payroll taxes are being evaded.	57 2005
January 2006	When an employer transfers its organization, trade or business (which includes its workforce) to another employer and there is at least 10% common ownership of the two employers, then the unemployment experience attributable to the transferred organization shall be transferred to the employer who acquired it. Transfers of unemployment experience to persons who were not employers liable for contribution at the time of the transfer are prohibited. Penalties to a person who knowingly violates or attempts to violate either of these provisions are: (1) the greater of \$10,000 or 10% of the total wages subject to contribution in the last completed payroll year; (2) a civil penalty of \$10,000; (3) in addition to the first two penalties, a violation shall result in a class E felony charge.	391 2005
July 2006	Provisions that allow authorized agents to represent claimants in a dispute with an employer regarding entitlement to benefits are extended to December 31, 2008.	332 2006
January 2007	The Department of Labor is authorized to share employment and wage information, as well as wage reporting information, with the U.S. Census Bureau for statistical analyses related to population and employment measurements and trends.	724 2006
March 2007	Provisions are made to the regulations of disclosing unemployment insurance information. The disclosure of information gathered from employers or employees pursuant to the Labor Law or the use of such information in any court, unless otherwise stated, is prohibited. If a person discloses such information in violation of confidentiality provisions, upon conviction, the person will be found guilty of a misdemeanor. However, the Commissioner of Labor shall make certain information available, upon request, to any federal, state or	6 2007

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
March 2007	local agency entitled to such information under the Social Security Act. The disclosure of information between the Department of Labor and the Department of Taxation and Finance and certain federal, state and local agencies will have certain procedures that must be followed and conditions that must be met before the information can be disclosed. The Department of Taxation and Finance is also to provide the Department of Labor with wage reporting information.	6 2007 (Continued)
July 2007	Authorization for the SEAP is extended until December 7, 2009.	200 2007
August 2007	Each person who files a claim for unemployment insurance shall receive an informational pamphlet about the food stamp program provided by the Office of Temporary and Disability Assistance (previously provided by the Department of Social Services).	601 2007
September 2008	The state confidentiality of unemployment insurance information is brought into conformity with the federal regulations issued in 2006 regarding the disclosure of information.	551 2008
September 2008	Provisions that allow authorized agents to represent claimants in a dispute with an employer regarding entitlement to benefits are extended to December 31, 2010.	634 2008
February 2009	The Worker Adjustment and Retraining Notification Act (WARN) is established for the state, which requires private-sector employers with 50 or more employees (excluding part-time employees) to provide at least 90 days notice to affected employees and their representatives, the New York State Department of Labor and local workforce partners before order a mass layoff, relocation, or plant closing.  Payments to an employee by an employer who has failed to provide the advance notice required shall not be construed as remuneration. Unemployment insurance benefits cannot be denied or reduced because of the receipt of payments related to an employer's violation.	475 2008
May 2009	“Rate of total unemployment” is now defined as the average percentage obtained by dividing the total number of unemployed residents of the state for the most recent three consecutive months by the total civilian labor force for the same three month period.	35 2009
July 2009	Authorization for the SEAP is extended until December 7, 2011.	106 2009

