

FEB 27 1974

HOUSE FILE

1311

Place On Calendar

*See Human - Ind. Rel. - Pass 4/23*

By COMMITTEE ON HUMAN AND  
INDUSTRIAL RELATIONS

Passed House, Date 4-8-74 (1563) Passed Senate, Date 5-1-74 (1833)  
Vote: Ayes 88 Nays 2 Vote: Ayes 45 Nays 0  
Approved 5-27-74

## A BILL FOR

1 An Act correcting and clarifying certain sections of chapter  
2 ninety-six (96), and providing provisions mandated by  
3 federal standards.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section ninety-six point four (96.4), subsec-  
2 tion seven (7), Code 1973, is amended to read as follows:

3 7. Notwithstanding any other provisions in this subsec-  
4 tion, no otherwise eligible individual shall be denied bene-  
5 fits for any week because he is in training with the approval  
6 of the commission, nor shall such individual be denied bene-  
7 fits with respect to any week in which he is in training with  
8 the approval of the commission by reason of the application  
9 of the provision in subsection 3 of this section relating  
10 to availability for work, and an active search for work or  
11 the provision of subsection 3 of ~~this~~ section ninety-six point  
12 five (96.5) of the Code relating to failure to apply for or  
13 a refusal to accept suitable work.

14 Sec. 2. Section ninety-six point six (96.6), subsection  
15 two (2), Code 1973, is amended to read as follows:

16 2. INITIAL DETERMINATION. A representative designated  
17 by the commission shall promptly notify all interested parties  
18 to the claim of the filing thereof, and said parties shall  
19 have seven days from the date of mailing the notice of the  
20 filing of said claim by ordinary mail to the last known address  
21 to protest payment of benefits to said claimant. The  
22 representative shall promptly examine the claim and any protest  
23 thereto and, on the basis of the facts found by him, shall  
24 either determine whether or not such claim is valid, the week  
25 with respect to which benefits shall commence, the weekly  
26 benefit amount payable and the maximum duration thereof, and  
27 whether any disqualification shall be imposed, or shall refer  
28 such claim or any question involved therein to an appeal tri-  
29 bunal or to the commission, which shall make its determina-  
30 tion with respect thereto in accordance with the procedure  
31 described in subsection 3 of this section, except that in  
32 any case in which the payment or denial of benefits will be  
33 determined by the provisions of section 96.5, subsection 4,  
34 the representative shall promptly transmit his full findings  
35 of fact with respect to that subsection to the commission,

1 which, on the basis of the evidence submitted and such  
2 additional evidence as it may require, shall affirm, modify,  
3 or set aside such findings of fact and transmit to the  
4 representative a decision upon the issues involved under that  
5 subsection. The representative shall promptly notify the  
6 claimant and any other interested party of the decision and  
7 the reasons therefor. Unless the claimant or other interested  
8 party, ~~within five calendar days after the delivery of such~~  
9 after notification, ~~or within seven~~ ten calendar days after  
10 such notification was mailed to his last known address, files  
11 an appeal from such decision, such decision shall be final  
12 and benefits shall be paid or denied in accordance therewith.  
13 If an appeal tribunal affirms a decision of the representative,  
14 or the commission affirms a decision of an appeal tribunal,  
15 allowing benefits, such benefits shall be paid regardless  
16 of any appeal which may thereafter be taken, but if such deci-  
17 sion is finally reversed, no employer's account shall be  
18 charged with benefits so paid.

19 Sec. 3. Section ninety-six point six (96.6), subsection  
20 three (3), Code 1973, is amended to read as follows:

21 3. APPEALS. Unless such appeal is withdrawn, an appeal  
22 tribunal, after affording the parties reasonable opportunity  
23 for fair hearing, shall affirm or modify the findings of fact  
24 and decision of the deputy. The parties shall be duly noti-  
25 fied of such tribunal's decision, together with its reasons  
26 therefor, which shall be deemed to be the final decision of  
27 the commission, unless within ~~ten~~ fifteen days after the date  
28 of notification or mailing of such decision, further appeal  
29 is initiated pursuant to subsection 5 of this section.

