

1                                   **UNEMPLOYMENT INSURANCE CONTRIBUTION**

2   **RATES AMENDMENTS**

3   2008 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Howard A. Stephenson**

6   House Sponsor: Merlynn T. Newbold

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill modifies provisions of the Employment Security Act regarding the  
11                   determination of employer contribution rates in relation to the social contribution rate,  
12                   adequate reserve, and overall contribution rate.

13                   **Highlighted Provisions:**

14                   This bill:

15                   ▶ provides that beginning January 1, 2009, the Unemployment Insurance Division of  
16                   the Department of Workforce Services shall calculate the social contribution rate to  
17                   four decimal places, rounded to three decimal places if the fourth decimal place is  
18                   .0004 or less or rounding up to the next higher number if the fourth decimal place is  
19                   .0005 or more;

20                   ▶ defines adequate reserve, beginning January 1, 2009, as between 18 and 24 months  
21                   of benefits at the average of the five highest benefit cost rates in the last 25 years;

22                   and

23                   ▶ makes certain technical changes.

24                   **Monies Appropriated in this Bill:**

25                   None

26                   **Other Special Clauses:**

27                   None

S.B. 176



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **35A-4-303**, as last amended by Laws of Utah 2005, Chapter 12



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

33 Section 1. Section **35A-4-303** is amended to read:

34 **35A-4-303. Determination of contribution rates.**

35 (1) (a) [~~On or before January 1 of each year beginning January 1, 1985, an~~] An  
36 employer's basic contribution rate [~~will be~~] is the same as the employer's benefit ratio,  
37 determined by dividing the total benefit costs charged back to an employer during the  
38 immediately preceding four fiscal years by the total taxable wages of the employer for the same  
39 time period, calculated to four decimal places, disregarding the remaining fraction, if any.

40 (b) In calculating the basic contribution rate under Subsection (1)(a):

41 (i) if four fiscal years of data are not available, the data of three fiscal years shall be  
42 divided by the total taxable wages for the same time period;

43 (ii) if three fiscal years of data are not available, the data of two fiscal years shall be  
44 divided by the total taxable wages for the same time period; or

45 (iii) if two fiscal years of data are not available, the data of one fiscal year shall be  
46 divided by the total taxable wages for the same time period.

47 [~~(2) (a) On or before January 1 of each year beginning with January 1, 1985, all social~~  
48 ~~costs as defined in Subsection 35A-4-307(1) applicable to the immediately preceding four~~  
49 ~~fiscal years shall be divided by the total taxable wages of all employers subject to contributions~~  
50 ~~for the same time period, calculated to four decimal places, disregarding the remaining fraction,~~  
51 ~~if any.]~~

52 [~~(b)~~] (2) (a) In calculating the social contribution rate under Subsection (2)[~~(a)~~](b) or  
53 (c):

54 (i) if four fiscal years of data are not available, the data of three fiscal years shall be  
55 divided by the total taxable wages for the same time period; or

56 (ii) if three fiscal years of data are not available, the data of two fiscal years shall be  
57 divided by the total taxable wages for the same time period.

58 [~~(c) On or after January 1, 2000, the social contribution rate shall be:]~~

59           ~~[(i) set at 0.0010 for any rate year in which the reserve factor established in Subsection~~  
60 ~~(3)(c) is equal to or less than 1.0000; or]~~

61           ~~[(ii) calculated by dividing all social costs as defined in Subsection 35A-4-307(1)~~  
62 ~~applicable to the preceding four fiscal years by the total taxable wages of all employers subject~~  
63 ~~to contributions for the same time period, calculated to four decimal places, disregarding any~~  
64 ~~remaining fraction, for any rate year in which the reserve factor established in Subsection (3)(c)~~  
65 ~~is greater than 1.0000.]~~

66           ~~[(d)(i) The social contribution rate for the rate year beginning January 1, 2004, is set at~~  
67 ~~.003.]~~

68           ~~[(ii) (b) [On or after] Beginning January 1, 2005, the division shall calculate the social~~  
69 ~~contribution rate [shall be calculated] by dividing all social costs as defined in Subsection~~  
70 ~~35A-4-307(1) applicable to the preceding four fiscal years by the total taxable wages of all~~  
71 ~~employers subject to contributions for the same period, calculated to four decimal places,~~  
72 ~~disregarding any remaining fraction.~~

73           ~~[(iii) Notwithstanding Subsection (2)(d)(ii), the social contribution rate for only the rate~~  
74 ~~year beginning January 1, 2005, may not exceed .004.]~~

75           (c) Beginning January 1, 2009, the division shall calculate the social contribution rate  
76 by dividing all social costs as defined in Subsection 35A-4-307(1) applicable to the preceding  
77 four fiscal years by the total taxable wages of all employers subject to contributions for the  
78 same period, calculated to four decimal places, disregarding any remaining fraction, and  
79 rounded to three decimal places, disregarding any further fraction, if the fourth decimal place is  
80 .0004 or less, or rounding up to the next higher number, if the fourth decimal place is .0005 or  
81 more.

