

1 **SEC. 8. Publication clause.** This act being deemed of immediate im-
 2 portance, shall be in force and effect from and after its passage and
 3 publication in the American Citizen, a newspaper published at Des
 4 Moines, Iowa, and in the Beaverdale News, a newspaper published at
 5 Des Moines, Iowa.

House File 3. Approved December 24, 1936.

I hereby certify that the foregoing act was published in the American Citizen, January 8, 1937, and the Beaverdale News, January 8, 1937.

MRS. ALEX MILLER, *Secretary of State.*

Editor's note: S. F. 1, 46th extra session, amended and re-enacted in Sec. 25, S. F. 447, Acts 47th G. A.

CHAPTER 4

UNEMPLOYMENT COMPENSATION LAW

S. F. 1

AN ACT to create a system of unemployment compensation; to provide for an unemployment compensation fund; to provide for contributions to such fund; to provide for benefit payments from such fund; to provide eligibility conditions for such benefits; to provide for the settlement of benefit claims; to provide for appeal and judicial review of disputed claims; to create an unemployment compensation commission and to provide for its appointment and compensation and to prescribe its powers and duties; to provide for the appointment and compensation of personnel and the maintenance and other expenses of such commission; to authorize reciprocal benefit arrangements with other states or the federal government; to prohibit the waiver of rights and benefits arising hereunder; to regulate alienation of benefits; to regulate attorneys' fees in cases arising under this act; to provide for the transfer of state employment service, and to prescribe its powers, duties and functions; to establish an unemployment administration fund; to fix the penalty for failure to comply with or for violation of this act; to retain the right to amend or repeal this act; and to repeal acts in conflict herewith, and for other purposes.

Be It Enacted by the General Assembly of the State of Iowa:

SHORT TITLE

1 **SECTION 1.** This act shall be known and may be cited as the "Unem-
 2 ployment Compensation Law".

DECLARATION OF STATE PUBLIC POLICY

1 **SEC. 2.** As a guide to the interpretation and application of this act,
 2 the public policy of this state is declared to be as follows: Economic
 3 insecurity due to unemployment is a serious menace to the health, mor-
 4 als, and welfare of the people of this state. Involuntary unemployment
 5 is therefore a subject of general interest and concern which requires ap-
 6 propriate action by the legislature to prevent its spread and to lighten
 7 its burden which now so often falls with crushing force upon the unem-
 8 ployed worker and his family. The achievement of social security re-
 9 quires protection against this greatest hazard of our economic life. This
 10 can be provided by encouraging employers to provide more stable em-
 11 ployment and by the systematic accumulation of funds during periods
 12 of employment to provide benefits for periods of unemployment, thus
 13 maintaining purchasing power and limiting the serious social conse-
 14 quences of poor relief assistance. The legislature, therefore, declares
 15 that in its considered judgment the public good, and the general welfare
 16 of the citizens of this state require the enactment of this measure, under

17 the police powers of the state, for the compulsory setting aside of un-
 18 employment reserves to be used for the benefit of persons unemployed
 19 through no fault of their own.

BENEFITS

1 SEC. 3 (a). **“Payment of benefits”**—Twenty-four months after the
 2 date when contributions first accrue under this act, benefits shall be-
 3 come payable from the fund. All benefits shall be paid through employ-
 4 ment offices, in accordance with such regulations as the commission may
 5 prescribe.

1 SEC. 3 (b). **“Weekly benefit amount for total unemployment”**—Each
 2 eligible individual who is totally unemployed (as defined in section 19
 3 (j) (1)) in any week shall be paid with respect to such week benefits at
 4 the rate of fifty per centum of his full-time weekly wages but not more
 5 than \$15.00 per week, nor less than either five dollars (\$5.00), or his
 6 full-time weekly wage, whichever is the lesser.

1 SEC. 3 (c). **“Weekly benefit amount for partial unemployment”**—
 2 Each eligible individual who is partially unemployed (as defined in sec.
 3 19 (j) (2)), in any week shall be paid with respect to such week a par-
 4 tial benefit. Such partial benefit shall be an amount which, if added to
 5 his wages (as defined in sec. 19 (m)) for such week, would exceed his
 6 weekly benefit amount (as defined in sec. 19 (o)) by (\$2.00) two dollars.

1 SEC. 3 (d). **“Determination of full-time weekly wage”**:
 2 (1) The full-time weekly wage of any individual means the weekly
 3 wages that such individual would receive if he were employed at the
 4 most recent wage rate earned by him in employment by an employer in
 5 his base period and for the customary scheduled full-time week prevail-
 6 ing for his occupation in the enterprise in which he last earned wages
 7 in employment by an employer during his base period.
 8 (2) If the commission finds that the full-time weekly wage, as above
 9 defined, would be unreasonable or arbitrary or not readily determinable
 10 with respect to any individual, the full-time weekly wage of such indi-
 11 vidual shall be deemed to be one-thirteenth of his total wages in employ-
 12 ment by employers in that quarter in which such total wages were high-
 13 est during his base period.

1 SEC. 3 (e). **“Duration of benefits”**—The maximum total amount of
 2 benefits payable to any eligible individual during any benefit year shall
 3 not exceed the balance credited to his account with respect to wages
 4 earned in employment by employers during his base period, or fifteen
 5 times his weekly benefit amount, whichever is the lesser. The commis-
 6 sion shall maintain a separate account for each individual who earns
 7 wages in employment by an employer subsequent to December 31, 1936.
 8 After the expiration of each calendar quarter, the commission shall
 9 credit each such account with one-sixth of such wages earned by such
 10 individual during such quarter, or sixty-five dollars (\$65.00), whichever
 11 is the lesser. Benefits paid to an eligible individual shall be charged
 12 against amounts which have been credited to his account on the basis
 13 of wages earned in employment by employers during his base period and
 14 which have not previously been charged hereunder, in the same chrono-
 15 logical order as such wages were earned.

1 SEC. 3 (f) (1). “Part-time workers”—As used in this subsection the
 2 term “part-time worker” means an individual whose normal work is in
 3 an occupation in which his services are not required for the customary
 4 scheduled full-time hours prevailing in the establishment in which he is
 5 employed, or who, owing to personal circumstances, does not customa-
 6 rily work the customary scheduled full-time hours prevailing in the
 7 establishment in which he is employed.

8 (2) The commission shall prescribe fair and reasonable general rules
 9 applicable to part-time workers, for determining their full-time weekly
 10 wage, and the total wages in employment by employers required to qual-
 11 ify such workers for benefits. Such rules shall, with respect to such
 12 part-time workers supersede any inconsistent provisions of this act,
 13 but, so far as practicable, shall secure results reasonably similar to those
 14 provided in the analogous provisions of this act.

BENEFIT ELIGIBILITY CONDITIONS

1 SEC. 4. An unemployed individual shall be eligible to receive benefits
 2 with respect to any week only if the commission finds that:

3 (a) He has registered for work at and thereafter has continued to
 4 report at an employment office in accordance with such regulations as
 5 the commission may prescribe.

6 (b) He has made a claim for benefits in accordance with the provi-
 7 sions of section 6 (a) of this act.

8 (c) He is able to work, and is available for work.

9 (d) Prior to any week for which he claims benefits he has been totally
 10 unemployed for a waiting period of two weeks (and for the purposes of
 11 this subsection, two weeks of partial unemployment shall be deemed to
 12 be equivalent to one week of total unemployment). Such weeks of total
 13 or partial unemployment or both need not be consecutive. No week shall
 14 be counted as a week of total unemployment for the purposes of this
 15 subsection:

16 (1) if benefits have been paid with respect thereto;

17 (2) unless the individual was eligible for benefits with respect there-
 18 to in all respects except for the requirements of subsections (b) and (e)
 19 of this section;

20 (3) Unless it occurs within the thirteen consecutive weeks preceding
 21 the week for which he claims benefits, provided that this condition shall
 22 not interrupt the payment of benefits for consecutive weeks of unem-
 23 ployment nor require any individual to accumulate more than five wait-
 24 ing period weeks during any five consecutive calendar quarters;

25 (4) unless it occurs after benefits first could become payable to any
 26 individual under this act.

1 SEC. 4 (e). He has within the first four out of the last five completed
 2 calendar quarters immediately preceding the first day of his benefit
 3 year, earned wages in employment by employers equal to not less than
 4 fifteen times his weekly benefit amount.

DISQUALIFICATION FOR BENEFITS

1 SEC. 5. An individual shall be disqualified for benefits:

2 (a) For the week in which he has left work voluntarily without good
 3 cause, if so found by the commission, and for not less than one nor more
 4 than the five weeks which immediately follow such week (in addition to

5 the waiting period), as determined by the commission according to the
6 circumstances in each case.

1 SEC. 5 (b). For the week in which he has been discharged for miscon-
2 duct connected with his work, if so found by the commission, and for not
3 less than the one nor more than the nine weeks which immediately fol-
4 low such week (in addition to the waiting period), as determined by the
5 commission in each case according to the seriousness of the misconduct.

1 SEC. 5 (c). If the commission finds that he has failed, without good
2 cause, either to apply for available, suitable work when so directed by
3 the employment office or the commission or to accept suitable work when
4 offered him, or to return to his customary self-employment (if any)
5 when so directed by the commission. Such disqualification shall contin-
6 ue for the week in which such failure occurred and for not less than
7 the one nor more than the five weeks which immediately follow such
8 week (in addition to the waiting period), as determined by the commis-
9 sion according to the circumstances in each case.