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
July 2011	Authorization for the SEAP is extended until December 7, 2013.	134 2011
March 2013	SEAP became available to individuals who had exhausted their regular benefits and were receiving EB or EUC08.  Authorization for the SEAP is extended until December 7, 2015.	57 2013
May 2009	EB is made available for weeks of unemployment beginning on or after February 1, 2009, until the week ending three weeks prior to the last week for which 100% federal sharing is authorized, or for weeks of unemployment ending three weeks prior to the last week for which Congress has authorized 100% federal sharing, which meet the following: (A) the average rate of total unemployment (seasonally adjusted), for the period of the most recent three months equals or exceeds 6.5%, and (B) the average rate of total unemployment (seasonally adjusted) for the three-month period equals or exceeds 110% of the average for either or both of the corresponding three-month periods ending in the two preceding calendar years.  EB is also available for any period of high unemployment which shall otherwise meet all of the provisions above, except that "8%" is substituted for "6.5%" in item (A).  Previously, EB was available when the rate of insured unemployment for the week and the preceding 12 weeks equaled or exceeded 5% and equaled or exceeded 120% of the average of such rates for the corresponding thirteen-week periods ending in each of the preceding two calendar years.	35 2009
July 2010	Provisions that allow authorized agents to represent claimants in a dispute with an employer regarding entitlement to benefits are extended to December 31, 2012.	257 2010
October 2010	Further provisions are set into place to protect the confidential information relating to Unemployment Insurance Appeal Board (UIAB) hearings and appeals. These provisions include that a record shall be subject to redaction or shall be withheld and publication of a referee's decision or of any appeal board decision shall be subject to redaction.	554 2010

<u>Effective Date</u>	<u>Description of Legislated Changes</u>	<u>Chapter and Year</u>
October 2010	<p>The “New York State Construction Industry Fair Play Act” is enacted. This act states seeks to curtail misclassifications of employees as independent contractors. It requires construction industry contractors to post information at their worksite concerning employees’ rights to workers’ compensation, unemployment insurance, minimum wage, overtime and other workplace protections. Businesses will also be required to post information about penalties for noncompliance with the Fair Play Act as well as information on how to file complaints.</p> <p>Any contractor who willfully fails to classify an individual as an employee can face both civil and criminal penalties. A civil penalty for the first violation is a \$2,500 fine per misclassified employee with fines increasing up to \$5,000 per misclassified employee. Criminal penalties are misdemeanors and expose the contractor to fines and imprisonment.</p>	418 2010
August 2012	<p>Provisions that allow authorized agents to represent claimants in a dispute with an employer regarding entitlement to benefits are extended to December 31, 2014.</p>	331 2012
December 2013	<p>The sharing of unemployment insurance information is allowed with any other federal, state or local governmental agency, including the State University of New York, the City University of New York, and any of their constituent units, or the agents or contractors of a governmental agency, where such information is to be used for: evaluation of program performance; financial or other analysis required by federal, state or local law or regulation; preparation of reports required by federal, state or local law or regulation; operation of public programs by such agencies, their agents, contractors and subcontractors, whenever the Commissioner of Labor determines that such information sharing is for the purpose of improving the quality or delivery of program services or to create operational efficiencies; or establishment of common case management systems between federal, state or local agencies delivering or supporting workforce services for a shared customer base, wherever such common case management system is for the purpose of fostering workforce partnerships, program coordination, inter-agency collaboration, improving program services or creating operational efficiencies.</p>	456 2013

# **GLOSSARY**

**ADDITIONAL CLAIM**

A second or subsequent claim filed during an existing benefit year due to new unemployment when at least one week has passed between claims due to intervening employment.

**ALTERNATE BASE PERIOD**

An alternate base period is the last four completed calendar quarters before the week in which the claimant files an application. An alternative base period may be used if the claimant has insufficient employment to qualify for benefits in the regular base period or if the alternate base period would result in a higher weekly benefit rate.

**AVERAGE HIGH COST MULTIPLE (AHCM)**

A measurement of the solvency of a state’s UI trust fund, AHCM measures how long a state could afford to pay UI benefits during a recession without taking in any additional revenue. Calendar Year Reserve Ratio divided by the Average High Cost Rate. A 1.0 ratio would equate to 1 year of benefits in the Trust Fund.

**BASE PERIOD**

The first four of the last five completed calendar quarters prior to the calendar quarter in which a claim is effective.

**BENEFICIARY**

A claimant who has received at least one payment of unemployment compensation.

**BENEFITS**

The monetary amount of unemployment insurance payments to a claimant.

**BENEFIT RATE**

The amount of money a claimant may be entitled to for each week of unemployment. A claimant's weekly benefit rate is equal to 1/26 of the wages paid during the highest calendar quarter of the base period. Exception: If high quarter wages are \$3,575 or less, the weekly benefit rate is 1/25 of the high quarter wages.

