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**UNEMPLOYMENT INSURANCE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Trevor Lee**

Senate Sponsor: Todd D. Weiler

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**LONG TITLE**

**General Description:**

This bill modifies the Employment Security Act.

**Highlighted Provisions:**

This bill:

- identifies certain conduct that may disqualify an individual from receiving unemployment benefits;
- requires the Unemployment Insurance Division within the Department of Workforce Services to make rules governing certain disqualifications for unemployment benefits;
- requires the Department of Workforce Services to develop and maintain a website for employers to access information and report possible fraud in relation to unemployment insurance; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**35A-4-405**, as last amended by Laws of Utah 2013, Chapter 315

ENACTS:

**35A-4-509**, as Utah Code Annotated 1953

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

Section 1. Section **35A-4-405** is amended to read:

28           **35A-4-405 . Ineligibility for benefits.**

29           Except as otherwise provided in Subsection (5), an individual is ineligible for  
30 benefits or for purposes of establishing a waiting period:

- 31 (1) (a) For the week in which the claimant left work voluntarily without good cause, if  
32 so found by the division, and for each week thereafter until the claimant has  
33 performed services in bona fide, covered employment and earned wages for those  
34 services equal to at least six times the claimant's weekly benefit amount.
- 35 (b) A claimant may not be denied eligibility for benefits if the claimant leaves work  
36 under circumstances where it would be contrary to equity and good conscience to  
37 impose a disqualification.
- 38 (c) Using available information from employers and the claimant, the division shall  
39 consider for the purposes of this chapter the reasonableness of the claimant's actions,  
40 and the extent to which the actions evidence a genuine continuing attachment to the  
41 labor market in reaching a determination of whether the ineligibility of a claimant is  
42 contrary to equity and good conscience.
- 43 (d) Except as provided in Subsection (1)(e), a claimant who has left work voluntarily to  
44 accompany or follow the claimant's spouse to a new locality does so without good  
45 cause for purposes of this Subsection (1).
- 46 (e) A claimant who has left work voluntarily to accompany or follow the claimant's  
47 spouse to a new locality does so with good cause for purposes of this Subsection (1)  
48 and is eligible to receive benefits if:
- 49 (i) the claimant's spouse is a member of the United States armed forces and the  
50 claimant's spouse has been relocated by a full-time assignment scheduled to last at  
51 least 180 days while on:
- 52 (A) active duty as defined in 10 U.S.C. Sec. 101(d)(1); or  
53 (B) active guard or reserve duty as defined in 10 U.S.C. Sec. 101(d)(6);
- 54 (ii) it is impractical as determined by the division for the claimant to commute to the  
55 previous work from the new locality;
- 56 (iii) the claimant left work voluntarily no earlier than 15 days before the scheduled  
57 start date of the spouse's active-duty assignment; and
- 58 (iv) the claimant otherwise meets and follows the eligibility and reporting  
59 requirements of this chapter, including registering for work with the division or, if  
60 the claimant has relocated to another state, the equivalent agency of that state.
- 61 (2) (a) For the week in which the claimant was discharged for just cause or for an act or

62 omission in connection with employment, not constituting a crime, which is  
63 deliberate, willful, or wanton and adverse to the employer's rightful interest, if so  
64 found by the division, and thereafter until the claimant has earned an amount equal to  
65 at least six times the claimant's weekly benefit amount in bona fide covered  
66 employment.

67 (b) For the week in which the claimant was discharged for dishonesty constituting a  
68 crime or any felony or class A misdemeanor in connection with the claimant's work  
69 as shown by the facts, together with the claimant's admission, or as shown by the  
70 claimant's conviction of that crime in a court of competent jurisdiction and for the 51  
71 next following weeks.

72 (c) Wage credits shall be deleted from the claimant's base period, and are not available  
73 for this or any subsequent claim for benefits.

74 (3) (a) (i) If the division finds that the claimant has failed without good cause to  
75 properly[-] :

76 (A) apply for available suitable work[-] ;

77 (B) appear for a scheduled interview for suitable work;

78 (C) [~~to~~]accept a referral to suitable work offered by the employment office[-] ; or

79 (D) [~~to~~]accept suitable work offered by an employer or the employment office.