10 (1) In determining whether or not any work is suitable for an indi-
11 vidual, the commission shall consider the degree of risk involved to his
12 health, safety, and morals, his physical fitness and prior training, his
13 experience and prior earnings, his length of unemployment and pros-
14 pects for securing local work in his customary occupation, and the dis-
15 tance of the available work from his residence, and any other factors
16 which it finds bears a reasonable relation to the purposes of this sub-
17 section.

18 (2) Notwithstanding any other provision of this act, no work shall
19 be deemed suitable and benefits shall not be denied under this act to
20 any otherwise eligible individual for refusing to accept new work un-
21 der any of the following conditions:

22 (a) If the position offered is vacant due directly to a strike, lockout,
23 or other labor dispute;

24 (b) if the wages, hours, or other conditions of the work offered are
25 substantially less favorable to the individual than those prevailing for
26 similar work in the locality;

27 (c) if as a condition of being employed, the individual would be re-
28 quired to join a company union or to resign from or refrain from join-
29 ing any bona-fide labor organization.

1 SEC. 5 (d). For any week with respect to which the commission
2 finds that his total or partial unemployment is due to a stoppage of
3 work which exists because of a labor dispute at the factory, establish-
4 ment, or other premises at which he is or was last employed, provided
5 that this subsection shall not apply if it is shown to the satisfaction
6 of the commission that:

7 (1) he is not participating in or financing or directly interested in
8 the labor dispute which caused the stoppage of work; and

9 (2) he does not belong to a grade or class of workers of which im-
10 mediately before the commencement of the stoppage, there were mem-
11 bers employed at the premises at which the stoppage occurs, any of
12 whom are participating in or financing or directly interested in the dis-
13 pute:

14 Provided, that if in any case separate branches of work which are
15 commonly conducted as separate businesses in separate premises are

16 conducted in separate departments of the same premises, each such
 17 department shall, for the purposes of this subsection, be deemed to be
 18 a separate factory, establishment, or other premises.

1 SEC. 5 (e). For any week with respect to which he is receiving or
 2 has received remuneration in the form of:

3 (1) Wages in lieu of notice;

4 (2) Compensation for temporary partial disability under the work-
 5 men's compensation law of any state or under a similar law of the
 6 United States; or

7 (3) Old-age benefits under title II of the social security act, as
 8 amended, or similar payments under any act of congress:

9 Provided, that if such remuneration is less than the benefits which
 10 would otherwise be due under this act, he shall be entitled to receive
 11 for such week, if otherwise eligible, benefits reduced by the amount of
 12 such remuneration.

CLAIMS FOR BENEFITS

1 SEC. 6 (a). **Filing**—Claims for benefits shall be made in accordance
 2 with such regulations as the commission may prescribe. Each em-
 3 ployer shall post and maintain printed statements of such regulations
 4 in places readily accessible to individuals in his service and shall make
 5 available to each such individual at the time he becomes unemployed
 6 a printed statement of such regulations. Such printed statements shall
 7 be supplied by the commission to each employer without cost to him.

1 SEC. 6 (b). **Initial Determination**—A representative designated by
 2 the commission, and hereinafter referred to as a deputy, shall promptly
 3 examine the claim and, on the basis of the facts found by him, shall
 4 either determine whether or not such claim is valid, and if valid, the
 5 week with respect to which benefits shall commence, the weekly benefit
 6 amount payable and the maximum duration thereof, or shall refer such
 7 claim or any question involved therein to an appeal tribunal or to the
 8 board of review, which shall make its determinations with respect
 9 thereto in accordance with the procedure described in subsection (c)
 10 of this section, except that in any case in which the payment or denial
 11 of benefits will be determined by the provisions of section 5 (d) of this
 12 act, the deputy shall promptly transmit his full finding of fact with
 13 respect to that subsection to the board of review, which, on the basis
 14 of the evidence submitted and such additional evidence as it may
 15 require, shall affirm, modify, or set aside such findings of fact and
 16 transmit to the deputy a decision upon the issues involved under that
 17 subsection. The deputy shall promptly notify the claimant and any
 18 other interested party of the decision and the reasons therefor. Un-
 19 less the claimant or other interested party, within five calendar days
 20 after the delivery of such notification, or within seven calendar days
 21 after such notification was mailed to his last-known address, files an
 22 appeal from such decision, such decision shall be final and benefits
 23 shall be paid or denied in accordance therewith. If an appeal is duly
 24 filed, benefits with respect to the period prior to the final determination
 25 of the board of review, shall be paid only after such determination:
 26 Provided: That if an appeal tribunal affirms a decision of a deputy,
 27 or the board of review affirms a decision of an appeal tribunal, allow-
 28 ing benefits, such benefits shall be paid regardless of any appeal which

29 may thereafter be taken, but if such decision is finally reversed, no
30 employer's account shall be charged with benefits so paid.

1 SEC. 6 (c). **Appeals**—Unless such appeal is withdrawn, an appeal
2 tribunal, after affording the parties reasonable opportunity for fair
3 hearing, shall affirm or modify the findings of fact and decision of the
4 deputy. The parties shall be duly notified of such tribunal's decision,
5 together with its reasons therefor, which shall be deemed to be the
6 final decision of the board of review, unless within ten days after the
7 date of notification or mailing of such decision, further appeal is ini-
8 tiated pursuant to subsection (e) of this section.

1 SEC. 6 (d). **Appeal tribunals**—To hear and decide disputed claims,
2 the commission shall establish one or more impartial appeal tribunals
3 consisting in each case of either a salaried examiner or a body con-
4 sisting of three members, one of whom shall be a salaried examiner,
5 who shall serve as chairman, one of whom shall be a representative of
6 employers and the other of whom shall be a representative of em-
7 ployees; each of the latter two members shall serve at the pleasure
8 of the commission and be paid a fee, as fixed by the commission per
9 day of active service on such tribunal, plus necessary expenses. No
10 person shall participate on behalf of the commission or of the board
11 of review in any case in which he is an interested party. The com-
12 mission may designate alternates to serve in the absence or disqualifi-
13 cation of any member of an appeal tribunal. The chairman shall act
14 alone in the absence or disqualification of any other member and his
15 alternates. In no case shall the hearings proceed unless the chairman
16 of the appeal tribunal is present.

1 SEC. 6 (e). **Board of review**.—The board of review may on its own
2 motion affirm, modify, or set aside any decision of an appeal tribunal
3 on the basis of the evidence previously submitted in such case, or direct
4 the taking of additional evidence, or may permit any of the parties
5 to such decision to initiate further appeals before it. The board of
6 review shall permit such further appeal by any of the parties inter-
7 ested in a decision of an appeal tribunal which is not unanimous and
8 by the deputy whose decision has been overruled or modified by an
9 appeal tribunal. The board of review may remove to itself or transfer
10 to another appeal tribunal the proceedings on any claim pending before
11 an appeal tribunal. Any proceeding so removed to the board of review
12 shall be heard by a quorum thereof in accordance with the require-
13 ments in subsection (c) of this section. The board of review shall
14 promptly notify the interested parties of its findings and decision.

1 SEC. 6 (f). **Procedure**—The manner in which disputed claims shall be
2 presented, the reports thereon required from the claimant and from
3 employers, and the conduct of hearings and appeals shall be in accord-
4 ance with rules prescribed by the commission for determining the
5 rights of the parties, whether or not such rules conform to common
6 law or statutory rules of evidence and other technical rules of pro-
7 cedure. A full and complete record shall be kept of all proceedings
8 in connection with a disputed claim. All testimony at any hearing
9 upon a disputed claim shall be recorded, but need not be transcribed
10 unless the disputed claim is further appealed.

1 SEC. 6 (g). **Witness fees**—Witnesses subpoenaed pursuant to this
2 section shall be allowed fees and necessary traveling expenses at a rate
3 fixed by the commission.

1 SEC. 6 (h). **Appeal to courts**—Any decision of the board of review
2 in the absence of an appeal therefrom as herein provided shall become
3 final ten days after the date of notification or mailing thereof, and
4 judicial review thereof shall be permitted only after any party claim-
5 ing to be aggrieved thereby has exhausted his remedies before the
6 board of review as provided by this act. The board of review shall
7 be deemed to be a party to any judicial action involving any such deci-
8 sion, and may be represented in any such judicial action by any quali-
9 fied attorney who is a regular salaried employee of the commission or
10 who has been designated by the commission for that purpose, or at the
11 commission's request, by the attorney general.

1 SEC. 6 (i). **Court review**—Within ten days after the decision of the
2 board of review has become final, any party aggrieved thereby may
3 secure judicial review thereof by commencing an action in the district
4 court of the county in which the aggrieved party was last employed
5 or resides, against the board of review for the review of its decision,
6 in which action any other party to the proceeding before the board
7 of review shall be made a defendant. In such action, a petition which
8 need not be verified, but which shall state the grounds upon which a
9 review is sought, shall be served on a member of the board of review
10 or upon such person as the board of review may designate and such
11 service shall be deemed completed service on all parties, but there
12 shall be left with the party so served as many copies of the petition
13 as there are defendants and the board of review shall forthwith mail
14 one such copy to each such defendant. With its answer, the board
15 of review shall certify and file with said court all documents and
16 papers and a transcript of all testimony taken in the matter, together
17 with its findings of fact and decision therein. The transcript as certi-
18 fied and filed by the board of review shall be the record on which the
19 appeal shall be heard, and no additional evidence shall be heard. In
20 the absence of fraud the findings of fact made by the board of review
21 within its powers shall be conclusive. The board of review may also,
22 in its discretion, certify to such courts, questions of law involved in
23 any decision by it. Such actions, and the questions so certified, shall
24 be heard in a summary manner and shall be given precedence over all
25 other civil cases except cases arising under the workmen's compensa-
26 tion law of this state.