**BENEFIT YEAR**

The one-year period beginning with the Monday following the week in which an original claim for benefits is filed. It is during this period the claimant can receive 26 full weeks of benefits.

**BENEFIT YEAR ENDING DATE**

The date that an unemployment insurance claim ends and benefits can no longer be collected on a claim

**CALENDAR QUARTER**

The 3 month period beginning with January, April, July, and October.

- 1st quarter: January 1 through March 31
- 2nd quarter: April 1 through June 30
- 3rd quarter: July 1 through September 30
- 4th quarter: October 1 through December 31

**CALENDAR WEEK**

The seven consecutive day period beginning with Monday.

**CLAIMANT**

Any person seeking unemployment benefits.

**CLAIMANT FRAUD**

The willful misrepresentation or nondisclosure by a claimant for the purpose of obtaining benefits.

**CONTINUED CLAIM**

A request by claimants to certify their unemployment status and their eligibility to receive benefit payment or waiting period credit.

**CONTRIBUTION RATE**

The rate an employer pays to a state unemployment fund. The rate is determined under the experience-rating provisions of a state.

**COVERED EMPLOYMENT**

Unless specifically excluded by law, all work performed for a liable employer is covered whether it is on a part-time, full-time, temporary or casual basis.

**COVERED EMPLOYER**

An employer who meets the criteria for liability for payment of contributions or payments in lieu of contributions under Unemployment Compensation law.

**DEPENDENTS' ALLOWANCE**

An additional benefit amount provided to beneficiaries with dependents.

**DETERMINATION**

A decision by the Employment Security Division regarding the unemployment claim of an individual or the coverage status of an employer.

**DISASTER UNEMPLOYMENT ASSISTANCE (DUA)**

A program for the payment of unemployment assistance to individuals whose unemployment is a direct result of a major disaster.

**DISQUALIFICATION**

Claimants are barred from receiving benefits for a period of time. Claimants may be disqualified for a variety of reasons and for a variable length of time.

**DURATION OF BENEFITS**

The number of weeks of benefits that a claimant may receive.

**ELIGIBILITY DETERMINATION**

A finding as to whether a claimant or employer meets all of the requirements prescribed by law.

**ELIGIBILITY REQUIREMENTS**

Criteria which must be met in order for a claimant to receive benefits.

**EMPLOYEE**

An individual who performs services for an employer for compensation under a master/servant relationship.

**EMPLOYER**

Includes the state of New York and other governmental entities and any person, partnership, firm, association, public or private, domestic or foreign corporation, the legal representatives of a deceased person or the receiver, trustee, or successor of a person, partnership form, association, public or private, domestic or foreign corporation which employs one or more individuals.

**EMPLOYER CONTRIBUTIONS**

Contributions to the state unemployment fund by an employer.

**EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT (ESAA)**

The account in the Unemployment Trust Fund, that pays for the administration of the federal-state unemployment insurance programs. The Federal Unemployment Tax funds the account.

**EMPLOYMENT SECURITY ADMINISTRATIVE FINANCING ACT OF 1954**

This Act earmarks all proceeds from the Federal Unemployment Tax for the unemployment insurance program. Excess funds are transferred to the Federal Unemployment Account which provides loans to states with depleted reserves.

**EXHAUSTEE**

Any claimant who has received the maximum amount of entitlement for a given program.

**EXHAUSTIONS**

Number of claimants who have received the maximum entitlement for a given program.

**EXPERIENCE RATE**

A rate of contribution that is defined under the experience-rating provisions of state unemployment compensation law. It is determined by an employer's experience with employees receiving unemployment compensation.

**EXPERIENCE-RATING**

A method for determining the contribution rates of employers. It is based on measures of experience with respect to unemployment, specified in the state unemployment compensation law.