80 (ii) For purposes of Subsection (3)(a)(i)(D), the division shall consider a claimant's  
81 failure to accept an offer of suitable work from an employer or the employment  
82 office within three business days after the day on which the offer is sent as a  
83 failure to accept suitable work.

84 ~~(ii)~~ (iii) The ineligibility continues until the claimant has performed services in bona  
85 fide covered employment and earned wages for the services in an amount equal to  
86 at least six times the claimant's weekly benefit amount.

87 (b) (i) A claimant may not be denied eligibility for benefits for failure to apply,  
88 accept referral, or accept available suitable work under circumstances where it  
89 would be contrary to equity and good conscience to impose a disqualification.

90 (ii) The division shall consider the purposes of this chapter, the reasonableness of the  
91 claimant's actions, and the extent to which the actions evidence a genuine  
92 continuing attachment to the labor market in reaching a determination of whether  
93 the ineligibility of a claimant is contrary to equity and good conscience.

94 (c) In determining whether work is suitable for an individual, the division shall consider  
95 the:

- 96 (i) degree of risk involved to the individual's health, safety, and morals;  
97 (ii) individual's physical fitness and prior training;  
98 (iii) individual's prior earnings and experience;  
99 (iv) individual's length of unemployment;  
100 (v) prospects for securing local work in the individual's customary occupation;  
101 (vi) wages for similar work in the locality; and  
102 (vii) distance of the available work from the individual's residence.
- 103 (d) Prior earnings shall be considered on the basis of all four quarters used in  
104 establishing eligibility and not just the earnings from the most recent employer. The  
105 division shall be more prone to find work as suitable the longer the claimant has been  
106 unemployed and the less likely the prospects are to secure local work in his  
107 customary occupation.
- 108 (e) Notwithstanding any other provision of this chapter, no work is suitable, and benefits  
109 may not be denied under this chapter to any otherwise eligible individual for refusing  
110 to accept new work under any of the following conditions:  
111 (i) if the position offered is vacant due directly to a strike, lockout, or other labor  
112 dispute;  
113 (ii) if the wages, hours, or other conditions of the work offered are substantially less  
114 favorable to the individual than those prevailing for similar work in the locality; or  
115 (iii) if as a condition of being employed the individual would be required to join a  
116 company union or to resign from or refrain from joining any bona fide labor  
117 organization.
- 118 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
119 division shall make rules governing ineligibility for benefits under this Subsection (3).
- 120 (4) For any week in which the division finds that the claimant's unemployment is due to a  
121 stoppage of work that exists because of a strike involving the claimant's grade, class, or  
122 group of workers at the factory or establishment at which the claimant is or was last  
123 employed.
- 124 (a) If the division finds that a strike has been fomented by a worker of any employer,  
125 none of the workers of the grade, class, or group of workers of the individual who is  
126 found to be a party to the plan, or agreement to foment a strike, shall be eligible for  
127 benefits. However, if the division finds that the strike is caused by the failure or  
128 refusal of any employer to conform to any law of the state or of the United States  
129 pertaining to hours, wages, or other conditions of work, the strike may not render the