1 SEC. 6 (j). **Decision on appeal**—Any order or decision of the board
2 of review may be modified, reversed, or set aside on one or more of the
3 following grounds and on no other:

- 4 1. If the board of review acted without or in excess of its powers.
- 5 2. If the order or decree was procured by fraud.
- 6 3. If the facts found by the board of review do not support the order
7 or decree.
- 8 4. If there is not sufficient competent evidence in the record to war-
9 rant the making of the order or decision.

1 SEC. 6 (k). **Judgment or order remanding**—When the district court,
2 on appeal, reverses or sets aside an order or decision of the board of

3 review, it may remand the case to the board of review for further pro-
 4 ceedings in harmony with the holdings of the court, or it may enter
 5 the proper judgment, as the case may be. Such judgment or decree
 6 shall have the same force and effect as if action had been originally
 7 brought and tried in said court.

1 **SEC. 6 (l). Appeal**—An appeal may be taken from any final order,
 2 judgment, or decree of the district court to the supreme court of Iowa,
 3 in the same manner, but not inconsistent with the provisions of this
 4 act, as is provided in civil cases. It shall not be necessary in any
 5 judicial proceeding under this section, to enter exceptions to the rul-
 6 ings of the board of review and no bond shall be required for entering
 7 such appeal. Upon the final determination of such judicial proceed-
 8 ing, the board of review shall enter an order in accordance with such
 9 determination. A petition for judicial review shall not act as a super-
 10 sedeas or stay unless the commission shall so order.

CONTRIBUTIONS

1 **SEC. 7 (a). Payment.**

2 (1) On and after July 1, 1936, contributions shall accrue and be-
 3 come payable by each employer with respect to wages payable for
 4 employment as defined in section 19 (g) occurring during such calen-
 5 dar year except that for the six months period beginning July 1, 1936,
 6 such contributions shall accrue and become payable solely from em-
 7 ployers with respect to wages payable for employment occurring on
 8 and after July 1, 1936. Such contributions shall become due and be
 9 paid to the commission for the fund at such time and in such manner
 10 as the commission may prescribe. Contributions required from an
 11 employer shall not be deducted, in whole or in part, from the wages
 12 of individuals in his employ.

13 (2) In the payment of any contribution, a fractional part of a cent
 14 shall be disregarded unless it amounts to one-half cent or more, in
 15 which case it shall be increased to one cent.

1 **SEC. 7 (b). Rate of contribution by employers.** Each employer shall
 2 pay contributions equal to the following percentages of wages payable
 3 by him with respect to employment:

4 (1) One and eight-tenths percentum with respect to employment
 5 for the six months' period beginning July 1, 1936, provided that if
 6 the total of such contributions at such one and eight-tenths percentum
 7 rate equals less than nine-tenths of one percentum of the annual pay-
 8 roll of any employer for the calendar year 1936, such employer shall
 9 pay, at such time as the commission shall prescribe, an additional lump
 10 sum contribution with respect to employment for such six months'
 11 period beginning July 1, 1936, equal to the difference between nine-
 12 tenths of one percentum of his annual payroll for the calendar year
 13 1936 and the total of his contributions at such one and eight-tenths
 14 percentum rate for such six months' period beginning July 1, 1936,
 15 and provided further that in no event shall employers' contributions
 16 at such one and eight-tenths percentum rate exceed nine-tenths of one
 17 percentum of his annual payroll for the calendar year 1936.

18 (2) One and eight-tenths percentum with respect to employment
 19 in the calendar year 1937;

20 (3) Two and seven-tenths percentum with respect to employment
21 during the calendar years 1938, 1939, 1940, 1941; and

22 (4) With respect to employment after December 31, 1941, the per-
23 centage determined pursuant to subsection (c) of this section.

1 **SEC. 7 (c). Future rates based on benefit experience.**

2 (1) The commission shall maintain a separate account for each em-
3 ployer, and shall credit his account with all the contributions which
4 he has paid on his own behalf. But nothing in this act shall be con-
5 strued to grant any employer or individuals in his service prior claims
6 or rights to the amounts paid by him into the fund either on his own
7 behalf or on behalf of such individuals. Benefits paid to an eligible
8 individual shall be charged against the account of his most recent
9 employers, against whose accounts the maximum charges hereunder
10 have not previously been made, in the inverse chronological order in
11 which the employment of such individual occurred, but the maximum
12 amount so charged against the account of any employer shall not exceed
13 one-sixth of the wages payable to such individual by each such em-
14 ployer for employment which occurs on and after the first day of
15 such individual's base period, or (\$65.00) sixty-five dollars per com-
16 pleted calendar quarter or portion thereof, whichever is the lesser.
17 The commission shall by general rules prescribe the manner in which
18 benefits shall be charged against the accounts of several employers
19 for whom an individual performed employment during the same week.

20 (2) The commission may prescribe regulations for the establish-
21 ment, maintenance, and dissolution of joint accounts by two or more
22 employers, and shall, in accordance with such regulations and upon
23 application by two or more employers to establish such an account,
24 or to merge their several individual accounts in a joint account, main-
25 tain such joint account as if it constituted a single employer's account.

26 (3) Each employer's rate shall be two and seven-tenths percentum,
27 except as otherwise provided in the preceding or following provisions
28 of this section. No employer's rate shall be less than two and seven-
29 tenths percentum after December 31, 1937, unless and until there shall
30 have been three calendar years after he becomes liable for contributions
31 under this act throughout which any individual in his employ could
32 have received benefits if eligible.

33 (4) Each employer's rate for the twelve months commencing Janu-
34 ary 1 of any calendar year, after December 31, 1941, shall be deter-
35 mined on the basis of his record up to the beginning of such calendar
36 year. If, at the beginning of such calendar year, the total of all his
37 contributions, paid on his own behalf, for all past years exceeds the
38 total benefits charged to his accounts for all such years, his contribu-
39 tion rate shall be:

40 (a) One and eight-tenths per centum, if such excess equals or ex-
41 ceeds $7\frac{1}{2}$ seven and one-half but is less than (10) ten per centum
42 of his average annual pay roll (as defined in section 19 (a) (2));

43 (b) Nine-tenths of (1) one per centum, if such excess equals or ex-
44 ceeds (10) ten per centum of his average annual pay roll. If the total
45 of his contributions, paid on his own behalf for all past periods or for the
46 past sixty consecutive calendar months, whichever period is more ad-
47 vantageous to such employer for the purposes of this paragraph, is
48 less than the total benefits charged against his account during the same
49 period, his rate shall be $(3\frac{6}{10})$ three and six-tenths per centum.

50 (5) No employer's rate for the period of twelve months commencing
 51 January 1 of any calendar year after December 31, 1937, shall be less
 52 than $(2 \frac{7}{10})$ two and seven-tenths per centum, unless the total assets
 53 of the fund, excluding contributions not yet paid at the beginning of
 54 such calendar year, exceed the total benefits paid from the fund within
 55 the last preceding calendar year; and no employer's rate shall be less
 56 than $(1 \frac{8}{10})$ one and eight-tenths per centum unless such assets at
 57 such time were at least twice the total benefits paid from the fund
 58 within such last preceding year.

PERIOD, ELECTION, AND TERMINATION OF EMPLOYER'S COVERAGE

1 SEC. 8 (a). Any employing unit which is or becomes an employer
 2 subject to this act within any calendar year shall be subject to this
 3 act during the whole of such calendar year.

1 SEC. 8 (b). Except as otherwise provided in subsection (c) of this
 2 section, an employing unit shall cease to be an employer subject to
 3 this act, as of the 1st day of January of any calendar year, if it files
 4 with the commission, prior to the 5th day of January of such year, a
 5 written application for termination of coverage, and the commission
 6 finds that there was no fifteen different weeks within the preceding
 7 calendar year, within which such employing unit employed eight or
 8 more individuals in employment subject to this act. For the purposes
 9 of this subsection, the two or more employing units mentioned in para-
 10 graph (2) or (3) or (4) of section 19 (f) shall be treated as a single
 11 employing unit.

1 SEC. 8 (c) (1). An employing unit, not otherwise subject to this
 2 act, which files with the commission its written election to become an
 3 employer subject hereto for not less than two calendar years, shall
 4 with the written approval of such election by the commission, become
 5 an employer subject hereto to the same extent as all other employers,
 6 as of the date stated in such approval, and shall cease to be subject
 7 hereto as of January 1 of any calendar year subsequent to such two
 8 calendar years, only if at least thirty days prior to such 1st day of
 9 January, it has filed with the commission a written notice to that effect.

10 (2) Any employing unit for which services that do not constitute
 11 employment as defined in this act are performed, may file with the
 12 commission a written election that all such services performed by
 13 individuals in its employ in one or more distinct establishments or
 14 places of business shall be deemed to constitute employment for all the
 15 purposes of this act for not less than two calendar years. Upon the
 16 written approval of such election by the commission, such services
 17 shall be deemed to constitute employment subject to this act from
 18 and after the date stated in such approval. Such services shall cease
 19 to be deemed employment subject hereto as of January 1, of any
 20 calendar year subsequent to such two calendar years, only if at least
 21 thirty days prior to such 1st day of January such employing unit has
 22 filed with the commission a written notice to that effect.

