

1 HOUSE BILL 482

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO UNEMPLOYMENT COMPENSATION; REDUCING AN INDIVIDUAL'S
12 WEEKLY BENEFIT AMOUNT; ADJUSTING THE MAXIMUM BENEFIT AMOUNT
13 PAYABLE TO THE LESSER OF TWENTY-SIX TIMES THE WEEKLY BENEFIT
14 AMOUNT OR THIRTY-THREE PERCENT OF WAGES PAID DURING THE BASE
15 PERIOD.

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 51-1-4 NMSA 1978 (being Laws 2003,
19 Chapter 47, Section 8, as amended) is amended to read:

20 "51-1-4. MONETARY COMPUTATION OF BENEFITS--PAYMENT
21 GENERALLY.--

22 A. All benefits provided herein are payable from
23 the unemployment compensation fund. All benefits shall be paid
24 in accordance with rules prescribed by the secretary through
25 employment offices or other agencies as the secretary approves

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1 by general rule.

2 B. Weekly benefits shall be as follows:

3 (1) an individual's "weekly benefit amount" is
4 an amount equal to [~~fifty-three and one-half~~] forty-five
5 percent of the average weekly wage for insured work paid to the
6 individual in that quarter of the individual's base period in
7 which total wages were highest. No benefit as so computed may
8 be less than ten percent or more than [~~fifty-three and one-~~
9 ~~half~~] forty-five percent of the state's average weekly wage for
10 all insured work. The state's average weekly wage shall be
11 computed from all wages reported to the department from
12 employing units in accordance with rules of the secretary for
13 the period ending June 30 of each calendar year divided by the
14 total number of covered employees divided by fifty-two,
15 effective for the benefit years commencing on or after the
16 first Sunday of the following calendar year. An individual is
17 not eligible to receive benefits unless the individual has
18 wages in at least two quarters of that individual's base
19 period. For the purposes of this subsection, "total wages"
20 means all remuneration for insured work, including commissions
21 and bonuses and the cash value of all remuneration in a medium
22 other than cash;

23 (2) an eligible individual who is unemployed
24 in any week during which the individual is in a continued
25 claims status shall be paid, with respect to the week, a

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1 benefit in an amount equal to the individual's weekly benefit
2 amount, less that part of the wages, if any, or earnings from
3 self-employment, payable to the individual with respect to such
4 week that is in excess of one-fifth of the individual's weekly
5 benefit amount. For purposes of this subsection only, "wages"
6 includes all remuneration for services actually performed in a
7 week for which benefits are claimed, vacation pay for a period
8 for which the individual has a definite return-to-work date,
9 wages in lieu of notice and back pay for loss of employment but
10 does not include payments through a court for time spent in
11 jury service;

12 (3) notwithstanding any other provision of
13 this section, an eligible individual who, pursuant to a plan
14 financed in whole or in part by a base-period employer of the
15 individual, is receiving a governmental or other pension,
16 retirement pay, annuity or any other similar periodic payment
17 that is based on the previous work of the individual and who is
18 unemployed with respect to any week ending subsequent to April
19 9, 1981 shall be paid with respect to the week, in accordance
20 with rules prescribed by the secretary, compensation equal to
21 the individual's weekly benefit amount reduced, but not below
22 zero, by the prorated amount of the pension, retirement pay,
23 annuity or other similar periodic payment that exceeds the
24 percentage contributed to the plan by the eligible individual.
25 The maximum benefit amount payable to the eligible individual

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1 shall be an amount not more than twenty-six times the
2 individual's reduced weekly benefit amount. If payments
3 referred to in this section are being received by an individual
4 under the federal Social Security Act, the division shall take
5 into account the individual's contribution and make no
6 reduction in the weekly benefit amount;

7 (4) in the case of a lump-sum payment of a
8 pension, retirement or retired pay, annuity or other similar
9 payment by a base-period employer that is based on the previous
10 work of the individual, the payment shall be allocated, in
11 accordance with rules prescribed by the secretary, and shall
12 reduce the amount of unemployment compensation paid, but not
13 below zero, in accordance with Paragraph (3) of this
14 subsection; and