**EXTENDED BENEFITS (EB)**

The permanent program that pays extended compensation during periods of high unemployment. Compensation is paid after individuals exhaust their regular benefits. The Federal Government and the states usually share the costs of the program.

**EXTENDED UNEMPLOYMENT COMPENSATION (EUC)**

A temporary benefits program that provided additional weeks of benefits to individuals who had exhausted their regular or extended benefits. Benefits were funded by the Federal Government. The program was in effect from March 1991 through April 1994.

**EXTENDED UNEMPLOYMENT COMPENSATION (EUC 08)**

A temporary benefits program that provided additional weeks of benefits to individuals who had exhausted their regular or extended benefits. Benefits were funded by the Federal Government. The program was in effect from May 2007 through December 2013. (As of May 2013).

**EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT (EUCA)**

An account in the Unemployment Trust Fund. The federal portion of shareable Extended Benefits and Emergency Compensation are paid to State agencies from this account.

**FEDERAL ADDITIONAL COMPENSATION (FAC)**

A program that provided an additional weekly benefit of \$25 to beneficiaries of UC, EUC08, EB, DUA or TAA. FAC was effective from February 2009 until December 2010. The program was funded by the Federal Government.

**FEDERAL EMPLOYEES COMPENSATION ACCOUNT (FECA)**

The account from which unemployment benefits for eligible unemployed former civilian Federal employees is drawn. Monies from this account are transferred to states, who administer the program.

**FEDERAL SUPPLEMENTAL BENEFITS (FSB)**

A temporary benefits program that provided additional weeks of benefits to individuals who had exhausted their regular or extended benefits. Benefits were funded by the Federal Government. The program was in effect from January 1975 through January 1978.

**FEDERAL SUPPLEMENTAL COMPENSATION (FSC)**

A temporary benefits program that provided additional weeks of benefits to individuals who had exhausted their regular or extended benefits. Benefits were funded by the Federal Government. The program was in effect from June 1982 through March 1985.

**FEDERAL UNEMPLOYMENT ACCOUNT (FUA)**

Also known as the Loan Fund, an account in the Unemployment Trust Fund from which repayable advances are available to States to pay unemployment benefits as obligated.

**FEDERAL UNEMPLOYMENT TAX**

A tax on employers based on the number of individuals employed and their wages as authorized by the Federal Unemployment Tax Act.

**FEDERAL UNEMPLOYMENT TAX ACT (FUTA)**

Chapter 23 of the U.S. Internal Revenue Code, (Sections 3301-3311).

**FIRST PAYMENT**

The first payment in a benefit year for a week of unemployment.

**HIGH-QUARTER**

The highest quarter of wages in the base period.

**HUGHES-BREES ACT OF 1951**

Amended the experience-rating provisions and the benefit and entitlement provisions of the law and established relationships between benefits that did not exist before in New York. Defined the qualifying period to receive Unemployment Compensation in New York; to be eligible for benefits, an individual's base period needed to be at least 20 weeks in the 52 weeks preceding the filing of a claim. The Hughes-Brees Act eliminated the tax credit system and the concepts of legal reserves and distribution of surpluses. The law provided an experience rating system through a varying scale of employer rates, which shifted up or down according to the reserve in each employer account as a percentage of its payrolls subject to contribution.

**INDUSTRIAL CONTROVERSY**

Any controversy concerning terms and conditions of employment or concerning the association and representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, or concerning employment relations, or any other controversy arising out of the respective interests of employer and employee, regardless of whether or not the disputants stand in the relation of employer and employee.

**INSURED EMPLOYMENT**

Services performed for an employer liable under the state law.

**INSURED UNEMPLOYMENT RATE (IUR)**

The rate of Insured Unemployed in the current quarter divided by Covered Employment for the first four of the last six completed quarters.

**MAXIMUM BENEFIT AMOUNT**

The maximum amount of benefits an individual may receive during a benefit year.