82           ~~[(3) (a) On or before January 1 of each year beginning with January 1, 1985, the~~  
83 ~~reserve factor shall be computed under Subsection (3)(b). For purposes of computing the~~  
84 ~~reserve factor:]~~

85           ~~[(i) the five-year average benefit cost rate is calculated by:]~~

86           ~~[(A) determining the five highest benefit cost rates experienced in the 25 years ending~~  
87 ~~December 31 one year prior to the computation date;]~~

88           ~~[(B) adding together the rates determined under Subsection (3)(a)(i)(A); and]~~

89           ~~[(C) dividing the amount under Subsection (3)(a)(i)(B) by five, calculated to four~~

90 ~~decimal places, disregarding the remaining fraction, if any;]~~

91 ~~[(ii) the minimum adequate reserve fund balance is calculated by:]~~

92 ~~[(A) multiplying the five-year average benefit cost rate by 1.5; and]~~

93 ~~[(B) multiplying the amount under Subsection (3)(a)(ii)(A) by total wages of the fiscal~~

94 ~~year ending prior to the computation date, rounded to the nearest dollar;]~~

95 ~~[(iii) the maximum adequate reserve fund balance is calculated by:]~~

96 ~~[(A) multiplying the five-year average benefit cost rate by 2.0; and]~~

97 ~~[(B) multiplying the amount under Subsection (3)(a)(iii)(A) by the total wages used~~

98 ~~under Subsection (3)(a)(ii)(B), rounded to the nearest dollar; and]~~

99 ~~[(iv) the computation date is the January 1 on which the reserve factor is calculated.]~~

100 ~~[(b) (i) The reserve factor is one if the actual reserve fund balance as of June 30~~

101 ~~preceding the computation date is:]~~

102 ~~[(A) equal to or greater than the minimum adequate reserve fund balance; and]~~

103 ~~[(B) equal to or less than the maximum adequate reserve fund balance.]~~

104 ~~[(ii) If the actual reserve fund balance as of June 30 preceding the computation date is~~

105 ~~less than the minimum adequate reserve fund balance, the reserve factor shall be the greater~~

106 ~~of:]~~

107 ~~[(A) 2.0000 minus an amount equal to the actual reserve fund balance divided by the~~

108 ~~minimum adequate reserve fund balance, calculated to four decimal places, disregarding the~~

109 ~~remaining fraction, if any; or]~~

110 ~~[(B) the reserve factor calculated in the prior year.]~~

111 ~~[(iii) The reserve factor is 2.0000 if:]~~

112 ~~[(A) the actual reserve fund balance as of June 30 preceding the computation date is:]~~

113 ~~[(I) insolvent; or]~~

114 ~~[(H) negative; or]~~

115 ~~[(B) there is an outstanding loan from the Federal Unemployment Account.]~~

116 ~~[(iv) If the actual reserve fund balance as of June 30 preceding the computation date is~~

117 ~~more than the maximum adequate reserve fund balance, the reserve factor shall be calculated~~

118 ~~by:]~~

119 ~~[(A) dividing the actual reserve fund balance by the maximum adequate reserve fund~~

120 ~~balance, calculated to four decimal places, disregarding the remaining fraction, if any; and]~~

121 ~~[(B) subtracting the amount under Subsection (3)(b)(iv)(A) from 2.0000.]~~

122 ~~[(e)]~~ (3) (a) Beginning January 1, 2000, the division shall by administrative decision  
123 set the reserve factor at a rate that shall sustain an adequate reserve.

124 (b) For the purpose of setting the reserve factor:

125 (i) (A) the adequate reserve is defined as between 17 and 19 months of benefits at the  
126 average of the five highest benefit cost rates in the last 25 years;

127 (B) beginning January 1, 2009, the adequate reserve is defined as between 18 and 24  
128 months of benefits at the average of the five highest benefit cost rates in the last 25 years;

129 (ii) the reserve factor shall be 1.0000 if the actual reserve fund balance as of June 30  
130 preceding the computation date is determined to be an adequate reserve;

131 (iii) the reserve factor will be set between 0.5000 and 1.0000 if the actual reserve fund  
132 balance as of June 30 preceding the computation date is greater than the adequate reserve;

133 (iv) the reserve factor will be set between 1.0000 and 1.5000 if the actual reserve fund  
134 balance as of June 30 prior to the computation date is less than the adequate reserve;

135 (v) if the actual reserve fund balance as of June 30 preceding the computation date is  
136 insolvent or negative or if there is an outstanding loan from the Federal Unemployment  
137 Account, the reserve factor will be set at 2.0000 until the actual reserve fund balance as of June  
138 30 preceding the computation date is determined to be an adequate reserve;

139 (vi) the reserve factor will be set on or before January 1 of each year; and

140 (vii) monies made available to the state under Section 903 of the Social Security Act,  
141 as amended, which are received on or after January 1, 2004, may not be considered in  
142 establishing the reserve factor under this section for the rate year 2005 or any subsequent rate  
143 year.