UNEMPLOYMENT COMPENSATION FUND

1 SEC. 9 (a). **Establishment and control**—There is hereby established
 2 as a special fund, separate and apart from all public moneys or funds

3 of this state, an unemployment compensation fund, which shall be
4 administered by the commission exclusively for the purposes of this
5 act. This fund shall consist of: (1) all contributions collected under
6 this act, together with any interest thereon collected pursuant to sec-
7 tion 14 of this act; (2) all fines and penalties collected pursuant to
8 the provisions of this act; (3) interest earned upon any moneys in
9 the fund; (4) any property or securities acquired through the use of
10 moneys belonging to the fund; and (5) all earnings of such property
11 or securities. All moneys in the fund shall be mingled and undivided.

1 SEC. 9 (b). **Accounts and deposits**—The state treasurer shall be ex-
2 officio treasurer and custodian of the fund and shall administer such
3 fund in accordance with the directions of the commission. The state
4 comptroller shall issue warrants upon the fund pursuant to the order
5 of the commission and such warrants shall be paid from the fund by
6 the treasurer. The treasurer shall maintain within the fund three
7 separate accounts: (1) A clearing account, (2) an unemployment
8 trust fund account, and (3) a benefit account. All moneys payable to
9 the fund shall, upon receipt thereof by the commission, be forwarded
10 to the treasurer who shall immediately deposit them in the clearing
11 account. Refunds payable pursuant to section 14 of this act shall be
12 paid by the treasurer from the clearing account upon warrants issued
13 by the comptroller under the direction of the commission. After
14 clearance thereof, all other moneys in the clearing account shall be
15 immediately deposited with the secretary of the treasury of the United
16 States of America to the credit of the account of this state in the un-
17 employment trust fund, established and maintained pursuant to sec-
18 tion 904 of the social security act as amended, any provision of law
19 in this state relating to the deposit, administration, release or dis-
20 bursement of moneys in the possession or custody of this state to the
21 contrary notwithstanding. The benefit account shall consist of all
22 moneys requisitioned from this state's account in the unemployment
23 trust fund. Except as herein otherwise provided moneys in the clear-
24 ing and benefit account may be deposited by the treasurer, under the
25 direction of the commission, in any bank or public depository in which
26 general funds of the state may be deposited, but no public deposit
27 insurance charge or premium shall be paid out of the fund. The treas-
28 urer shall give a separate bond conditioned upon the faithful perform-
29 ance of his duties as custodian of the fund in an amount fixed by the
30 governor and in form and manner prescribed by law. Premiums for
31 said bonds shall be paid from the administration fund.

1 SEC. 9 (c). **Withdrawals**—Moneys shall be requisitioned from this
2 state's account in the unemployment trust fund solely for the payment
3 of benefits and in accordance with regulations prescribed by the com-
4 mission. The commission shall from time to time requisition from the
5 unemployment trust fund such amounts, not exceeding the amounts
6 standing to the account of this state therein, as the commission deems
7 necessary for the payment of benefits for a reasonable future period.
8 Upon receipt thereof the treasurer shall deposit such moneys in the
9 benefit account, and shall disburse such moneys upon warrants drawn
10 by the comptroller pursuant to the order of the commission for the
11 payment of benefits solely from such benefit account. Expenditures
12 of such moneys from the benefit account and refunds from the clear-

13 ing account shall not be subject to any provisions of law requiring
14 specific appropriations or other formal release by state officers of
15 money in their custody. All warrants issued by the comptroller for
16 the payment of benefits and refunds shall bear the signature of the
17 comptroller and the counter-signature of a member of the commission
18 or its duly authorized agent for that purpose. Any balance of moneys
19 requisitioned from the unemployment trust fund which remains un-
20 claimed or unpaid in the benefit account after the expiration of the
21 period for which such sums were requisitioned shall either be deducted
22 from estimates for, and may be utilized for the payment of, benefits
23 during succeeding periods, or, in the discretion of the commission,
24 shall be redeposited with the secretary of the treasury of the United
25 States of America, to the credit of this state's account in the unemploy-
26 ment trust fund, as provided in the subsection (b) of this section.

1 **SEC. 9 (d). Management of funds in the event of discontinuance of**
2 **unemployment trust fund**—The provisions of subsections (a), (b) and
3 (c) to the extent that they relate to the unemployment trust fund
4 shall be operative only so long as such unemployment trust fund con-
5 tinues to exist and so long as the secretary of the treasury of the United
6 States of America continues to maintain for this state a separate book
7 account of all funds deposited therein by this state for benefit purposes,
8 together with this state's proportionate share of the earnings of such
9 unemployment trust fund, from which no other state is permitted to
10 make withdrawals. If and when such unemployment trust fund ceases
11 to exist, or such separate book account is no longer maintained, all
12 moneys, properties, or securities therein, belonging to the unemploy-
13 ment compensation fund of this state shall be transferred to the treas-
14 urer of the unemployment compensation fund, who shall hold, invest,
15 transfer, sell, deposit, and release such moneys, properties, or securi-
16 ties in a manner approved by the commission, in accordance with the
17 provisions of this act: provided, that such moneys shall be invested
18 in the following readily marketable classes of securities; such securi-
19 ties as are authorized by the laws of the state of Iowa for the invest-
20 ment of trust funds. The treasurer shall dispose of securities and
21 other properties belonging to the unemployment compensation fund
22 only under the direction of the commission.

UNEMPLOYMENT COMPENSATION COMMISSION

1 ***SEC. 10 (a). Organization**—There is hereby created a commission to
2 be known as the unemployment compensation commission of Iowa.
3 Until such time as members of said commission shall be appointed by
4 the governor as hereinafter provided, which time shall be not later
5 than March 1, 1937, the commission shall consist of the executive
6 council of the state of Iowa.
7 From and after March 1, 1937, or such earlier date as appointments
8 shall be made as hereinafter provided, the commission shall consist of
9 five members, one of whom shall be the commissioner of labor and
10 four of whom shall be appointed by the governor, subject to the ap-
11 proval of a two-thirds vote of the members of the senate in executive
12 session. Two members of the commission shall be representatives of

* Note: Amended by S. F. 191 acts 47th G. A.

13 labor, two shall be representatives of employers, and one shall be a
 14 representative of the public. Not more than three members shall be
 15 of the same political party. The commissioner of labor shall serve
 16 as a member of the commission during his tenure of office as commis-
 17 sioner of labor; each member appointed by the governor shall serve
 18 for a term of six years, or until his successor is appointed and qualifies,
 19 except that

20 (1) Any member appointed to fill a vacancy occurring prior to the
 21 expiration of the term for which his predecessor was appointed shall
 22 be appointed for the remainder of such term, and

23 (2) The terms of the members first appointed after the date of
 24 enactment of this act shall expire, as designated by the governor at
 25 the time of appointment, two members on June 30, 1941, and two
 26 members on June 30, 1943, or in each of the foregoing instances until
 27 his successor is appointed and qualified.

28 The governor may at any time, after notice and hearing, remove
 29 any commissioner for gross inefficiency, neglect of duty, malfeasance,
 30 misfeasance, or nonfeasance in the performance of his duties as a
 31 member of the commission. Before entering upon the discharge of
 32 his official duties, each member of the commission shall take and sub-
 33 scribe to an oath of office, which shall be filed in the office of the secre-
 34 tary of state. Any vacancy occurring for any cause in the member-
 35 ship of this commission shall be filled for the unexpired term by ap-
 36 pointment by the governor subject to the approval of a constitutional
 37 majority of the senate at the next regular session of the legislature.
 38 Each member of the commission shall be entitled to receive as compen-
 39 sation for his services the sum of (\$15.00) fifteen dollars per day for
 40 each and every day which he devotes to the actual performance of his
 41 duties, as prescribed in this act, but the total amount of such compen-
 42 sation shall not exceed the sum of (\$1,200.00) twelve hundred dollars
 43 per year. In addition to the compensation hereinbefore prescribed,
 44 each member of the commission shall be entitled to receive the amount
 45 of his traveling and other necessary expenses actually incurred while
 46 engaged in the performance of his official duties. The commission
 47 shall hold one regular meeting each month, and such called meetings
 48 as they believe necessary. The January meeting shall be known as
 49 the annual meeting. Three members of the commission shall consti-
 50 tute a quorum for the transaction of business. At its first meeting,
 51 and at each annual meeting held thereafter, the commission shall or-
 52 ganize by the election of a chairman and vice-chairman from its own
 53 number, each of whom, except those first elected, shall serve for a term
 54 of one year and until his successor is elected. The commission shall
 55 adopt and use an official seal for the authentication of its orders and
 56 records. The commission shall establish and maintain its principal
 57 place of business in the city of Des Moines.

1 *SEC. 10 (b). **Executor director**—The commission shall select and ap-
 2 ppoint an executive director, who shall serve as the executive and
 3 administrative officer of the commission and who shall be the secretary
 4 of the commission. He shall serve at the pleasure of the commission
 5 and his salary shall be fixed by the commission, but shall not exceed
 6 \$4500.00 per year. Before entering upon the discharge of his official

* Note: Amended by S. F. 191 acts 47th G. A.

7 duties the executive director shall execute a bond, payable to the state
8 of Iowa in such amount and with such sureties as shall be approved by
9 the commission, conditioned upon the faithful discharge of his official
10 duties, and he shall likewise take and subscribe an oath, which shall
11 be endorsed upon his official bond, and the bond and oath when so
12 executed shall be filed in the office of the secretary of state.