**MAXIMUM DURATION**

The maximum number of weeks of total unemployment for which benefits are payable to any claimant in a benefit year.

**MAXIMUM WEEKLY BENEFIT AMOUNT**

The maximum amount payable for a week of total unemployment.

**OFFSET CREDIT**

A credit towards the Federal Unemployment Tax Act (FUTA) tax provided to liable employers.

**OUTSTANDING LOAN BALANCE**

Balance of advances from the FUA to a state.

**OVERPAYMENT**

Payment of benefits in excess of which the claimant is entitled.

**PARTIAL BENEFITS**

If a claimant works less than four days in a week and earns \$405 or less, the claimant may receive partial benefits. Receiving partial benefits extends the length of time benefits can be collected until the claimant receives his/her maximum benefit amount or until the benefit year ends.

**PERIOD OF EMPLOYMENT**

The length of time during which an employee works for an employer without separation.

**PROFILING SCORE**

A numerical score assigned to beneficiaries based on certain characteristics in order to predict the likelihood of them exhausting their entitlement to a specific program.

**QUALIFIED EMPLOYER**

An employer who is eligible for a reduced contribution rate. An employer qualifies for the reduced rate as long as they meet having met certain requirements of employment, and timely payment of contributions.

**RECIPENCY RATE**

The insured unemployed in regular programs as a percent of total unemployed.

**REGULAR COMPENSATION**

Benefit payments to individuals under state unemployment compensation law. Payments not included are additional, extended, Disaster Unemployment Assistance, or Trade Readjustment Allowances.

**REMUNERATION**

Compensation for employment paid by an employer to an employee.

**SELF EMPLOYMENT ASSISTANCE PROGRAM (SEAP)**

A federally funded program that provides allowances to participants engaged in activities required to establish their own small businesses. These activities include entrepreneurial training, business counseling, and technical assistance. The program is available for individuals who permanently lose their job due to foreign imports; individuals receiving EB or EUC 08; individuals identified through a state's profiling system as likely to exhaust their regular benefits.

**SHORT TIME COMPENSATION**

See **SHARED WORK PROGRAM**

**SHARED WORK PROGRAM**

Shared Work is a voluntary program that provides employers with an alternative to layoffs when business temporarily declines. Employers can reduce the number of full time weekly work hours of participating employees (between 10 and 60%). Partial unemployment benefits are then paid to the affected employees to supplement lost wages.

## **SOCIAL SECURITY ACT OF 1935**

Created the federal-state Unemployment Insurance system in the United States. Title III of the Act provides federal grants to the states for administration of the unemployment compensation program through public employment offices or federally approved agencies. The law includes standards to which states must conform to receive these grants. Title IX imposes a federal tax on all employers of eight or more employees in each of 20 weeks in a calendar year. An employer's contributions to a state can be credited against up to 90 percent of the federal tax due. The law includes standards to which states must conform to receive these credits against the federal tax on their employers. Title IX also established in the Treasury of the United States the Unemployment Trust Fund.

## **SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM**

A temporary unemployment assistance program that provided benefits to workers who were not covered under state laws, but who otherwise met earnings and eligibility requirements. This program was effective from January 1975 through June 1978.

## **STOPPAGE OF WORK**

Under the labor dispute provision, a substantial curtailment of the normal operation of an employer at a given location.

## **STRIKE**

A stoppage of work carried out in violation of an existing collective bargaining agreement.

## **WAGES SUBJECT TO CONTRIBUTION**

The amount of wages paid to an employee by an employer during a year, which is subject to UI contributions. Wages above this amount are not subject to contributions. The federal requirement is a minimum of \$7000. New York's requirement is \$8,500.

## **TEMPORARY COMPENSATION (TC)**

A temporary benefits program that provided additional weeks of benefits to individuals who had exhausted their regular or extended benefits. Benefits were funded by the Federal Government. The program was in effect from January 1972 through March 1973.

