



wage multiplied by the sum of 42.8 percent plus the dependent child allowance rate, rounded (if not already a multiple of one dollar) to the next higher dollar.

### Nonmonetary Eligibility

Includes in the definition of “misconduct” (effective January 3, 2016) any of the following work-related circumstances:

1. Falsification of an employment application, or any other documentation provided to the employer, to obtain employment through subterfuge.
2. Failure to maintain licenses, registrations, and certifications reasonably required by the employer, or those that the individual is required to possess by law, to perform his or her regular job duties, unless the failure is not within the control of the individual.
3. Knowing, repeated violation of the attendance policies of the employer that are in compliance with State and federal law following a written warning for an attendance violation, unless the individual can demonstrate that he or she has made a reasonable effort to remedy the reason or reasons for the violations or that the reason or reasons for the violations were out of the individual’s control. Attendance policies of the employer shall be reasonable and provided to the individual in writing, electronically, or via posting in the workplace.
4. Damaging the employer’s property through conduct that is grossly negligent.
5. Refusal to obey an employer’s reasonable and lawful instruction, unless the refusal is due to the lack of ability, skills, or training for the individual required to obey the instruction or the instruction would result in an unsafe act.
6. Consuming alcohol or illegal or non-prescribed prescription drugs, or using an impairing substance in an off-label manner, on the employer’s premises during working hours in violation of the employer’s policies.
7. Reporting to work under the influence of alcohol, illegal or non-prescribed prescription drugs, or an impairing substance used in an off-label manner in violation of the employer’s policies, unless the individual is compelled to report to work by the employer outside of scheduled and on-call working hours and informs the employer that he or she is under the influence of alcohol, illegal or non-prescribed prescription drugs, or an impairing substance used in an off-label manner in violation of the employer’s policies.
8. Grossly negligent conduct endangering the safety of the individual or co-workers.

Provides that for purposes of numbers 4 and 8, conduct is “grossly negligent” when the individual is, or reasonably should be, aware of a substantial risk that the conduct will result in the harm sought to be prevented and the conduct constitutes a substantial deviation from the standard of care a reasonable person would exercise in the situation.

Provides that nothing in number 6 or 7 prohibits the lawful use of over-the-counter drug products as defined in Section 206 of the Illinois Controlled Substances Act, provided that the medication does not affect the safe performance of the employee’s work duties.

Removes from the definition of “disqualifying income” (effective January 3, 2016) the amount which an individual has received or will receive with respect to a week in the form of primary

social security old age, survivors, and disability retirement benefits, including those based on self-employment.

**KANSAS** SB 154  
(CH 57)

ENACTED May 18, 2015  
EFFECTIVE July 1, 2015

### Appeals

Provides that any action of the employment security board of review may not be reconsidered after the mailing of the decision. An action of the board shall become final unless a petition for review in accordance with the Kansas judicial review act is filed within 16 calendar days after the date of the mailing of the decision. If an appeal has not been filed within 16 calendar days of the date of the mailing of the decision, the decision becomes final.

### Financing

Provides that, for the rate year 2014 and each rate year thereafter, each employer who is not eligible for a rate contribution shall pay contributions equal to 2.7 percent (previously, 4 percent) of wages paid during each calendar year with regard to employment, except such employers engaged in the construction industry shall pay a rate equal to 6 percent.

Provides that employers engaged in more than one type of industrial activity shall be classified by principal activity. All rates assigned will remain in effect for a complete calendar year. If the sale or acquisition of a new establishment would require reclassification of the employer to a different industry sector, the employer would be promptly notified, and the contribution rate applicable to the new industry sector would become effective the following January 1.

Provides that, for rate year 2015 and prior rate years, negative account balance employers shall pay contributions at the rate of 5.4 percent for each calendar year. For rate year 2016 and rate years thereafter, negative account balance employers shall pay contributions at the rate referenced in the Standard Rate Schedule, which range from 5.60 percent to 7.60 percent.

Deletes the language providing that from calendar year 2015 forward, each negative account balance employer who does not satisfy the requirements to have an average annual payroll, shall be assigned a surcharge equal to the maximum negative ratio surcharge from column B4 of schedule II.