1 **SEC. 10 (c). Divisions**—The commission shall establish two coordi-
2 nate divisions: the Iowa state employment service division created
3 pursuant to section 12 of this act, and the unemployment compensa-
4 tion division. Each division shall be responsible for the discharge of
5 its distinctive functions. Each division shall be a separate adminis-
6 trative unit with respect to personnel, budget and duties, but shall
7 coordinate one with the other in such manner as the commission may
8 prescribe.

1 **SEC. 10 (d). Board of review**—There is hereby created a board of
2 review consisting of three members to be appointed by the commission
3 for terms of six years, except that the terms of the members first taking
4 office shall be two, four, and six years respectively, as designated by
5 the commission at the time of appointment, and except that vacancies
6 shall be filled by appointment by the commission for the unexpired
7 terms. Each member shall be paid from the unemployment adminis-
8 tration fund a fixed salary to be determined by the commission, but
9 not to exceed \$2500.00 each, per year. The commission may at any
10 time, after notice and hearing, remove any member for cause.

ADMINISTRATION

1 **SEC. 11 (a). Duties and powers of commission**—It shall be the duty
2 of the commission to administer this act; and it shall have power and
3 authority to adopt, amend, or rescind such rules and regulations, to
4 employ such persons, make such expenditures, require such reports,
5 make such investigations, and take such other action as it deems nec-
6 essary or suitable to that end. Such rules and regulations shall be
7 effective upon publication in the manner, not inconsistent with the
8 provisions of this act, which the commission shall prescribe. Not later
9 than the 15th day of February of each year, the commission shall
10 submit to the governor a report covering the administration and opera-
11 tion of this act during the preceding calendar year and shall make such
12 recommendations for amendments to this act as the commission deems
13 proper. Such report shall include a balance sheet of the moneys in the
14 fund. Whenever the commission believes that a change in contribution
15 or benefit rates will become necessary to protect the solvency of the
16 fund, it shall promptly so inform the governor and the legislature, and
17 make recommendations with respect thereto.

1 **SEC. 11 (b). Regulations and general and special rules**—General and
2 special rules may be adopted, amended, or rescinded by the commis-
3 sion only after public hearing or opportunity to be heard thereon, of
4 which proper notice has been given. General rules shall become effec-
5 tive ten days after filing with the secretary of state and publication
6 in one or more newspapers of general circulation in this state. Special
7 rules shall become effective ten days after notification to or mailing
8 to the last known address of the individuals or concerns affected

9 thereby. Regulations may be adopted, amended, or rescinded by the
10 commission and shall become effective in the manner and at the time
11 prescribed by the commission.

1 **SEC. 11 (c). Publication**—The commission shall cause to be printed
2 for distribution to the public the text of this act, the commission's
3 regulations and general rules, its annual reports to the governor, and
4 any other material the commission deems relevant and suitable and
5 shall furnish the same to any person upon application therefor.

1 **SEC. 11 (d). Personnel**—Subject to other provisions of this act, the
2 commission is authorized to appoint, fix the compensation, and pre-
3 scribe the duties and powers of such officers, accountants, attorneys,
4 experts, and other persons as may be necessary in the performance
5 of its duties. The commission shall classify its positions and shall
6 establish salary schedules and minimum personnel standards for the
7 positions so classified. All positions shall be filled by persons selected
8 and appointed on the basis of competency and fitness for the position
9 to be filled. The commission shall not appoint or employ any person
10 who is an officer or committee member of any political party organi-
11 zation or who holds or is a candidate for any elective public office. The
12 commission shall establish and enforce fair and reasonable regulations
13 for appointments, promotions and demotions based upon ratings of
14 efficiency and fitness and for terminations for cause. The commission
15 may delegate to any such person so appointed such power and authority
16 as it deems reasonable and proper for the effective administration of
17 this act, and may in its discretion bond any person handling moneys
18 or signing checks hereunder.

1 **SEC. 11 (e). Advisory councils**—The commission may appoint a state
2 advisory council and local advisory councils, composed in each case of
3 an equal number of employer representatives and employee representa-
4 tives who may fairly be regarded as representatives because of their
5 vocation, employment, or affiliations, and of such members represent-
6 ing the general public as the commission may designate. Such coun-
7 cils shall aid the commission in formulating policies and discussing
8 problems related to the administration of this act and in assuring
9 impartiality and freedom from political influence in the solution of
10 such problems. Such advisory councils shall serve without compensa-
11 tion, but shall be reimbursed for any necessary expenses.

1 **SEC. 11 (f). Employment stabilization**—The commission with the
2 advice and aid of such advisory councils as it may appoint, and through
3 its appropriate divisions, shall take all appropriate steps to reduce and
4 prevent unemployment; to encourage and assist in the adoption of
5 practical methods of vocational training, retraining and vocational
6 guidance; to investigate, recommend, advise, and assist in the estab-
7 lishment and operation, by municipalities, counties, school districts,
8 and the state, of reserves for public works to be used in times of busi-
9 ness depression and unemployment; to promote the reemployment of
10 unemployed workers throughout the state in every other way that may
11 be feasible; and to these ends to carry on and publish the results of
12 investigations and research studies.

1 **SEC. 11 (g). Records and reports**—Each employing unit shall keep
2 true and accurate work records, containing such information as the
3 commission may prescribe. Such records shall be open to inspection
4 and be subject to being copied by the commission or its authorized
5 representatives at any reasonable time and as often as may be neces-
6 sary. The commission may require from any employing unit any
7 sworn or unsworn reports, with respect to persons employed by it,
8 which the commission deems necessary for the effective administration
9 of this act. Information thus obtained shall not be published or be
10 open to public inspection (other than to public employees in the per-
11 formance of their public duties) in any manner revealing the employ-
12 ing unit's identity, but any claimant at a hearing before an appeal
13 tribunal or the board of review shall be supplied with information from
14 such records to the extent necessary for the proper presentation of
15 his claim. Any employee or member of the commission who violates
16 any provision of this section shall be fined not less than (\$20.00)
17 twenty dollars nor more than (\$200.00) two hundred dollars, or be-
18 imprisoned for not longer than ninety days, or both.

1 **SEC. 11 (h). Oaths and witnesses**—In the discharge of the duties
2 imposed by this act, the chairman of an appeal tribunal and any duly
3 authorized representative or member of the commission or board of
4 review, shall have power to administer oaths and affirmations, take
5 depositions, certify to official acts, and issue subpoenas to compel the
6 attendance of witnesses and the production of books, papers, corre-
7 spondence, memoranda, and other records deemed necessary as evi-
8 dence in connection with a disputed claim or the administration of
9 this act.

1 **SEC. 11 (i). Subpoenas**—In case of contumacy by, or refusal to obey
2 a subpoena issued to any person, any court of this state within the
3 jurisdiction of which the inquiry is carried on or within the juris-
4 diction of which said person guilty of contumacy or refusal to obey is
5 found or resides or transacts business, upon application by the com-
6 mission, board of review, or appeal tribunal, or any member or duly
7 authorized representative thereof, shall have jurisdiction to issue to
8 such person an order requiring such person to appear before the com-
9 mission, or the board of review, or an appeal tribunal, there to pro-
10 duce evidence if so ordered or there to give testimony touching the
11 matter under investigation or in question; any failure to obey such
12 order of the court may be punished by said court as a contempt thereof.
13 Any person who shall without just cause fail or refuse to attend and
14 testify or to answer any lawful inquiry or to produce books, papers,
15 correspondence, memoranda, and other records, if it is in his power
16 to do so, in obedience to a subpoena, shall be punished by a fine of not
17 more than (\$200.00) two hundred dollars or by imprisonment, for
18 not longer than sixty days, or by both such fine and imprisonment,
19 and each day such violation continues shall be deemed to be a separate
20 offense.

1 **SEC. 11 (j). Protection against self-incrimination**—No person shall
2 be excused from attending and testifying or from producing books,
3 papers, correspondence, memoranda, and other records before the com-
4 mission or the board of review or an appeal tribunal, or in obedience

5 to a subpoena in any cause or proceeding provided for in this act, on
6 the ground that the testimony or evidence, documentary or otherwise,
7 required of him may tend to incriminate him or subject him to a pen-
8 alty or forfeiture; but no individual shall be prosecuted or subjected
9 to any penalty of forfeiture for or on account of any transaction,
10 matter, or thing concerning which he is compelled, after having claimed
11 his privilege against self-incrimination, to testify or produce evidence,
12 documentary or otherwise, except that such individual so testifying
13 shall not be exempt from prosecution and punishment for perjury
14 committed in so testifying.

1 **SEC. 11 (k). State-federal cooperation**—In the administration of this
2 act, the commission shall cooperate to the fullest extent consistent with
3 the provisions of this act, with the federal social security board, created
4 by the social security act, passed by congress and approved August
5 14, 1935, as amended; shall make such reports, in such form and con-
6 taining such information as the federal social security board may
7 from time to time require, and shall comply with such provisions as
8 the federal social security board may from time to time find necessary
9 to assure the correctness and verification of such reports; and shall
10 comply with the regulations prescribed by the federal social security
11 board governing the expenditures of such sums as may be allotted and
12 paid to this state under title III of the social security act for the pur-
13 pose of assisting in the administration of this act. Upon request there-
14 for the commission shall furnish to any agency of the United States
15 charged with the administration of public works or assistance through
16 public employment, the name, address, ordinary occupation, and em-
17 ployment status of each recipient of benefits and such recipient's rights
18 to further benefits under this act.

