

1 UNEMPLOYMENT COMPENSATION

2 AMENDMENTS

3 2010 GENERAL SESSION

4 STATE OF UTAH

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6 LONG TITLE

7 General Description:

8 This bill modifies provisions in the Employment Security Act regarding the  
9 computation of individual weekly benefits for those whose benefit year begins after  
10 July 3, 2010, and the offset of Social Security benefits against the weekly benefit  
11 amount of unemployment compensation an individual is eligible to receive under the  
12 Act.

13 Highlighted Provisions:

14 This bill:

- 15 ▶ provides that Social Security benefits may not be offset against unemployment
- 16 compensation weekly benefits under the Employment Security Act with respect to
- 17 an individual whose benefit year begins after July 3, 2010;
- 18 ▶ provides for the computation of weekly unemployment benefits for those whose
- 19 benefit year begins after July 3, 2010; and
- 20 ▶ makes certain technical changes.

21 Monies Appropriated in this Bill:

22 None

23 Other Special Clauses:

24 None

25 Utah Code Sections Affected:

26 AMENDS:

27 35A-4-401, as last amended by Laws of Utah 2008, Chapter 382

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

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

31 35A-4-401. Benefits -- Weekly benefit amount -- Computation of benefits --

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

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

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

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

42 (ii) With respect to an individual whose benefit year begins after July 3, 2010, an  
43 individual's weekly benefit amount is an amount equal to 1/26th minus \$3, disregarding any  
44 fraction of \$1, of the individual's total wages for insured work paid during that quarter of the  
45 base period in which the total wages were highest.

46 (b) (i) The weekly benefit amount may not exceed ~~[the amount determined as follows:-~~  
47 ~~(i) With respect to an individual whose benefit year commences on or after January 1, 2001,~~  
48 ~~65% of the "insured average fiscal year weekly wage" during the preceding fiscal year, e.g.,~~  
49 ~~fiscal year 2000 for individuals establishing benefit years in 2001, disregarding any fraction of~~  
50 ~~\$1, constitutes the maximum "weekly benefit amount" payable. (ii) With respect to an~~  
51 ~~individual who files a claim for benefits on or after July 4, 2004,] 62.5% of the insured average~~  
52 ~~fiscal year weekly wage during the preceding fiscal year, disregarding any fraction of \$1[;~~  
53 ~~constitutes the maximum weekly benefit amount payable].~~

54 (ii) With respect to an individual whose benefit year begins after July 3, 2010, the  
55 weekly benefit amount may not exceed 62.5% of the insured average fiscal year weekly wage  
56 during the preceding fiscal year minus \$3, disregarding any fraction of \$1.

57 (c) (i) Except as otherwise provided in ~~[Subsection]~~ Subsections (2)(c)(ii) and (iii), the  
58 "weekly benefit amount" of an individual who is receiving, or who is eligible to receive, based  
59 upon the individual's previous employment, a pension, which includes a governmental, Social  
60 Security, or other pension, retirement or disability retirement pay, under a plan maintained or  
61 contributed to by a base-period employer is the "weekly benefit amount" which is computed  
62 under this section less 100% of the retirement benefits, that are attributable to a week,

63 disregarding any fraction of \$1.

64 (ii) With respect to an individual whose benefit year begins after July 1, 2004, and ends  
65 on or before July [†] 2, 2011, the "weekly benefit amount" of that individual, who is receiving  
66 or who is eligible to receive Social Security benefits based upon the individual's previous  
67 employment, is the "weekly benefit amount" which is computed under this section less 50% of  
68 the individual's Social Security benefits that are attributable to the week, but not below zero.

69 (iii) With respect to an individual whose benefit year begins after July 3, 2010,  
70 Subsections (2)(c) and (d) do not apply to Social Security benefits an individual is receiving or  
71 is eligible to receive as they are not considered retirement benefits for purposes of those  
72 subsections.

73 (d) (i) (A) The weekly benefit amount and the potential benefits payable to an  
74 individual who, subsequent to the commencement of the individual's benefit year, becomes or  
75 is determined to be eligible to receive retirement benefits or increased retirement benefits, shall  
76 be recomputed effective with the first calendar week during the individual's benefit year with  
77 respect to which the individual is eligible to receive retirement benefits or increased retirement  
78 benefits.

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

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

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

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

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

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

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

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

100 (i) that the existence of unemployment, eligibility for benefits, and the amount of  
101 benefits payable shall be determined in the case of an otherwise eligible individual who, within  
102 a week or other period of unemployment, is separated from or secures work on a regular  
103 attachment basis for that portion of the week or other period of unemployment occurring before  
104 or after separation from or securing of work; and

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

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

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

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