Provides that, for the rate year 2016 and rate years thereafter, the contribution schedule in effect shall be determined by the Fund Control Table and Rate Schedule Table.

Provides that, for rate year 2015 and prior rate years, the planned yield as a percent of total wages, as determined, shall be adjusted to taxable wages by multiplying by the ratio of total wages to taxable wages for all contributing employers for the preceding fiscal year ending June 30, except with regard to a year in which the taxable wage base changes. The taxable wages used in the calculation for such a year and the following year shall be an estimate of what the

taxable wages would have been if the new taxable wage base had been in effect during all of the preceding fiscal year ending June 30.

Provides that, for rate year 2016 and ensuing rate years, employer contribution rates to be effective for the ensuing calendar year shall be determined by the Fund Control Table. The average high cost multiple of the trust fund as of the computation date shall determine the contribution schedule in effect for the next rate year. The average high cost multiple is the reserve fund ratio, divided by the average high benefit cost rate. The average high benefit cost rate shall be determined by averaging the three highest benefit cost rates over the last 20 years from the preceding fiscal year which ended June 30. The high benefit cost rate is defined by dividing total benefits paid in the fiscal year by total payrolls for covered employers in the fiscal year.

Creates the Fund Control Table as follows:

<u>Lower AHCM</u> <u>Threshold</u>	<u>Upper AHCM</u> <u>Threshold</u>	<u>Solvency Adjustment</u> <u>to Standard Rate</u>
-1000.00000	0.19999	1.60%
0.20000	0.44999	1.40%
0.45000	0.59999	1.20%
0.60000	0.74999	1.00%
0.75000	1.14999	0.00%
1.15000	1000.0000	-0.50%

Provides that, for rate year 2016 and ensuing rate years, eligible employers shall be classified according to the Standard Rate Schedule subject to any adjustment pursuant to the effective rate schedule for that rate year.

Creates the Standard Rate Schedule consisting of 38 rate groups. Groups 1 through 27 consist of positive employers with standard rates ranging from 0.20 percent to 5.40 percent. Groups 28 through 38 consist of negative employers with standard rates ranging from 5.60 percent to 7.60 percent. The lower reserve ratio limit ranges from 18.590 to 0.000 for positive employers. The lower reserve ratio limit for negative employers is N1 through N11. The upper reserve ratio limit ranges from 1,000,000.00 to 0.714 for positive employers and -0.714 to -1,000,000.00 for negative employers.

Provides that, for all rate years prior to 2016, except with regard to rates for negative account balance employers, employer contribution rates to be effective for the ensuing calendar year shall be computed by adjusting proportionately the experience factors from schedule 1 to the required yield on taxable wages. All rates computed shall be rounded to the nearest 0.01 percent, and for calendar year 1983 and ensuing calendar years, the maximum effective contribution rate shall not exceed 5.4 percent.

### Monetary Entitlement

Provides that, for initial claims effective prior to July 1, 2015, the maximum weekly benefit amount shall be determined on July 1 of each year, by computing 60 percent of the average weekly wages paid to employees in insured work during the previous calendar year and for initial claims effective on or after July 1, 2015, the maximum weekly benefit amount shall be determined on July 1 of each year, by computing 55 percent of the average weekly wages paid to employees in insured work during the previous calendar year, but not to be less than \$474, and shall prior to that date announce the maximum weekly benefit amount so determined, by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of midmonth employment during such calendar year multiplied by 52. The maximum weekly benefit amount so determined and announced for the 12-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent 12-month period. If the computed maximum weekly benefit amount is not a multiple of \$1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of \$1.

Deletes the language concerning the minimum weekly benefit amount as follows: The minimum weekly benefit amount payable to any individual shall be 25 percent of the calculated maximum weekly benefit and shall be announced in conjunction with the published announcement of the maximum weekly benefit. The minimum weekly benefit amount so determined and announced for the 12-month period beginning July 1 of each year shall apply only to those claims which establish a benefit year filed within that 12-month period and shall apply through the benefit year of such claims notwithstanding a change in such amount in a subsequent 12-month period. If the minimum weekly benefit amount is not a multiple of \$1 it shall be reduced to the next lower multiple of \$1.