EMPLOYMENT SERVICE

1 **SEC. 12 (a). State employment service**—The Iowa state employ-
2 ment service, as provided in chapters 75 and 77 of the code of Iowa,
3 is hereby transferred to the commission as a division thereof, which
4 shall establish and maintain free public employment offices in such
5 number and in such places as may be necessary for the proper admin-
6 istration of this act and for the purpose of performing such duties as
7 are within the purview of the act of congress entitled "An act to pro-
8 vide for the establishment of a national employment system and for
9 cooperation with the states in the promotion of such system and for
10 other purposes", approved June 6, 1933 (48 stat. 113; U. S. C., title
11 29, sec. 49, as amended). The said division shall be administered
12 by a full-time salaried director, who shall be charged with the duty
13 to cooperate with any official or agency of the United States having
14 powers or duties under the provisions of the said act of congress, as
15 amended, and to do and perform all things necessary to secure to this
16 state the benefits of the said act of Congress, as amended, in the pro-
17 motion and maintenance of a system of public employment offices.
18 The Iowa state employment service division is hereby designated and
19 constituted the agency of this state for the purposes of said act. The
20 commission is directed to appoint the director, other officers and em-
21 ployees of the Iowa state employment service. Such appointments
22 shall be made in accordance with regulations prescribed by the director

23 of the United States employment service. If this act shall become
 24 inoperative for the reason prescribed in section 24 of this act, the
 25 Iowa state employment division shall not be affected thereby, but such
 26 division shall, upon the happening of such contingency, be deemed to
 27 be transferred to the bureau of labor of the state of Iowa with the
 28 same force and effect as if the original transfer had not been made.

1 **SEC. 12.(b). Financing**—All moneys received by this state under the
 2 said act of Congress, as amended, shall be paid into the special “em-
 3 ployment service account” in the unemployment compensation admin-
 4 istration fund, and said moneys are hereby made available to the Iowa
 5 state employment service to be expended as provided by this section
 6 and by said act of Congress. For the purpose of establishing and main-
 7 taining free public employment offices, said division is authorized to
 8 enter into agreements with any political subdivision of this state or
 9 with any private, non-profit organization, and as a part of any such
 10 agreement the commission may accept moneys, services, or quarters as
 11 a contribution to the employment service account.

UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

1 **SEC. 13 (a). Special fund**—There is hereby created in the state treas-
 2 ury a special fund to be known as the unemployment compensation
 3 administration fund. All moneys which are deposited or paid into this
 4 fund are hereby appropriated and made available to the commission.
 5 All moneys in this fund shall be expended solely for the purpose of
 6 defraying the cost of the administration of this act, and for no other
 7 purpose whatsoever. The fund shall consist of all moneys appro-
 8 priated by this state, and all moneys received from the United States
 9 of America, or any agency thereof, including the social security board,
 10 and the United States employment service, or from any other source,
 11 for such purpose. All moneys in this fund shall be deposited, ad-
 12 ministered, and disbursed, in the same manner and under the same
 13 conditions and requirements as is provided by law for special funds
 14 in the state treasury. Any balances in this fund shall not lapse at
 15 any time, but shall be continuously available to the commission for
 16 expenditure consistent with this act. The state treasurer shall give a
 17 separate and additional bond conditioned upon the faithful perform-
 18 ance of his duties in connection with the unemployment compensation
 19 administration fund in an amount and with such sureties as shall be
 20 fixed and approved by the governor. The premiums for such bond
 21 and the premiums for the bond given by the treasurer of the unem-
 22 ployment compensation fund under section 9 of this act, shall be paid
 23 from the moneys in the unemployment administration fund.

1 **SEC. 13 (b). Employment service account**—A special “employment
 2 service account” shall be maintained as a part of the unemploy-
 3 ment compensation administration fund for the purpose of maintain-
 4 ing the public employment offices established pursuant to section 12
 5 of this act and for the purpose of cooperating with the United States
 6 employment service. There is hereby transferred to the employment
 7 service account of the unemployment compensation administration
 8 fund, the unexpended balance of any money heretofore appropriated

9 or received for the Iowa state employment service. In addition, there
10 shall be paid into such account the moneys designated in section 12 (b)
11 of this act, and such moneys as are apportioned for the purpose of this
12 account from any moneys received by this state under title III of the
13 social security act, as amended.

COLLECTION OF CONTRIBUTIONS

1 SEC. 14 (a). **Interest on past-due contributions**—Contributions un-
2 paid on the date on which they are due and payable, as prescribed by
3 the commission, shall bear interest at the rate of 1 per centum per
4 month from and after such date until payment plus accrued interest
5 is received by the commission, provided that the commission may pre-
6 scribe fair and reasonable general rules pursuant to which such inter-
7 est shall not accrue with respect to contributions required for the cal-
8 endar year 1936. Interest collected pursuant to this subsection shall
9 be paid into the unemployment compensation fund.

1 SEC. 14 (b). **Collection**—If, after due notice, any employer defaults
2 in any payment of contributions or interest thereon, the amount due
3 shall be collected by civil action in the name of the commission, and
4 the employer adjudged in default shall pay the costs of such action.
5 Civil actions brought under this section to collect contributions or in-
6 terest thereon from an employer shall be heard by the court at the
7 earliest possible date and shall be entitled to preference upon the cal-
8 endar of the court over all other civil actions except petitions for
9 judicial review under this act and cases arising under the workmen's
10 compensation law of this state.

1 SEC. 14 (c). **Priorities under legal dissolutions or distributions**—In
2 the event of any distribution of an employer's assets pursuant to an
3 order of any court under the laws of this state, including any receiver-
4 ship, assignment for benefit of creditors, adjudicated insolvency, com-
5 position, or similar proceeding, contributions then or thereafter due
6 shall be paid in full prior to all other claims except taxes and claims
7 for wages preferred as provided by statute. In the event of an em-
8 ployer's adjudication in bankruptcy, judicially confirmed extension pro-
9 posal, or composition, under the federal bankruptcy act of 1898, as
10 amended, contributions then or thereafter due shall be entitled to such
11 priority as is provided in section 64 (b) of that act (U.S.C., title II,
12 sec. 104 (b), as amended).

1 SEC. 14 (d). **Refunds**—If not later than one year after the date on
2 which any contributions or interest thereon became due, an employer
3 who has paid such contributions or interest thereon shall make appli-
4 cation for an adjustment thereof in connection with subsequent con-
5 tribution payments, or for a refund thereof because such adjustment
6 cannot be made, and the commission shall determine that such con-
7 tributions or interest or any portion thereof was erroneously collected,
8 the commission shall allow such employer to make an adjustment there-
9 of, without interest, in connection with subsequent contribution pay-
10 ments by him, or if such adjustment cannot be made the commission
11 shall refund said amount, without interest, from the fund. For like
12 cause and within the same period, adjustment or refund may be so
13 made on the commission's own initiative.

PROTECTION OF RIGHTS AND BENEFITS

1 **SEC. 15 (a). Waiver of rights void**—Any agreement by an individual
 2 to waive, release, or commute his rights to benefits or any other rights
 3 under this act shall be void. Any agreement by any individual in the
 4 employ of any person or concern to pay all or any portion of an em-
 5 ployer's contribution, required under this act from such employer,
 6 shall be void. No employer shall directly or indirectly make or require
 7 or accept any deduction from wages to finance the employer's contri-
 8 butions required from him, or require or accept any waiver of any
 9 right hereunder by any individual in his employ. Any employer or
 10 officer or agent of an employer who violates any provision of this sub-
 11 section shall, for each offense, be fined not less than (\$100) one hundred
 12 dollars nor more than (\$1,000) one thousand dollars or be imprisoned
 13 for not more than six months, or both.

1 **SEC. 15 (b). Limitation of fees**—No individual claiming benefits shall
 2 be charged fees of any kind in any proceeding under this act by the
 3 commission or its representatives or by any court or any officer thereof.
 4 Any individual claiming benefits in any proceeding before the com-
 5 mission or the board of review or an appeal tribunal or a court may be
 6 represented by counsel or other duly authorized agent; but no such
 7 counsel or agent shall either charge or receive for such services more
 8 than an amount approved by the commission. Any person who vio-
 9 lates any provisions of this subsection shall, for each such offense, be
 10 fined not less than (\$50) fifty dollars nor more than (\$500) five hun-
 11 dred dollars, or imprisoned for not more than six months, or both.

1 **SEC. 15 (c). No assignments of benefits; exemptions**—Any assign-
 2 ment, pledge, or encumbrance of any right to benefits which are or
 3 may become due or payable under this act shall be void, and such
 4 rights to benefits shall be exempt from levy, execution, attachment,
 5 or any other remedy whatsoever provided for the collection of debt;
 6 and benefits received by any individual, so long as they are not mingled
 7 with other funds of the recipient, shall be exempt from any remedy
 8 whatsoever for the collection of all debts. Any waiver of any exemp-
 9 tion provided for in this subsection shall be void.

1 **SEC. 16 (a). Penalties**—Whoever makes a false statement or repre-
 2 sentation knowing it to be false or knowingly fails to disclose a ma-
 3 terial fact, to obtain or increase any benefit or other payment under
 4 this act, either for himself or for any other person, shall be punished
 5 by a fine of not less than (\$20.00) twenty dollars nor more than
 6 (\$50.00) fifty dollars or by imprisonment for not longer than thirty
 7 days, or by both such fine and imprisonment; and each such false
 8 statement or representation or failure to disclose a material fact shall
 9 constitute a separate offense.