- 130 workers ineligible for benefits.
- 131 (b) If the division finds that the employer, the employer's agent or representative has  
132 conspired, planned, or agreed with any of the employer's workers, their agents or  
133 representatives to foment a strike, that strike may not render the workers ineligible  
134 for benefits.
- 135 (c) A worker may receive benefits if, subsequent to the worker's unemployment because  
136 of a strike as defined in this Subsection (4), the worker has obtained employment and  
137 has been paid wages of not less than the amount specified in Subsection 35A-4-401  
138 (4) and has worked as specified in Subsection 35A-4-403(1)(f). During the existence  
139 of the stoppage of work due to this strike the wages of the worker used for the  
140 determination of his benefit rights may not include any wages the worker earned  
141 from the employer involved in the strike.
- 142 (5) (a) For each week a claimant obtains a benefit under this chapter by willfully making  
143 a false statement or representation or by knowingly failing to report a material fact,  
144 and a penalty of no more than 49 additional weeks as follows:
- 145 (i) 13 weeks for the first week the false statement or representation was made or fact  
146 withheld to receive a benefit; and
- 147 (ii) six weeks for each additional week the false statement or representation was  
148 made or fact withheld to receive a benefit.
- 149 (b) The additional penalty weeks shall begin on the Sunday of the week the  
150 determination finding the claimant in violation of this Subsection (5) is issued.
- 151 (c) (i) Each claimant found in violation of this Subsection (5) shall repay to the  
152 division the overpayment and, as a civil penalty for fraud, an amount equal to the  
153 overpayment.
- 154 (ii) The overpayment is the amount of benefits the claimant received by direct reason  
155 of fraud.
- 156 (iii) Subject to the requirements of Subsection 35A-4-506(7), the civil penalty for  
157 fraud amount shall be treated as any other penalty under this chapter.
- 158 (iv) The repayment of an overpayment and a civil penalty for fraud shall be  
159 collectible by civil action or warrant in the manner provided in Subsections  
160 35A-4-305(3) and (5).
- 161 (d) A claimant is ineligible for future benefits or waiting week credit, and any wage  
162 credits earned by the claimant shall be unavailable for purposes of paying benefits, if  
163 any amount owed under this Subsection (5) remains unpaid.

- 164 (e) Determinations under this Subsection (5) shall be appealable in the manner provided  
165 by this chapter for appeals from other benefit determinations.
- 166 (f) If the fraud determination is based solely on unreported or underreported work or  
167 earnings, or both, and the claimant would have been eligible for benefits if the work  
168 or earnings, or both, had been correctly reported, the individual does not lose  
169 eligibility for that week because of the misreporting but is liable for the overpayment  
170 and subject to the penalties in Subsection (5)(c) and the disqualification periods for  
171 future weeks in Subsection (5)(a).
- 172 (6) For any week with respect to which or a part of which the claimant has received or is  
173 seeking unemployment benefits under an unemployment compensation law of another  
174 state or the United States. If the appropriate agency of the other state or of the United  
175 States finally determines that the claimant is not entitled to those unemployment  
176 benefits, this disqualification does not apply.
- 177 (7) (a) For any week with respect to which the claimant is receiving, has received, or is  
178 entitled to receive remuneration in the form of:
- 179 (i) wages in lieu of notice, or a dismissal or separation payment; or  
180 (ii) accrued vacation or terminal leave payment.
- 181 (b) If the remuneration is less than the benefits that would otherwise be due, the claimant  
182 is entitled to receive for that week, if otherwise eligible, benefits reduced as provided  
183 in Subsection 35A-4-401(3).
- 184 (8) (a) For any week in which the individual's benefits are based on service for an  
185 educational institution in an instructional, research, or principal administrative  
186 capacity and that begins during the period between two successive academic years, or  
187 during a similar period between two regular terms, whether or not successive, or  
188 during a period of paid sabbatical leave provided for in the individual's contract if the  
189 individual performs services in the first of those academic years or terms and if there  
190 is a contract or reasonable assurance that the individual will perform services in that  
191 capacity for an educational institution in the second of the academic years or terms.
- 192 (b) (i) For any week in which the individual's benefits are based on service in any  
193 other capacity for an educational institution, and that week begins during a period  
194 between two successive academic years or terms if the individual performs those  
195 services in the first of the academic years or terms and there is a reasonable  
196 assurance that the individual will perform the services in the second of the  
197 academic years or terms.

