

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:

Neil A. Hansen

Christine F. Watkins

8 Laura Black

9

10 LONG TITLE

11 Committee Note:

12 The Workforce Services and Community and Economic Development Interim
13 Committee recommended this bill.

14 General Description:

15 This bill modifies provisions in the Employment Security Act regarding the
16 computation of individual weekly benefits for those whose benefit year begins after
17 ~~H→ [July 3, 2010,] the termination of Pub. L. No. 111-5, Sec. 2002 as amended ←H~~ and the
17a offset of Social Security benefits against the weekly benefit
18 amount of unemployment compensation an individual is eligible to receive under the
19 Act.

20 Highlighted Provisions:

21 This bill:

22 ▶ provides that Social Security benefits may not be offset against unemployment
23 compensation weekly benefits under the Employment Security Act with respect to
24 an individual whose benefit year begins after ~~H→ [July 3, 2010] the termination of Pub. L. 111-5~~
24a ~~Sec. 2002 as amended ←H~~ ;

25 ▶ provides for the computation of weekly unemployment benefits for those whose
26 benefit year begins after ~~H→ [July 3, 2010] the termination of Pub. L. 111-5 Sec. 2002 as~~
26a ~~amended ←H~~ ; and

27 ▶ makes certain technical changes.

H.B. 43



28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **35A-4-401**, as last amended by Laws of Utah 2008, Chapter 382

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

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

38 **35A-4-401. Benefits -- Weekly benefit amount -- Computation of benefits --**
39 **Department to prescribe rules -- Notification of benefits -- Bonuses.**

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

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

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

49 (ii) With respect to an individual whose benefit year begins after ~~H~~→ [July 3, 2010;] the
49a termination of any payable week under Pub. L. No. 111-5, Sec. 2002 as amended, ←H an
50 individual's weekly benefit amount is an amount equal to 1/26th minus ~~H~~→ [\$3] \$5 ←H ,
50a disregarding any
51 fraction of \$1, of the individual's total wages for insured work paid during that quarter of the
52 base period in which 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 average~~

59 fiscal year weekly wage during the preceding fiscal year, disregarding any fraction of \$1[;
60 constitutes the maximum weekly benefit amount payable].

61 (ii) With respect to an individual whose benefit year begins after ~~H~~→ [July 3, 2010] the
61a termination of any payable week under Pub. L. No. 111-5, Sec. 2002 as amended ~~←H~~ , the
62 weekly benefit amount may not exceed 62.5% of the insured average fiscal year weekly wage
63 during the preceding fiscal year minus ~~H~~→ [\$3] \$5 ~~←H~~ , disregarding any fraction of \$1.

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

71 (ii) With respect to an individual whose benefit year begins after July 1, 2004, and ends
72 on or before ~~H~~→ [July ~~1~~ 2, 2011] the termination of any payable week under Pub. L. No. 111-5,
72a Sec. 2002 as amended ~~←H~~ , the "weekly benefit amount" of that individual, who is receiving
73 or who is eligible to receive Social Security benefits based upon the individual's previous
74 employment, is the "weekly benefit amount" which is computed under this section less 50% of
75 the individual's Social Security benefits that are attributable to the week, but not below zero.

76 (iii) With respect to an individual whose benefit year begins after ~~H~~→ [July 3, 2010] the
76a termination of any payable week under Pub. L. No. 111-5, Sec. 2002 as amended ~~←H~~ , this
77 Subsection (2)(c) and Subsection (2)(d) do not apply to Social Security benefits an individual is
78 receiving or is eligible to receive as they are not considered retirement benefits for purposes of
79 those subsections.

80 (d) (i) (A) The weekly benefit amount and the potential benefits payable to an
81 individual who, subsequent to the commencement of the individual's benefit year, becomes or
82 is determined to be eligible to receive retirement benefits or increased retirement benefits, shall
83 be recomputed effective with the first calendar week during the individual's benefit year with
84 respect to which the individual is eligible to receive retirement benefits or increased retirement
85 benefits.

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

87 (ii) As recomputed the total benefits potentially payable, commencing with the
88 effective date of the recomputation, shall be equal to the recomputed weekly benefit amount
89 times the quotient obtained by dividing the potential benefits unpaid prior to the recomputation

90 by the initial weekly benefit amount, disregarding fractions.

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

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

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

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

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

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

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

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

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

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

119 (7) Upon written request of an individual made under rules of the department in
120 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, all remuneration

121 for insured work paid to the individual during the individual's period in the form of a bonus or
122 lump-sum payment shall, for benefit purposes, be apportioned to the calendar quarters in which
123 the remuneration was earned.

123a **Ĥ→ (8)(a) The director of the division or the director's designee shall make an annual**
123b **report to the Workforce Employment Advisory Council and to the Legislature's Workforce**
123c **Services and Community and Economic Development Interim Committee no later than**
123d **November 30 of 2011, and 2012, concerning thte impact of individuals applying for**
123e **unemployment compensation and the unemployment trust fund as a result of the amendments**
123f **made to Subsection 35A-4-401(2) during the Legislature's 2010 General Session.**

123g **(b) The report shall include a recommendation for a potential adjustment in the weekly**
123h **benefit amounts established in Subsections 35A-4-401(2)(a)(ii) and 35A-4-401(2)(b)(ii), taking**
123i **into account the unemployment benefit costs associated with the amendments made to**
123j **Subsection 35A-4-401(2) during the Legislature's 2010 General Session. ←Ĥ**

Legislative Review Note
as of 10-21-09 4:26 PM

Office of Legislative Research and General Counsel

H.B. 43 - Unemployment Compensation Amendments

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses. Individuals may benefit from this change in the proposed statute. Local governments may be impacted due to this proposed change in statute.