15 (5) the retroactive payment of a pension,
16 retirement or retired pay, annuity or any other similar
17 periodic payment as provided in Paragraphs (3) and (4) of this
18 subsection attributable to weeks during which an individual has
19 claimed or has been paid unemployment compensation shall be
20 allocated to those weeks and shall reduce the amount of
21 unemployment compensation for those weeks, but not below zero,
22 by an amount equal to the prorated amount of the pension. Any
23 overpayment of unemployment compensation benefits resulting
24 from the application of the provisions of this paragraph shall
25 be recovered from the claimant in accordance with the

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1 provisions of Section 51-1-38 NMSA 1978.

2 C. An individual otherwise eligible for benefits
3 shall be paid for each week of unemployment, in addition to the
4 amount payable under Subsection B of this section, the sum of
5 twenty-five dollars (\$25.00) for each unemancipated child under
6 the age of eighteen, up to a maximum of two and subject to the
7 maximum stated in Subsection D of this section, of the
8 individual who is in fact dependent upon and wholly or mainly
9 supported by the individual, including:

10 (1) a child in the individual's custody
11 pending the adjudication of a petition filed by the individual
12 for the adoption of the child in a court of competent
13 jurisdiction; or

14 (2) a child for whom the individual, under a
15 decree or order from a court of competent jurisdiction, is
16 required to contribute to the child's support and for whom no
17 other person is receiving allowances under the Unemployment
18 Compensation Law if the child is domiciled within the United
19 States or its territories or possessions, the payment to be
20 withheld and paid pursuant to Section 51-1-37.1 NMSA 1978.

21 D. Dependency benefits shall not exceed fifty
22 percent of the individual's weekly benefit rate. The amount of
23 dependency benefits determined as of the beginning of an
24 individual's benefit year shall not be reduced for the duration
25 of the benefit year, but this provision does not prevent the

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1 transfer of dependents' benefits from one spouse to another in
2 accordance with this subsection. If both the husband and wife
3 receive benefits with respect to a week of unemployment, only
4 one of them is entitled to a dependency allowance with respect
5 to a child. The division shall prescribe standards as to who
6 may receive a dependency allowance when both the husband and
7 wife are eligible to receive unemployment compensation
8 benefits. Dependency benefits shall not be paid unless the
9 individual submits documentation satisfactory to the division
10 establishing the existence of the claimed dependent. If the
11 provisions of this subsection are satisfied, an otherwise
12 eligible individual who has been appointed guardian of a
13 dependent child by a court of competent jurisdiction shall be
14 paid dependency benefits.

15 E. An otherwise eligible individual is entitled
16 during any benefit year to a total amount of benefits equal to
17 whichever is the lesser of twenty-six times the individual's
18 weekly benefit amount, plus any dependency benefit amount
19 pursuant to Subsections C and D of this section, or [~~sixty~~]
20 thirty-three percent of the individual's wages for insured work
21 paid during the individual's base period.

22 F. A benefit as determined in Subsection B or C of
23 this section, if not a multiple of one dollar (\$1.00), shall be
24 rounded to the next lower multiple of one dollar (\$1.00).

25 G. The secretary may prescribe rules to provide for

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1 the payment of benefits that are due and payable to the legal
2 representative, dependents, relatives or next of kin of
3 claimants since deceased. These rules need not conform with
4 the laws governing successions, and the payment shall be deemed
5 a valid payment to the same extent as if made under a formal
6 administration of the succession of the claimant.

7 H. The division, on its own initiative, may
8 reconsider a monetary determination whenever it is determined
9 that an error in computation or identity has occurred or that
10 wages of the claimant pertinent to such determination but not
11 considered have been newly discovered or that the benefits have
12 been allowed or denied on the basis of misrepresentation of
13 fact, but no redetermination shall be made after one year from
14 the date of the original monetary determination. Notice of a
15 redetermination shall be given to all interested parties and
16 shall be subject to an appeal in the same manner as the
17 original determination. In the event that an appeal involving
18 an original monetary determination is pending at the time a
19 redetermination is issued, the appeal, unless withdrawn, shall
20 be treated as an appeal from redetermination."