## **TEMPORARY EMERGENCY UNEMPLOYMENT COMPENSATION (TEUC) (1961)**

A temporary benefits program that provided additional weeks of benefits to individuals who had exhausted their regular or extended benefits. Benefits were funded by the Federal Government. The program was in effect from April 1961 through June 1962 (with reach back to June 1960). It was financed by a temporary increase in the federal unemployment tax rate.

## **TEMPORARY EMERGENCY UNEMPLOYMENT COMPENSATION (TEUC) (2002)**

A temporary benefits program that provided additional weeks of benefits to individuals who had exhausted their regular or extended benefits. Benefits were funded by the Federal Government. The program was in effect from March 2001 through December 2003.

## **TEMPORARY UNEMPLOYMENT COMPENSATION (TUC)**

A temporary benefits program that provided extended benefits to individuals who had exhausted their regular benefits. This program began in June 1958 and ended in April 1959; any states choosing to participate (New York State was one) had to repay the cost to the federal government.

**TOTAL UNEMPLOYMENT RATE (TUR)**

The ratio of total unemployed workers to all workers in the labor force.

**TRADE ADJUSTMENT ASSISTANCE (TAA)**

A federal program that provides benefits and services to workers who have lost their jobs as a result of foreign trade. This includes job training, job search and relocation allowances, income support, and assistance with healthcare premium costs. These services are administered by cooperating state agencies using federal funds.

**TRADE READJUSTMENT ACT**

Provides benefits to persons affected by foreign imports.

**TRADE READJUSTMENT ALLOWANCE (TRA)**

Benefits paid to workers under the Trade Adjustment Act who have exhausted all entitlement to unemployment insurance.

**TRANSITIONAL CLAIM**

A claim with an effective date within the seven day period immediately following the benefit year ending date of a previous claim.

**TREASURY OFFSET PROGRAM**

The Treasury Offset Program is a centralized offset program to collect delinquent debts owed to federal agencies and states. Under this program, states recover unpaid unemployment compensation debts by offsetting an individual's tax return.

**TRUST FUND BALANCE (TF)**

The balance of an individual state account in the Unemployment Trust Fund.

**UNEMPLOYMENT COMPENSATION (UC)**

A federal-state program that provides benefits to meet the basic obligations of individuals who become unemployed through no fault of their own. Benefits are based upon past wages in employment covered by state or federal UC laws.

**UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN (UCX)**

The federal program that provides benefits to ex-servicemen.

**UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES (UCFE)**

The federal program that provides benefits to ex-federal employees.

**UNEMPLOYMENT TRUST FUND (UTF)**

A fund in the Treasury of the United States which contains 53 state accounts, 4 federal accounts, and 2 accounts in connection with Railroad Retirement Board. There is one account for each state (plus the District of Columbia, Puerto Rico, and the Virgin Islands). Each state account consists of the contributions and reimbursements collected by the state. Money is withdrawn from state accounts mainly to pay unemployment benefits. The federal accounts contained are the Employment Security Administration Account (ESAA), Extended Unemployment Compensation Account (EUCA), Federal Unemployment Account (FUA) and the Federal Employees Compensation Account (FECA).

**WAITING PERIOD**

A period of unemployment for which a claimant does not receive benefits but must meet the eligibility requirements necessary to qualify for unemployment benefits.

**WEEK ENDING DATE**

The Sunday date which is the last day of the week for which benefits are claimed.

**WEEK OF UNEMPLOYMENT**

Any week in which an individual is totally or partially unemployed.

**WEEKLY BENEFIT AMOUNT**

The amount payable to a claimant for a compensable week of total unemployment.

**WEEKS CLAIMED**

The number of weeks of benefits claimed, including weeks during a waiting period or fixed disqualification period.

**WEEKS COMPENSATED**

The number of weeks claimed for which UI benefits are paid.

**WORKER PROFILING**

A method used to determine which beneficiaries are likely to exhaust their entitlement to a specific program. Scores are given based on characteristics such as industry, occupation, job tenure, mass layoff and education.



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