1 **SEC. 16 (b).** Any employing unit or any officer or agent of an em-
 2 ploying unit or any other person who makes a false statement or rep-
 3 resentation knowing it to be false, or who knowingly fails to disclose a
 4 material fact, to prevent or reduce the payment of benefits to any in-
 5 dividual entitled thereto, or to avoid becoming or remaining subject
 6 hereto, or to avoid or reduce any contribution or other payment re-
 7 quired from an employing unit under this act, or who wilfully fails or

8 refuses to make any such contributions or other payment or to furnish
 9 any reports required hereunder or to produce or permit the inspection
 10 or copying of records as required hereunder, shall be punished by a
 11 fine of not less than (\$20.00) twenty dollars nor more than (\$200.00)
 12 two hundred dollars, or by imprisonment for not longer than sixty
 13 days, or by both such fine and imprisonment; and each such false
 14 statement or representation or failure to disclose a material fact, and
 15 each day of such failure or refusal, shall constitute a separate offense.

1 SEC. 16 (c). Any person who shall wilfully violate any provisions
 2 of this act or any rule or regulation thereunder, the violation of which
 3 is made unlawful or the observance of which is required under the
 4 terms of this act, and for which a penalty is neither prescribed herein
 5 nor provided by any other applicable statute, shall be punished by a
 6 fine of not less than (\$20.00) twenty dollars nor more than (\$200.00)
 7 two hundred dollars or by imprisonment for not longer than sixty days,
 8 or by both such fine and imprisonment, and each day such violation
 9 continues shall be deemed to be a separate offense.

1 SEC. 16 (d). Any person who, by reason of the nondisclosure or
 2 misrepresentation by him or by another, of a material fact (irrespec-
 3 tive of whether such nondisclosure or misrepresentation was known or
 4 fraudulent) has received any sum as benefits under this act while any
 5 conditions for the receipt of benefits imposed by this act were not ful-
 6 filled in his case, or while he was disqualified from receiving benefits,
 7 shall, in the discretion of the commission, either be liable to have such
 8 sum deducted from any future benefits payable to him under this act
 9 or shall be liable to repay to the commission for the unemployment
 10 compensation fund, a sum equal to the amount so received by him, and
 11 such sum shall be collectible in the manner provided in section 14 (b)
 12 of this act for the collection of past-due contributions.

REPRESENTATION IN COURT

1 SEC. 17 (a). In any civil action to enforce the provisions of this
 2 act, the commission and the state may be represented by any qualified
 3 attorney who is a regular salaried employee of the commission and is
 4 designated by it for this purpose or, at the commission's request, by
 5 the attorney general. In case the governor designates special counsel
 6 to defend on behalf of the state, the validity of this act, the expenses
 7 and compensation of such special counsel employed by the commission
 8 in connection with such proceeding may be charged to the unemploy-
 9 ment compensation administration fund.

1 SEC. 17 (b). All criminal actions for violation of any provision of
 2 this act, or of any rules or regulations issued by the commission pur-
 3 suant thereto, shall be prosecuted by the prosecuting attorney of any
 4 county in which the employer has a place of business or the violator
 5 resides, or, at the request of the commission, shall be prosecuted by
 6 the attorney general.

1 SEC. 18. **Nonliability of state**—Benefits shall be deemed to be due
 2 and payable under this act only to the extent provided in this act and
 3 to the extent that moneys are available therefor to the credit of the un-
 4 employment compensation fund, and neither the state nor the commis-
 5 sion shall be liable for any amount in excess of such sums.

DEFINITIONS

1 SEC. 19. As used in this act, unless the context clearly requires
2 otherwise:

1 SEC. 19 (a) (1). "Annual Pay Roll" means the total amount of
2 wages payable by an employer (regardless of the time of payment) for
3 employment during a calendar year.

4 (2) "Average Annual Pay Roll" means the average of the annual
5 pay rolls of any employer for the last three or five years, whichever
6 average is higher.

1 SEC. 19 (b). "Benefits" means the money payments payable to an
2 individual, as provided in this act, with respect to his unemployment.

1 SEC. 19 (c). "Commission" means the unemployment compensation
2 commission established by this act.

1 SEC. 19 (d). "Contributions" means the money payments to the
2 state unemployment compensation fund required by this act.

1 SEC. 19 (e). "Employing Unit" means any individual or type of
2 organization, including any partnership, association, trust, estate,
3 joint-stock company, insurance company or corporation, whether
4 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
5 successor thereof, or the legal representative of a deceased person,
6 which has or subsequent to January 1, 1936, had in its employ one or
7 more individuals performing services for it within this state. All
8 individuals performing services within this state for any employing
9 unit which maintains two or more separate establishments within this
10 state shall be deemed to be employed by a single employing unit for
11 all the purposes of this act. Whenever any employing unit contracts
12 with or has under it any contractor or subcontractor for any work
13 which is part of its usual trade, occupation, profession, or business,
14 unless the employing unit as well as each such contractor or sub-con-
15 tractor is an employer by reason of section 19 (f) or section 8 (c) of
16 this act, the employing unit shall for all the purposes of this act be
17 deemed to employ each individual in the employ of each such contrac-
18 tor or subcontractor for each day during which such individual is
19 engaged in performing such work; except that each such contractor
20 or subcontractor who is an employer by reason of section 19 (f) or
21 section 8 (c) of this act shall alone be liable for the contributions
22 measured by wages payable to individuals in his employ, and except
23 that any employing unit who shall become liable for and pay contri-
24 butions with respect to individuals in the employ of any such contractor
25 or subcontractor who is not an employer by reason of section 19 (f) or
26 section 8 (c) of this act, may recover the same from such contractor
27 or subcontractor, except as any contractor or subcontractor who would
28 in the absence of the foregoing provisions be liable to pay said con-
29 tributions, accepts exclusive liability for said contributions under an
30 agreement with such employer made pursuant to general rules of the
31 commission. Each individual employed to perform or to assist in per-
32 forming the work of any agent or employee of an employing unit shall
33 be deemed to be employed by such employing unit for all the purposes
34 of this act, whether such individual was hired or paid directly by such

35 employing unit or by such agent or employee, provided the employing
36 unit had actual or constructive knowledge of such work.

1 SEC. 19 (f). "Employer" means:

2 (1) Any employing unit which for some portion of a day in each of
3 fifteen different weeks within either the current or the preceding cal-
4 endar year, excepting the calendar year 1935 (whether or not such
5 weeks are or were consecutive) has or had in employment eight or
6 more individuals (not necessarily simultaneously and irrespective of
7 whether the same individuals are or were employed in each such day);

8 (2) Any employing unit which acquired the organization, trade or
9 business, or substantially all the assets thereof, of another which at
10 the time of such acquisition was an employer subject to this act;

11 (3) Any employing unit which acquired the organization, trade or
12 business, or substantially all the assets thereof, of another employing
13 unit and which, if treated as a single unit with such other employing
14 unit, would be an employer under paragraph (1) of this subsection;

15 (4) Any employing unit which together with one or more other em-
16 ploying units, is owned or controlled (by legally enforceable means or
17 otherwise) directly or indirectly by the same interests, or which owns
18 or controls one or more other employing units (by legally enforceable
19 means or otherwise,) and which, if treated as a single unit with such
20 other employing unit, would be an employer under paragraph (1) of
21 this subsection;

22 (5) Any employing unit which, having become an employer under
23 paragraph (1), (2), (3) or (4), has not, under section 8, ceased to be
24 an employer subject to this act; or

25 (6) For the effective period of its election pursuant to section (8)

26 (c) any other employing unit which has elected to become fully sub-
27 ject to this act.

1 SEC. 19 (g). Except as otherwise provided in this subsection (g),
2 "Employment" means service, including service in interstate com-
3 merce, performed for wages or under any contract of hire, written or
4 oral, express or implied.

5 (2) The term "employment" shall include an individual's entire
6 service, performed within or both within and without this state if:

7 (a) the service is localized in this state, or

8 (b) the service is not localized in any state but some of the service
9 is performed in this state and (i) the base of operations, or, if there
10 is no base of operations, then the place from which such service is
11 directed or controlled, is in this state; or (ii) the base of operations
12 or place from which such service is directed or controlled is not in
13 any state in which some part of the service is performed, but the in-
14 dividual's residence is in this state.

15 (3) Services performed within this state but not covered under
16 paragraph (2) of this subsection shall be deemed to be employment
17 subject to this act if contributions are not required and paid with re-
18 spect to such services under an unemployment compensation law of
19 any other state or of the federal government.

20 (4) Services not covered under paragraph (2) of this subsection,
21 and performed entirely without this state, with respect to no part of
22 which contributions are required and paid under an unemployment

23 compensation law of any other state or of the federal government,
24 shall be deemed to be employment subject to this act if the individual
25 performing such services is a resident of this state and the commission
26 approves the election of the employing unit for whom such services
27 are performed that the entire service of such individual shall be deemed
28 to be employment subject to this act.

29 (5) Service shall be deemed to be localized within a state if

30 (a) the service is performed entirely within such state, or

31 (b) the service is performed both within and without such state,
32 but the service performed without such state is incidental to the in-
33 dividual's service within the state, for example, is temporary or transi-
34 tory in nature or consists of isolated transactions.

