

1 UNEMPLOYMENT COMPENSATION

2 AMENDMENTS

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 Chief Sponsor: Steven R. Mascaro

6 Senate Sponsor: Mark B. Madsen

7 Cosponsors:
8 Laura Black

Neil A. Hansen

Christine F. Watkins

9
10 LONG TITLE

11 General Description:

12 This bill modifies provisions in the Employment Security Act regarding the
13 computation of individual weekly benefits for those whose benefit year begins after the
14 termination of Pub. L. No. 111-5, Sec. 2002 as amended and the offset of Social
15 Security benefits against the weekly benefit amount of unemployment compensation an
16 individual is eligible to receive under the Act.

17 Highlighted Provisions:

18 This bill:

19 ► provides that Social Security benefits may not be offset against unemployment
20 compensation weekly benefits under the Employment Security Act with respect to
21 an individual whose benefit year begins after the termination of Pub. L. No. 111-5,
22 Sec. 2002 as amended;

23 ► provides for the computation of weekly unemployment benefits for those whose
24 benefit year begins after the termination of Pub. L. No. 111-5, Sec. 2002 as
25 amended; and

26 ► makes certain technical changes.

27 Monies Appropriated in this Bill:

28 None

29 Other Special Clauses:

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **35A-4-401**, as last amended by Laws of Utah 2008, Chapter 382



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **35A-4-401** is amended to read:

37 **35A-4-401. Benefits -- Weekly benefit amount -- Computation of benefits --**

38 **Department to prescribe rules -- Notification of benefits -- Bonuses.**

39 (1) (a) Benefits are payable from the fund to an individual who is or becomes
40 unemployed and eligible for benefits.

41 (b) All benefits shall be paid through the employment offices or other agencies
42 designated by the division in accordance with rules the department may prescribe in
43 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

44 (2) (a) (i) ~~[An]~~ Except as otherwise provided in Subsection (2)(a)(ii), an individual's
45 "weekly benefit amount" is an amount equal to 1/26th, disregarding any fraction of \$1, of the
46 individual's total wages for insured work paid during that quarter of the base period in which
47 the total wages were highest.

48 (ii) With respect to an individual whose benefit year begins after the termination of
49 any payable week under Pub. L. No. 111-5, Sec. 2002 as amended, an individual's weekly
50 benefit amount is an amount equal to 1/26th minus \$5, disregarding any fraction of \$1, of the
51 individual's total wages for insured work paid during that quarter of the base period in which
52 the total wages were highest.

53 (b) (i) The weekly benefit amount may not exceed ~~[the amount determined as follows:~~

54 ~~(i) With respect to an individual whose benefit year commences on or after January 1, 2001,~~
55 ~~65% of the "insured average fiscal year weekly wage" during the preceding fiscal year, e.g.,~~
56 ~~fiscal year 2000 for individuals establishing benefit years in 2001, disregarding any fraction of~~
57 ~~\$1, constitutes the maximum "weekly benefit amount" payable. (ii) With respect to an~~

58 individual who files a claim for benefits on or after July 4, 2004,] 62.5% of the insured
59 average fiscal year weekly wage during the preceding fiscal year, disregarding any fraction of
60 \$1[, constitutes the maximum weekly benefit amount payable].

61 (ii) With respect to an individual whose benefit year begins after the termination of
62 any payable week under Pub. L. No. 111-5, Sec. 2002 as amended, the weekly benefit amount
63 may not exceed 62.5% of the insured average fiscal year weekly wage during the preceding
64 fiscal year minus \$5, disregarding any fraction of \$1.

65 (c) (i) Except as otherwise provided in [~~Subsection~~] Subsections (2)(c)(ii) and (iii), the
66 "weekly benefit amount" of an individual who is receiving, or who is eligible to receive, based
67 upon the individual's previous employment, a pension, which includes a governmental, Social
68 Security, or other pension, retirement or disability retirement pay, under a plan maintained or
69 contributed to by a base-period employer is the "weekly benefit amount" which is computed
70 under this section less 100% of the retirement benefits, that are attributable to a week,
71 disregarding any fraction of \$1.