### Nonmonetary Eligibility

Provides that the Secretary, Department of Human Resources, shall examine whether an individual has separated from employment for each week claimed. The Secretary shall apply the disqualification for benefits provisions to the individual's most recent employment prior to the week claimed.

Provides that, notwithstanding the provisions of any subsection, an individual shall not be disqualified for such week of part-time employment in a substitute capacity for an educational institution if such individual's most recent employment prior to the individual's benefit year begin date was for a non-educational institution and such individual demonstrates application for work in such individual's customary occupation or for work for which the individual is reasonably fitted by training or experience.

**MICHIGAN**

SB 500  
(P.A. 240)

ENACTED and EFFECTIVE December 22, 2015

## Financing

Adds to the taxable wage base provisions that, for calendar years beginning 2016, if on June 30 of the preceding year the balance in the unemployment compensation fund equals or exceeds \$2,500,000,000 and the agency projects that the balance will remain at or above \$2,500,000,000 for the succeeding calendar quarter, the taxable wage limit for the calendar year is reduced to \$9,000 for an employer that is not delinquent in the payment of unemployment contributions, penalties, or interest. If the unemployment compensation fund balance on June 30 or the agency projection does not meet these conditions, the \$9,500 taxable wage limit applies to all employers in the next calendar year. An employer is delinquent in the payment of unemployment contribution, penalties, or interest if the employer has a quarterly unpaid balance of \$25 or more, unless one or more of the following apply:

- (a) The employer has filed a timely protest or appeal of the notice of assessment and the assessment has not become final.
- (b) Within 45 days after the beginning of the first calendar quarter in which the reduced taxable wage base limit takes effect for nondelinquent employers, all outstanding balances owed to the unemployment agency are paid in full.
- (c) If the employer is a domestic employer, all applicable contributions, interest, and penalties are paid on or before the date specified by the agency.

**NEW YORK** AB 7595  
(CH 457)

ENACTED and EFFECTIVE November 21, 2015

## Extensions and Special Programs

Extends the expiration date of the self-employment assistance program from December 7, 2016, to December 7, 2017; upon such date the program shall be deemed repealed.

**NORTH CAROLINA**

Rule 6491  
(CH 18)

ADOPTED August 3, 2015  
EFFECTIVE July 1, 2015

## Administration

Adopts rules to codify many of the existing policies and practices utilized in the unemployment insurance program including applicable definitions, procedural requirements, records management, financing, hearings, and appeals.

**TENNESSEE**

SB 102  
(CH 95)

ENACTED April 10, 2015  
EFFECTIVE July 1, 2015

## Administration

Provides that any notice, decision, or correspondence made by the Commissioner of Employment Security may be electronically transmitted, as long as the receiving party agrees to receive correspondence electronically.

Provides that any employing entity of 10 or more workers (previously 250 workers) must file wage reports electronically. Any employing entity with at least 10 but no more than 99 workers may petition to file wage records in hard copy.

Incorporates language from the Treasury Offset Program into state law as follows:

In addition to any remedies authorized by this chapter, the Department may offset any covered unemployment compensation debt, as defined in 26 U.S.C. Section 6402, due to the Department against any federal income tax refund due to the Department's claimant debtor in accordance with Section 6402 of the Internal Revenue Code (26 U.S.C. Section 6402) and the federal Treasury Offset Program (31 CFR Part 285) or any successor program.

### Overpayments

Deletes language from agency reconsideration of a claim for good cause as follows: There shall be no one year limitation on the agency representative reconsidering a decision if a claimant is subsequently convicted of a misdemeanor or felony that caused the separation from the employer; provided, however, that the employer gives notification of the conviction in a reasonable time to the agency. Any overpayment created as a result of a reconsideration because a claimant is subsequently convicted of a misdemeanor or felony that causes the separation from the employer shall be determined to be fraud and the administrator shall not waive repayment of the overpaid amounts.