144 ~~[(4) (a) Until January 1, 1995, an employer's overall contribution rate is the employer's~~  
145 ~~basic contribution rate multiplied by the reserve factor, if there is a reserve factor, calculated to~~  
146 ~~four decimal places, disregarding any further fraction, plus the social contribution rate, and~~  
147 ~~rounded up to the next higher multiple of .10%, but not more than a maximum overall~~  
148 ~~contribution rate of 8.0% and not less than 1% for new employers.]~~

149 ~~[(b) On or after January 1, 1995, an employer's overall contribution rate is the~~  
150 ~~employer's basic contribution rate multiplied by the reserve factor, calculated to four decimal~~  
151 ~~places, disregarding any further fraction, plus the social contribution rate, and rounded to three~~

152 decimal places, disregarding any further fraction, if the fourth decimal place is .0004 or less, or  
153 rounding up to the next higher number, if the fourth decimal place is .0005 or more, but not  
154 more than a maximum overall contribution rate of 8.0% and not less than 1% for new  
155 employers.]

156 [~~(c)~~] On or after January 1, 2000, an employer's overall contribution rate is the  
157 employer's basic contribution rate multiplied by the reserve factor established according to  
158 Subsection (3)(~~c~~), calculated to four decimal places, disregarding the remaining fraction, plus  
159 the social contribution rate established according to Subsection (2)(~~c~~), and calculated to three  
160 decimal places, disregarding the remaining fraction, but not more than a maximum overall  
161 contribution rate of 8.0%, plus the applicable social contribution rate and not less than 1.1% for  
162 new employers.]

163 [~~(d)~~] (4) (a) On or after January 1, 2004, an employer's overall contribution rate is the  
164 employer's basic contribution rate multiplied by the reserve factor established according to  
165 Subsection (3)(~~c~~), calculated to four decimal places, disregarding the remaining fraction, plus  
166 the social contribution rate established according to Subsection (2)(~~d~~), and calculated to three  
167 decimal places, disregarding the remaining fraction, but not more than a maximum overall  
168 contribution rate of 9.0%, plus the applicable social contribution rate and not less than 1.1% for  
169 new employers.

170 (b) Beginning January 1, 2009, an employer's overall contribution rate is the employer's  
171 basic contribution rate multiplied by the reserve factor established according to Subsection  
172 (3)(b), calculated to four decimal places, disregarding the remaining fraction, plus the social  
173 contribution rate established according to Subsection (2), and calculated to three decimal  
174 places, disregarding the remaining fraction, but not more than a maximum overall contribution  
175 rate of 9%, plus the applicable social contribution rate and not less than 1.1% for new  
176 employers.

177 [~~(e)~~] (c) The overall contribution rate does not include the addition of any penalty  
178 applicable to an employer as a result of delinquency in the payment of contributions as  
179 provided in Subsection (9).

180 [~~(f)~~] (d) The overall contribution rate does not include the addition of any penalty  
181 applicable to an employer assessed a penalty rate under Subsection 35A-4-304(5)(a).

182 (5) Except as provided in Subsection (9), each new employer shall pay a contribution

183 rate based on the average benefit cost rate experienced by employers of the major industry as  
184 defined by department rule to which the new employer belongs, the basic contribution rate to  
185 be determined as follows:

186 (a) Except as provided in Subsection (5)(b), ~~[on or before]~~ by January 1 of each year,  
187 the basic contribution rate to be used in computing the employer's overall contribution rate is  
188 the benefit cost rate which is the greater of:

189 (i) the amount calculated by dividing the total benefit costs charged back to both active  
190 and inactive employers of the same major industry for the last two fiscal years by the total  
191 taxable wages paid by those employers that were paid during the same time period, computed  
192 to four decimal places, disregarding the remaining fraction, if any; or

193 (ii) 1%.

194 (b) If the major industrial classification assigned to a new employer is an industry for  
195 which a benefit cost rate does not exist because the industry has not operated in the state or has  
196 not been covered under this chapter, the employer's basic contribution rate shall be 5.4%. This  
197 basic contribution rate is used in computing the employer's overall contribution rate.