- 198 (ii) If compensation is denied to any individual under this Subsection (8) and the  
199 individual was not offered an opportunity to perform the services for the  
200 educational institution for the second of the academic years or terms, the  
201 individual shall be entitled to a retroactive payment of compensation for each  
202 week for which the individual filed a timely claim for compensation and for which  
203 compensation was denied solely by reason of this Subsection (8).
- 204 (c) With respect to any services described in Subsection (8)(a) or (b), compensation  
205 payable on the basis of those services shall be denied to an individual for any week  
206 that commences during an established and customary vacation period or holiday  
207 recess if the individual performs the services in the period immediately before the  
208 vacation period or holiday recess, and there is a reasonable assurance that the  
209 individual will perform the services in the period immediately following the vacation  
210 period or holiday recess.
- 211 (d) (i) With respect to services described in Subsection (8)(a) or (b), compensation  
212 payable on the basis of those services as provided in Subsection (8)(a), (b), or (c)  
213 shall be denied to an individual who performed those services in an educational  
214 institution while in the employ of an educational service agency in accordance  
215 with the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3304(a)(6)(A)(iv).
- 216 (ii) For purposes of this Subsection (8)(d), "educational service agency" means a  
217 governmental agency or entity established and operated exclusively for the  
218 purpose of providing the services described in Subsection (8)(a) or (b) to an  
219 educational institution.
- 220 (e) With respect to services described in Subsection (8)(a) or (b), compensation payable  
221 on the basis of those services as provided in Subsection (8)(a), (b), or (c) shall be  
222 denied to an individual who performed those services:
- 223 (i) to or on behalf of an educational institution in accordance with the Federal  
224 Unemployment Tax Act, 26 U.S.C. Sec. 3304(a)(6)(A)(v); and
- 225 (ii) while employed by a governmental entity, Indian tribe, or nonprofit organization,  
226 to which the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3309(a)(1) applies.
- 227 (f) Benefits based on service in employment, defined in Subsections 35A-4-204(2)(d)  
228 and (e) are payable in the same amount, on the same terms and subject to the same  
229 conditions as compensation payable on the basis of other services subject to this  
230 chapter.
- 231 (9) For any week that commences during the period between two successive sport seasons

232 or similar periods if the individual performed any services, substantially all of which  
 233 consist of participating in sports or athletic events or training or preparing to participate  
 234 in the first of those seasons or similar periods and there is a reasonable assurance that  
 235 individual will perform those services in the later of the seasons or similar periods.

- 236 (10) (a) For any week in which the benefits are based upon services performed by an  
 237 alien, unless the alien is an individual who has been lawfully admitted for permanent  
 238 residence at the time the services were performed, was lawfully present for purposes  
 239 of performing the services or was permanently residing in the United States under  
 240 color of law at the time the services were performed, including an alien who is  
 241 lawfully present in the United States as a result of the application of Subsection  
 242 212(d)(5) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5)(A).
- 243 (b) Any data or information required of individuals applying for benefits to determine  
 244 whether benefits are not payable to them because of their alien status shall be  
 245 uniformly required from all applicants for benefits.
- 246 (c) In the case of an individual whose application for benefits would otherwise be  
 247 approved, no determination that benefits to the individual are not payable because of  
 248 his alien status shall be made except upon a preponderance of the evidence.

249 Section 2. Section **35A-4-509** is enacted to read:

250 **35A-4-509 . Department to maintain website for employers.**

- 251 (1) The department shall develop and maintain a website through which employers may:
- 252 (a) access the following information:
- 253 (i) the division's rules and processes for the administration of this chapter;
- 254 (ii) a description of conduct that disqualifies a claimant from receiving benefits under  
 255 Section 35A-4-405;
- 256 (iii) instructions for detecting and reporting possible violations of Section 35A-4-405;
- 257 (iv) information about the process for determining whether a claimant has violated  
 258 Section 35A-4-405, including the factors considered by the division in making the  
 259 determination;
- 260 (v) any other resources available to employers to assist in understanding the  
 261 requirements of this chapter; and
- 262 (vi) the division contact information;
- 263 (b) report possible violations of Section 35A-4-405 to the division; and
- 264 (c) communicate directly with the division.
- 265 (2) The department shall ensure that the website described in Subsection (1):



266 (a) is developed in a user-friendly manner with simple, easy-to-understand language; and

267 (b) is directly accessible via a link from the main page of the division's website.

268 Section 3. **Effective date.**

269 This bill takes effect on May 1, 2024.