

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

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**LONG TITLE**

10 **Committee Note:**

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

13 **General Description:**

14 This bill modifies provisions in the Employment Security Act regarding the  
15 computation of individual weekly benefits for those whose benefit year begins after  
16 July 3, 2010, and the offset of Social Security benefits against the weekly benefit  
17 amount of unemployment compensation an individual is eligible to receive under the  
18 Act.  
19

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 July 3, 2010;
- 25 ▶ provides for the computation of weekly unemployment benefits for those whose  
26 benefit year begins after July 3, 2010; and
- 27 ▶ makes certain technical changes.



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 July 3, 2010, an  
50 individual's weekly benefit amount is an amount equal to 1/26th minus \$3, 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 July 3, 2010, 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 \$3, 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 July [±] 2, 2011, 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 July 3, 2010, 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.

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

**Office of Legislative Research and General Counsel**

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**H.B. 43 - Unemployment Compensation Amendments**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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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 businesses. Individuals may benefit from this change in the proposed statute. Local governments may be impacted due to this proposed change in statute.

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