

96.9 Unemployment compensation fund.

1. *Establishment and control.* There is hereby established as a special fund, separate and apart from all public moneys or funds of this state, an unemployment compensation fund, which shall be administered by the department exclusively for the purposes of this chapter. This fund shall consist of:

- a. All contributions collected under this chapter,
- b. Interest earned upon any moneys in the fund,
- c. Any property or securities acquired through the use of moneys belonging to the fund,
- d. All earnings of such property or securities, and
- e. All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the Social Security Act [42 U.S.C. § 501 to 503, 1103 to 1105, 1321 to 1324]. All moneys in the unemployment compensation fund shall be mingled and undivided.

2. *Accounts and deposits.* The state treasurer shall be ex officio treasurer and custodian of the fund and shall administer such fund in accordance with the directions of the department. The director of the department of administrative services shall issue warrants upon the fund pursuant to the order of the department and such warrants shall be paid from the fund by the treasurer. The treasurer shall maintain within the fund three separate accounts:

- a. A clearing account.
- b. An unemployment trust fund account.
- c. A benefit account.

All moneys payable to the unemployment compensation fund and all interest and penalties on delinquent contributions and reports shall, upon receipt thereof by the department, be forwarded to the treasurer who shall immediately deposit them in the clearing account, but the interest and penalties on delinquent contributions and reports shall not be deemed to be a part of the fund. Refunds of contributions payable pursuant to section 96.14 shall be paid by the treasurer from the clearing account upon warrants issued by the director of the department of administrative services under the direction of the department. After clearance thereof, all other moneys in the clearing account, except interest and penalties on delinquent contributions and reports, shall be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act as amended, any provisions of law in this state relating to the deposit, administration, release or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. Interest and penalties on delinquent contributions and reports collected from employers shall be transferred from the clearing account to the special employment security contingency fund. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund for the payment of benefits. Except as herein otherwise provided, moneys in the clearing and benefit account may be deposited by the treasurer, under the direction of the department, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of the treasurer's duties as custodian of the fund in an amount fixed by the governor and in form and manner prescribed by law. Premiums for said bond shall be paid from the administration fund.

Interest paid upon the moneys deposited with the secretary of the treasury of the United States shall be credited to the unemployment compensation fund.

3. *Withdrawals.* Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the department, except that money credited to this state's account pursuant to section 903 of the Social Security Act may, subject to the conditions prescribed in subsection 4 of this section, be used for the payment of expenses incurred for the administration of this chapter. The department shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to the account of this state therein, as the department deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account, and shall disburse such moneys upon warrants drawn by the director of the department of administrative services pursuant to the order of the department for the payment of benefits solely from such benefit account. Expenditures of such moneys from the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants issued by the director of the department of administrative services for the payment of benefits and refunds shall bear the signature of the director of the department of administrative services. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the department, shall be redeposited with the secretary of the treasury of the United States, to the credit of this state's account in the unemployment trust fund, as provided in subsection 2 of this section.

4. *Money credited under section 903 of the Social Security Act.*

a. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. Such money may be requisitioned pursuant to subsection 3 of this section for the payment of benefits. Such money may also be requisitioned and used for the payment of expenses incurred for the administration of this chapter but only pursuant to a specific appropriation by the legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which (1) specifies the purposes for which such money is appropriated and the amounts appropriated therefor, (2) limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, and (3) limits the amount which may be obligated during a twelve-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which the aggregate of the amounts transferred to the account of this state pursuant to section 903 of the Social Security Act exceeds the aggregate of the amounts used by this state pursuant to this chapter and charged against the amounts transferred to the account of this state during the same twelve-month period. For purposes of this subsection, amounts used by this state for administration shall be chargeable against transferred amounts at the exact time the obligation is entered into. The use of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States secretary of labor.

b. Money requisitioned as provided herein for the payment of expenses of administration shall be deposited in the employment security administration fund, but, until expended, shall remain a part of the unemployment compensation fund. The treasurer of state shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund.

