

UNEMPLOYMENT COMPENSATION - SOCIAL

SECURITY OFFSET

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David N. Cox

Senate Sponsor: John W. Hickman

Cosponsors:	Steven R. Mascaro	Mark W. Walker
Janice M. Fisher	Karen W. Morgan	Peggy Wallace

LONG TITLE

General Description:

This bill modifies employment security provisions of the Utah Workforce Services Code related to unemployment benefits and eligibility.

Highlighted Provisions:

This bill:

- ▶ extends the Social Security benefits offset of 50% against an individual's weekly unemployment benefit amount through the benefit year ending on or before July 1, 2011;
- ▶ provides that the Department of Workforce Services shall fund the Social Security offset costs from federal Reed Act moneys; and
- ▶ makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



35A-4-401, as last amended by Chapters 21 and 246, Laws of Utah 2004

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

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

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

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

(b) All benefits shall be paid through the employment offices or other agencies designated by the division in accordance with the rules the department may prescribe in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(2) (a) An individual's "weekly benefit amount" is an amount equal to 1/26th, disregarding any fraction of \$1, of ~~[his]~~ the individual's total wages for insured work paid during that quarter of ~~[his]~~ the base period in which the total wages were highest.

(b) The weekly benefit amount may not exceed the amount determined as follows:

~~[(i) With respect to any individual whose benefit year commences on or after July 1, 1984, but prior to January 3, 1988, 60% of the "insured average weekly wage," disregarding any fraction of \$1, constitutes the maximum "weekly benefit amount" payable.]~~

~~[(ii) With respect to any individual whose benefit year commences on or after January 3, 1988, 60% of the "insured average fiscal year weekly wage" during the preceding fiscal year, e.g., fiscal year 1987 for individuals establishing benefit years in 1988, disregarding any fraction of \$1, constitutes the maximum "weekly benefit amount" payable.]~~

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

~~[(iv)]~~ (ii) With respect to an individual who files a claim for benefits on or after July 4, 2004, 62.5% of the insured average fiscal year weekly wage during the preceding fiscal year, disregarding any fraction of \$1, constitutes the maximum weekly benefit amount payable.

(c) (i) Except as otherwise provided in Subsection (2)(c)(ii), the "weekly benefit amount" of an individual who is receiving, or who is eligible to receive, based upon the

individual's previous employment, a pension, which includes a governmental, social security, or other pension, retirement or disability retirement pay, under a plan maintained or contributed to by a base-period employer is the "weekly benefit amount" which is computed under this section less 100% of ~~[such]~~ the retirement benefits, that are attributable to a week, disregarding any fraction of \$1.

(ii) (A) With respect to an individual whose benefit year begins after July 1, 2004, and ends on or before July 1, ~~[2007]~~ 2011, the "weekly benefit amount" of that individual, who is receiving or who is eligible to receive Social Security benefits based upon the individual's previous employment, is the "weekly benefit amount" which is computed under this section less 50% of the individual's Social Security benefits that are attributable to the week, but not below zero.

(B) An employer is not liable for additional benefits paid as a result of this Subsection (2)(c)(ii).

(C) The department shall fund those costs from Reed Act moneys.

(d) (i) (A) The weekly benefit amount and the potential benefits payable to an individual who, subsequent to the commencement of his benefit year, becomes or is determined to be eligible to receive retirement benefits or increased retirement benefits, shall be recomputed effective with the first calendar week during his benefit year with respect to which ~~[he]~~ the individual is eligible to receive retirement benefits or increased retirement benefits.

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

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

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

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

(c) For the purpose of this Subsection (3) "wages" does not include ~~[grants, earned or otherwise,]~~ a grant paid to the claimant as public assistance.

(4) (a) Any otherwise eligible individual is entitled during ~~[any]~~ a benefit year to a total amount of benefits determined by multiplying ~~[his]~~ the individual's weekly benefit amount times ~~[his]~~ the individual's potential duration.

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

(5) (a) ~~[Notwithstanding any other provision of this chapter]~~ In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department ~~[in its discretion]~~ may by rule prescribe:

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

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

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

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

(7) Upon written request of an employee made under rules of the department in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, all remuneration for insured work paid to an employee during ~~[his base]~~ the employee's period in the form of a bonus or lump-sum payment shall, for benefit purposes, be apportioned to the calendar quarters in which the remuneration was earned.

Legislative Review Note

as of 10-20-05 9:00 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note

as of 12-16-05 7:08 AM

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