Deletes from the "Offset Expenses and Fees" subsection of the Overpayments section of the Tennessee Code that the Department may exercise this right of setoff if the obligation of the debtor was the result of:

- (a) Fraud or the claimant debtor's failure to report earnings; or
- (b) Any penalties and interest assessed by the Department on a debt contemplated by subdivision (b)(2)(E).

Provides that moneys received in repayment of unemployment benefits and payment of penalties and interest pursuant to this section shall first be applied to the unemployment benefits received, then to any penalties due, and then to any interest due. (Previously, moneys received in repayment of unemployment benefits and payment of penalties and interest pursuant to subsections (a), (b)(2), and (c) shall first be applied to the unemployment benefits received, then to any interest due.) These moneys shall be used to defray the costs of deterring, detecting, or collecting overpayments.

**WISCONSIN**

AB 416  
(Act No. 86)

ENACTED November 11, 2015  
EFFECTIVE November 15, 2015,  
or as otherwise noted

### Administration

Defines the phrase “combined-wage claim” to mean a claim for benefits that is filed pursuant to a reciprocal arrangement with any agency similarly charged with the administration of any other unemployment insurance law, for the purpose of assisting the Labor and Industry Review Commission and such agencies in paying benefits under the several laws to employees while outside their territorial jurisdictions.

Defines the phrase “out-of-state employer” to mean a person that employs an individual who files a combined-wage claim in which the wages and employment from that person are covered under the unemployment compensation law of another state.

Provides that the Department of Workforce Development (Department) may issue a determination that an out-of-state employer is at fault for the erroneous payment of benefits under a combined-wage claim in the same manner as the department issues determinations under the procedures for settlement of issues other than benefit claims, if the unemployment insurance account of the out-of-state employer is potentially chargeable. A determination issued is subject to the same procedures and may be appealed under the same procedures.

#### Extensions and Special Programs

Amends the work-share program benefit payment provisions by providing that, except as provided in Section 108.062, paragraph (b) (previously, as provided in paragraph (b) and subsection (7)) of the Unemployment Insurance and Reserves Act, an employee who is included under a work-share program and who qualifies to receive regular benefits for any week during the effective period of the program shall receive a benefit payment for each week that the employee is included under the program in an amount equal to the employee’s regular benefit amount multiplied by the employee’s proportionate reduction in hours worked for that week as a result of the work-share program. Such an employee shall receive benefits as calculated under this paragraph and not as provided under the provisions concerning benefits for partial unemployment. (Effective December 27, 2015.) (Applicable to work-share plans approved on December 27, 2015.)

Repeals Section 108.062(7) of the Unemployment Insurance and Reserves Act, relating to the work-share program benefit payment provisions. (Effective December 27, 2015.) (Applicable to work-share plans approved on December 27, 2015.)

#### Financing

Provides that any payments of fees or expenses assessed by the U.S. Secretary of the Treasury and charged to the Department under 26 U.S. Code 6402(f) shall be charged against the unemployment reserve fund’s balancing account.

Provides that all money withdrawn from the unemployment reserve fund shall be used solely in the payment of benefits, exclusive of expenses of administration, and for refunds of sums erroneously paid into the fund, for refund of a positive net balance in an employer’s reimbursement account on request by the employer, for expenditures made and consistently with the federal limitations, and for payment of fees and expenses for collection of overpayments



resulting from fraud or failure to report earnings that are assessed by the U.S. Secretary of the Treasury and charged to the Department under 26 U.S. Code 6402(f). (Added “and charged to the Department”.)

Provides that, if any employing unit or any individual who is an officer, employee, member, or manager holding at least 20 percent of the ownership interest of a corporation or of a limited liability company willfully fails to file any required contribution reports or to make payment of contributions to the Department, or to ensure that such reports are filed or that such payments are made is found to be personally liable and fails to pay to the Department any amount found to be due it in proceedings relating to settlement of issues other than benefit claims, provided that no appeal or review permitted under such proceedings is pending and that the time for taking an appeal or review has expired, the Department or any authorized representative may offset the amount against a federal tax refund as provided in 26 U.S. Code 6402(f).