5. *Administration expenses excluded.* Any amount credited to this state's account in the unemployment trust fund under section 903 of the Social Security Act which has been appropriated for expenses of administration

pursuant to subsection 4 of this section, whether or not withdrawn from such account, shall not be deemed assets of the unemployment compensation fund for the purpose of computing contribution rates under section 96.7, subsection 3, of this chapter.

6. *Management of funds in the event of discontinuance of unemployment trust fund.* The provisions of subsections 1, 2, and 3 to the extent that they relate to the unemployment trust fund shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States continues to maintain for this state a separate book account of all funds deposited therein by this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the director, treasurer of state, and governor, in accordance with the provisions of this chapter: Provided, that such moneys shall be invested in the following readily marketable classes of securities; such securities as are authorized by the laws of the state of Iowa for the investment of trust funds. The treasurer shall dispose of securities and other properties belonging to the unemployment compensation fund only under the direction of the director, treasurer of state, and governor.

7. *Cancellation of warrants.* The director of the department of administrative services, as of January 1, April 1, July 1, and October 1 of each year, shall stop payment on all warrants for the payment of benefits which have been outstanding and unredeemed by the state treasurer for six months or longer. Should the original warrants subsequently be presented for payment, warrants in lieu thereof shall be issued by the director of the department of administrative services at the discretion of and certification by the department.

8. *Unemployment compensation reserve fund.*

a. A special fund to be known as the unemployment compensation reserve fund is created in the state treasury. The reserve fund is separate and distinct from the unemployment compensation fund. All moneys collected as reserve contributions, as defined in paragraph "b", shall be deposited in the reserve fund. The moneys in the reserve fund may be used for the payment of unemployment benefits and shall remain available for expenditure in accordance with the provisions of this subsection. The treasurer of state shall be the custodian of the reserve fund and shall disburse the moneys in the reserve fund in accordance with this subsection and the directions of the director of the department of workforce development.

b. If the balance in the reserve fund on July 1 of the preceding calendar year for calendar year 2004 and each year thereafter is less than one hundred fifty million dollars, a percentage of contributions, as determined by the director, shall be deemed to be reserve contributions for the following calendar year. If the percentage of contributions, termed the reserve contribution tax rate, is not zero percent as determined pursuant to this subsection, the combined tax rate of contributions to the unemployment compensation fund and to the unemployment compensation reserve fund shall be divided so that a minimum of fifty percent of the combined tax rate equals the unemployment contribution tax rate and a maximum of fifty percent of the combined tax rate equals the reserve contribution tax rate except for employers who are assigned a combined tax rate of five and four-tenths. For those employers, the reserve contribution tax rate shall equal zero and their combined tax rate shall equal their unemployment contribution rate. When the reserve contribution tax rate is determined to be zero percent, the unemployment contribution rate for all employers shall equal one hundred percent of the combined tax rate. The reserve contributions collected in any calendar year shall not exceed fifty million dollars. The provisions for collection of contributions under section 96.14 are applicable to the collection of reserve contributions. Reserve contributions shall not be deducted in whole or in part by any employer from the wages of individuals in its employ. All moneys collected as reserve contributions shall not become part of the unemployment compensation fund but shall be deposited in the reserve fund created in this subsection.

c. Moneys in the reserve fund shall only be used to pay unemployment benefits to the extent moneys in the unemployment compensation fund are insufficient to pay benefits during a calendar quarter.

d. The interest earned on the moneys in the reserve fund shall be deposited in and credited to the reserve fund.

e. Moneys from interest earned on the unemployment compensation reserve fund shall be used by the department only upon appropriation by the general assembly and for administrative costs to collect the reserve contributions.

[C39, § **1551.15**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 96.9]

86 Acts, ch 1246, § 622; 87 Acts, ch 222, § 5; 91 Acts, ch 45, §7, 8; 92 Acts, ch 1045, §3; 96 Acts, ch 1186, § 23; 2003 Acts, ch 145, § 286; 2003 Acts, ch 179, § 32, 47; 2004 Acts, 1st Ex, ch 1001, §30, 32