198 (6) Notwithstanding any other provision of this chapter, and except as provided in  
199 Subsection (7), if an employing unit that moves into this state is declared to be a qualified  
200 employer because it has sufficient payroll and benefit cost experience under another state, a  
201 rate shall be computed on the same basis as a rate is computed for all other employers subject  
202 to this chapter if that unit furnishes adequate records on which to compute the rate.

203 (7) An employer who begins to operate in this state after having operated in another  
204 state shall be assigned the maximum overall contribution rate until the employer acquires  
205 sufficient experience in this state to be considered a "qualified employer" if the employer is:

206 (a) regularly engaged as a contractor in the construction, improvement, or repair of  
207 buildings, roads, or other structures on lands;

208 (b) generally regarded as being a construction contractor or a subcontractor specialized  
209 in some aspect of construction; or

210 (c) required to have a contractor's license or similar qualification under Title 58,  
211 Chapter 55, Utah Construction Trades Licensing Act, or the equivalent in laws of another state.

212 (8) (a) If an employer acquires the business or all or substantially all the assets of  
213 another employer and the other employer had discontinued operations upon the acquisition or

214 transfers its trade or business, or a portion of its trade or business, under Subsection  
215 35A-4-304(3)(a):

216 (i) for purposes of determining and establishing the acquiring party's qualifications for  
217 an experience rating classification, the payrolls of both employers during the qualifying period  
218 shall be jointly considered in determining the period of liability with respect to:

219 (A) the filing of contribution reports;

220 (B) the payment of contributions; and

221 (C) after January 1, 1985, the benefit costs of both employers;

222 (ii) the transferring employer shall be divested of the transferring employer's  
223 unemployment experience provided the transferring employer had discontinued operations, but  
224 only to the extent as defined under Subsection 35A-4-304(3)(c); and

225 (iii) if an employer transfers its trade or business, or a portion of its trade or business,  
226 as defined under Subsection 35A-4-304(3), the transferring employer may not be divested of its  
227 employer's unemployment experience.

228 (b) ~~Any~~ An employing unit or prospective employing unit that acquires the  
229 unemployment experience of an employer shall, for all purposes of this chapter, be an  
230 employer as of the date of acquisition.

231 (c) Notwithstanding Section 35A-4-310, when a transferring employer, as provided in  
232 Subsection (8)(a), is divested of the employer's unemployment experience by transferring all of  
233 the employer's business to another and by ceasing operations as of the date of the transfer, the  
234 transferring employer shall cease to be an employer, as defined by this chapter, as of the date of  
235 transfer.

236 (9) (a) A rate of less than 8% shall be effective January 1 of any contribution year on or  
237 after January 1, 1985, but before January 1, 1988, and a rate of less than the maximum overall  
238 contribution rate on or after January 1, 1988, only with respect to new employers and to those  
239 qualified employers who, except for amounts due under division determinations that have not  
240 become final, paid all contributions prescribed by the division with respect to the four  
241 consecutive calendar quarters in the fiscal year immediately preceding the computation date on  
242 or after January 1, 1985.

243 (b) Notwithstanding Subsections (1), (5), (6), and (8), on or after January 1, 1988,  
244 ~~any~~ an employer who fails to pay all contributions prescribed by the division with respect to



245 the four consecutive calendar quarters in the fiscal year immediately preceding the computation  
246 date, except for amounts due under determinations that have not become final, shall pay a  
247 contribution rate equal to the overall contribution rate determined under the experience rating  
248 provisions of this chapter, plus a surcharge of 1% of wages.

249 (c) ~~Any~~ An employer who pays all required contributions shall, for the current  
250 contribution year, be assigned a rate based upon the employer's own experience as provided  
251 under the experience rating provisions of this chapter effective the first day of the calendar  
252 quarter in which the payment was made.

253 (d) Delinquency in filing contribution reports shall not be the basis for denial of a rate  
254 less than the maximum contribution rate.

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**Legislative Review Note**  
as of 1-24-08 8:08 AM

**Office of Legislative Research and General Counsel**

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**S.B. 176 - Unemployment Insurance Contribution Rates Amendments**

**Fiscal Note**

2008 General Session  
State of Utah

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**State Impact**

Enactment of this bill would increase the Unemployment Insurance Trust Fund balance in FY 2009 by \$11,546,000 and \$37,376,000 in FY 2010 by changing the Unemployment Insurance contribution rates.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Restricted Funds	\$0	\$0	\$0	\$0	\$11,546,000	\$37,376,000
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$11,546,000</b>	<b>\$37,376,000</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals and local governments. Businesses may be affected by changing Unemployment Insurance contribution rates.