35 (6) Services performed by an individual for wages shall be deemed
36 to be employment subject to this act unless and until it is shown to the
37 satisfaction of the commission that

38 (a) such individual has been and will continue to be free from con-
39 trol or direction over the performance of such services, both under his
40 contract of service and in fact.

41 (7) The term "employment" shall not include:

42 (a) Service performed in the employ of this state, or of any political
43 subdivision thereof, or of any instrumentality of this state or its po-
44 litical subdivisions;

45 (b) Service performed in the employ of any other state or its
46 political subdivisions, or of the United States government, or of an
47 instrumentality of any other state or states or their political subdivi-
48 sions or of the United States.

49 (c) Service with respect to which unemployment compensation is
50 payable under an unemployment compensation system established by
51 an act of congress; provided, that the commission is hereby author-
52 ized and directed to enter into agreements with the proper agencies
53 under such act of congress, which agreements shall become effective
54 ten days after publication thereof in the manner provided in section
55 11(b) of this act for general rules, to provide reciprocal treatment
56 to individuals who have, after acquiring potential rights to benefits
57 under this act, acquired rights to unemployment compensation under
58 such act of congress, or who have, after acquiring potential rights to
59 unemployment compensation under such act of congress, acquired
60 rights to benefits under this act.

61 (d) Agricultural labor;

62 (e) Domestic service in a private home;

63 (f) Service performed as an officer or member of the crew of a
64 vessel on the navigable waters of the United States;

65 (g) Service performed by an individual in the employ of his son,
66 daughter, or spouse, and service performed by a child under the age
67 of twenty-one in the employ of his father or mother;

68 (h) Service performed in the employ of a corporation, community
69 chest, fund, or foundation, organized and operated exclusively for re-
70 ligious, charitable, scientific, literary, or educational purposes, or for
71 the prevention of cruelty to children or animals, no part of the net earn-
72 ings of which inures to the benefit of any private shareholder or in-
73 dividual.

1 SEC. 19 (h). "Employment office" means a free public employment
2 office, or branch thereof, operated by this state or maintained as a part
3 of a state-controlled system of public employment offices.

1 SEC. 19 (i). "Fund" means the unemployment compensation fund
2 established by this act, to which all contributions required and from
3 which all benefits provided under this act shall be paid.

1 SEC. 19 (j). "Total and partial unemployment".

2 (1) An individual shall be deemed "totally unemployed" in any
3 week with respect to which no wages are payable to him and during
4 which he performs no services (other than odd jobs or subsidiary work
5 for which no wages as used in this subsection are payable to him).

6 (2) An employee shall be deemed "partially unemployed" in any
7 week of less than full-time work if his wages payable for such week
8 fail to equal two dollars more than the weekly benefit amount he would
9 be entitled to receive if totally unemployed and eligible.

10 (3) As used in this subsection, the term "wages" shall include only
11 that part of wages for odd jobs or subsidiary work, or both, which is
12 in excess of three dollars (\$3.00) in any one week.

13 (4) An individual's week of unemployment shall be deemed to com-
14 mence only after his registration at an employment office, except as
15 the commission may by regulation otherwise prescribe.

1 SEC. 19 (k). "State" includes, in addition to the states of the
2 United States of America, Alaska, Hawaii, and the District of
3 Columbia.

1 SEC. 19 (l). "Unemployment compensation administration fund"
2 means the unemployment compensation administration fund estab-
3 lished by this act, from which administration expenses under this act
4 shall be paid.

1 SEC. 19 (m). "Wages" means all remuneration payable for per-
2 sonal services, including commissions and bonuses and the cash value
3 of all remuneration payable in any medium other than cash. Grat-
4 uities customarily received by an individual in the course of his em-
5 ployment from persons other than his employing unit shall be treated
6 as wages payable by his employing unit. The reasonable cash value
7 of remuneration payable in any medium other than cash, and the
8 reasonable amount of gratuities, shall be estimated and determined in
9 accordance with rules prescribed by the commission.

1 SEC. 19 (n). "Week" means such period or periods of seven con-
2 secutive calendar days ending at midnight, as the commission may by
3 regulations prescribe.

1 SEC. 19 (o). "Weekly benefit amount". An individual's "weekly
2 benefit amount" means the amount of benefits he would be entitled to
3 receive for one week of total unemployment. An individual's weekly
4 benefit amount, as determined for the first week of his benefit year,
5 shall constitute his weekly benefit amount throughout such benefit
6 year.

1 SEC. 19 (p). "Benefit year" with respect to any individual means
2 the fifty-two consecutive week period beginning with the first day of

3 the week with respect to which benefits are first payable to him, and
4 thereafter, the fifty-two consecutive week period beginning with the
5 first day of the first week with respect to which benefits are next pay-
6 able to him after the termination of his preceding benefit year.

1 SEC. 19 (q). "Base period" means the first eight of the last nine
2 completed calendar quarters immediately preceding the first day of
3 an individual's benefit year.

1 SEC. 19 (r). "Calendar quarter" means the period of three con-
2 secutive calendar months ending on March 31, June 30, September 30
3 or December 31, excluding, however, any calendar quarter or portion
4 thereof which occurs prior to January 1, 1937, or the equivalent there-
5 of as the commission may by regulation prescribe.

1 SEC. 20. "**Reciprocal benefit arrangements**"—The commission is
2 hereby authorized to enter into arrangements with the appropriate
3 agencies of other states or the federal government whereby potential
4 rights to benefits accumulated under the unemployment compensation
5 laws of several states or under such a law of the federal government,
6 or both, may constitute the basis for the payment of benefits through
7 a single appropriate agency under terms which the commission finds
8 will be fair and reasonable as to all affected interests and will not result
9 in any substantial loss to the fund.

1 SEC. 21. "**Saving clause**"—The general assembly reserves the right
2 to amend or repeal all or any part of this act at any time; and there
3 shall be no vested private right of any kind against such amendment
4 or repeal. All rights, privileges, or immunities conferred by this
5 act or by acts done pursuant thereto shall exist subject to the power of
6 the general assembly to amend or repeal this act at any time.

1 SEC. 22. "**Separability of provisions**"—If any provision of this act, or
2 the application thereof to any person or circumstance, is held invalid,
3 the remainder of this act and the application of such provision to other
4 persons or circumstances shall not be affected thereby.

1 SEC. 23. "**Constitutionality.**"—If any section, subsection, clause, sen-
2 tence or phrase of this act is for any reason held to be unconstitutional
3 and invalid, such decision shall not affect the validity of the remaining
4 portions of this act. The general assembly hereby declares that in
5 the passage of this act, it is the expressed intent of the general as-
6 sembly to provide for contributions from any and all employers as
7 herein defined, as far as the same is constitutional and valid, and the
8 general assembly hereby further declares that it would have passed
9 this act and each section, subsection, clause, sentence and phrase hereof
10 irrespective of whether any one or more of the sections, subsections,
11 clauses, sentences or phrases hereof be declared unconstitutional or
12 invalid.

1 SEC. 24. "**Termination**"—If at any time Title IX of the Social Secur-
2 ity act, as amended, shall be amended or repealed by congress or held
3 unconstitutional by the supreme court of the United States, with the
4 result that no portion of the contributions required under this act may
5 be credited against the tax imposed by said title IX, in any such event

6 the operation of the provisions of this act requiring the payment of
 7 contributions and benefits shall immediately cease, the commission
 8 shall thereupon requisition from the unemployment trust fund all
 9 moneys therein standing to its credit, and such moneys, together with
 10 any other moneys in the unemployment compensation fund shall be
 11 refunded, without interest and under regulations prescribed by the
 12 commission, to each employer by whom contributions have been paid,
 13 proportionately to his pro rata share of the total contributions paid
 14 under this act. Any interest or earnings of the fund shall be available
 15 to the commission to pay for the costs of making such refunds. When
 16 the commission shall have executed the duties prescribed in this section
 17 and performed such other acts as are incidental to the termination of
 18 its duties under this act, the provisions of this act, in their entirety,
 19 shall cease to be operative.

1 SEC. 25. "Repeal"—All acts or parts of acts in conflict herewith are
 2 hereby repealed insofar as they are inconsistent with any of the pro-
 3 visions of this act.

1 SEC. 26. "Effective date"—This act being deemed of immediate im-
 2 portance, shall be in force and effect from and after its passage and
 3 publication in the Des Moines Register, a newspaper published at Des
 4 Moines, Iowa, and in the Atlantic News-Telegraph, a newspaper pub-
 5 lished at Atlantic, Iowa.

Senate File 1. Approved December 24, 1936.

I hereby certify that the foregoing act was published in the Des Moines Register,
 December 25, 1936, and the Atlantic News-Telegraph, December 26, 1936.

MRS. ALEX MILLER, *Secretary of State.*

CHAPTER 5

JOINT RESOLUTION

H. J. R. 1

A JOINT RESOLUTION fixing compensation of officers and employees of the Forty-
 sixth General Assembly, extraordinary session.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Pursuant to provisions of section nineteen (19) of the
 2 code, 1935, it is provided that the daily compensation of all officers and
 3 employees of the Forty-sixth General Assembly, Extraordinary Ses-
 4 sion, be as follows, to be paid in accordance with the rules of the senate
 5 and the house:

OFFICERS AND EMPLOYEES OF THE SENATE

6	Secretary of the senate	\$9.00
7	Assistant secretary of the senate	6.30
8	Journal clerk	6.30
9	Sergeant-at-arms	4.50
10	Committee clerks	3.60
11	Pages	2.50
12	Telephone operator	3.00