72 (ii) With respect to an individual whose benefit year begins after July 1, 2004, and
73 ends on or before [~~July 1, 2011~~] the termination of any payable week under Pub. L. No. 111-5,
74 Sec. 2002 as amended, the "weekly benefit amount" of that individual, who is receiving or
75 who is eligible to receive Social Security benefits based upon the individual's previous
76 employment, is the "weekly benefit amount" which is computed under this section less 50% of
77 the individual's Social Security benefits that are attributable to the week, but not below zero.

78 (iii) With respect to an individual whose benefit year begins after the termination of
79 any payable week under Pub. L. No. 111-5, Sec. 2002 as amended, this Subsection (2)(c) and
80 Subsection (2)(d) do not apply to Social Security benefits an individual is receiving or is
81 eligible to receive as they are not considered retirement benefits for purposes of those
82 subsections.

83 (d) (i) (A) The weekly benefit amount and the potential benefits payable to an
84 individual who, subsequent to the commencement of the individual's benefit year, becomes or
85 is determined to be eligible to receive retirement benefits or increased retirement benefits, shall

86 be recomputed effective with the first calendar week during the individual's benefit year with
87 respect to which the individual is eligible to receive retirement benefits or increased retirement
88 benefits.

89 (B) The new weekly benefit amount shall be determined under this Subsection (2).

90 (ii) As recomputed the total benefits potentially payable, commencing with the
91 effective date of the recomputation, shall be equal to the recomputed weekly benefit amount
92 times the quotient obtained by dividing the potential benefits unpaid prior to the
93 recomputation by the initial weekly benefit amount, disregarding fractions.

94 (3) (a) An eligible individual who is unemployed in any week shall be paid with
95 respect to that week a benefit in an amount equal to the individual's weekly benefit amount
96 less that part of the individual's wage payable to the individual with respect to that week that is
97 in excess of 30% of the individual's weekly benefit amount.

98 (b) The resulting benefit payable shall disregard any fraction of \$1.

99 (c) For the purpose of this Subsection (3) "wages" does not include a grant paid to the
100 individual as public assistance.

101 (4) (a) An otherwise eligible individual is entitled during a benefit year to a total
102 amount of benefits determined by multiplying the individual's weekly benefit amount times
103 the individual's potential duration.

104 (b) To determine an individual's potential duration, the individual's total wages for
105 insured work paid during the base period is multiplied by 27%, disregarding any fraction of
106 \$1, and divided by the individual's weekly benefit amount, disregarding any fraction, but not
107 less than 10 nor more than 26.

108 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
109 the department may by rule prescribe:

110 (i) that the existence of unemployment, eligibility for benefits, and the amount of
111 benefits payable shall be determined in the case of an otherwise eligible individual who,
112 within a week or other period of unemployment, is separated from or secures work on a regular
113 attachment basis for that portion of the week or other period of unemployment occurring

114 before or after separation from or securing of work; and

115 (ii) in the case of an individual working on a regular attachment basis, eligibility for
116 benefits and the amount of benefits payable for periods of unemployment longer than a week.

117 (b) The rules made shall be reasonably calculated to secure general results
118 substantially similar to those provided by this chapter with respect to weeks of unemployment.

119 (6) The division shall, in all cases involving actual or potential disqualifying issues
120 and prior to the payment of benefits to an eligible individual, notify the individual's most
121 recent employer of the eligibility determination.

122 (7) Upon written request of an individual made under rules of the department in
123 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, all remuneration
124 for insured work paid to the individual during the individual's period in the form of a bonus or
125 lump-sum payment shall, for benefit purposes, be apportioned to the calendar quarters in
126 which the remuneration was earned.

127 (8) (a) The director of the division or the director's designee shall make an annual
128 report to the Workforce Employment Advisory Council and to the Legislature's Workforce
129 Services and Community and Economic Development Interim Committee no later than
130 November 30 of 2011, and 2012, concerning the impact of individuals applying for
131 unemployment compensation and the unemployment trust fund as a result of the amendments
132 made to Subsection 35A-4-401(2) during the Legislature's 2010 General Session.

133 (b) The report shall include a recommendation for a potential adjustment in the weekly
134 benefit amounts established in Subsections 35A-4-401(2)(a)(ii) and 35A-4-401(2)(b)(ii),
135 taking into account the unemployment benefit costs associated with the amendments made to
136 Subsection 35A-4-401(2) during the Legislature's 2010 General Session.