30 Sec. 4. Section ninety-six point six (96.6), subsection  
31 nine (9), Code 1973, is amended to read as follows:

32 9. COURT REVIEW. Within ~~ten~~ twenty days after the decision  
33 of the commission has become final, any party aggrieved thereby  
34 may secure judicial review thereof by commencing an action  
35 in the district court of the county in which the claimant  
36 was last employed or resides, provided that if the claimant

1 does not reside in the state of Iowa the action shall be  
2 brought in the district court of Polk county, Iowa, against  
3 the commission for the review of its decision, in which action  
4 any other party to the proceeding before the commission shall  
5 be made a defendant. In such action, a petition which need  
6 not be verified, but which shall state the grounds upon which  
7 a review is sought, shall be served on a member of the commis-  
8 sion or upon such person as the commission may designate  
9 and such service shall be deemed completed service on all  
10 parties, but there shall be left with the party so served  
11 as many copies of the petition as there are defendants and  
12 the commission shall forthwith mail one such copy to each  
13 such defendant. The commission shall within sixty days after  
14 notice of appeal has been served on the commission certify  
15 and file with said district court all documents and papers  
16 and a transcript of all testimony taken in the matter, together  
17 with its findings of fact and decision therein, or so much  
18 thereof as may be agreed upon by the parties to such appeal.  
19 Such agreement as to the records, papers and documents to  
20 be certified shall be in writing, signed by the parties to  
21 the appeal, and shall be filed with the commission. A copy  
22 of such agreement shall be filed with the transcript of the  
23 records filed with the district court. With such transcript  
24 the commission shall file its answer. The transcript as  
25 certified and filed by the commission shall be the record  
26 on which the appeal shall be heard, and no additional evidence  
27 shall be heard. In the absence of fraud any finding of fact  
28 by the commission, after notice and hearing as herein provided,  
29 shall be binding upon the court on appeal, when supported  
30 by substantial and competent evidence. The commission may  
31 also, in its discretion, certify to such courts, questions  
32 of law involved in any decision by it. Such actions, and  
33 the questions so certified, shall be heard in a summary manner  
34 and shall be given precedence over all other civil cases  
35 except cases arising under the workmen's compensation law

1 of this state.

2 Sec. 5. Section ninety-six point six (96.6), subsection  
3 twelve (12), Code 1973, is amended to read as follows:

4 12. APPEAL. An appeal may be taken from any final order,  
5 judgment, or decree of the district court to the supreme court  
6 of Iowa, in the same manner, but not inconsistent with the  
7 provisions of this chapter, as is provided in civil cases,  
8 irrespective of the amount involved. It shall not be neces-  
9 sary in any judicial proceeding under this section, to enter  
10 exceptions to the rulings of the commission and no bond shall  
11 be required for entering such appeal. Upon the final deter-  
12 mination of such judicial proceeding, the commission shall  
13 enter an order in accordance with such determination. A  
14 petition for judicial review shall not act as a supersedeas  
15 or stay unless the commission shall so order.

16 Sec. 6. Section ninety-six point seven (96.7), subsection  
17 three (3), paragraph a, subparagraph seven (7), Code 1973,  
18 is amended to read as follows:

19 (7) Any employer may at any time make voluntary payments  
20 to his account in excess of the other requirements of this  
21 chapter, and all such payments shall be considered on any  
22 computation date as contributions required under the provisions  
23 of this chapter if they are paid by the employer not later  
24 than the next ~~December-31~~ March fifteenth after such computa-  
25 tion date.

26 Sec. 7. Section ninety-six point fourteen (96.14), sub-  
27 section three (3), unnumbered paragraph eleven (11), Code  
28 1973, is amended to read as follows:

29 The courts of this state shall recognize and enforce  
30 liabilities for unemployment contributions, penalties, inter-  
31 est and benefit overpayments imposed by other states which  
32 extend a like comity to this state. The commission is hereby  
33 empowered to sue in the courts of any other jurisdiction which  
34 extends such comity to collect unemployment contributions,  
35 penalties, interest and benefit overpayments due this state.

1 The officials of other states which, by statute or otherwise,  
2 extend a like comity to this state may sue in the district  
3 court to collect for such contributions, penalties, interest  
4 and benefit overpayments. In any such case the chairman of  
5 the commission of this state, as agent for and on behalf of  
6 any other state, may, ~~through the attorney general~~, institute  
7 and conduct such suit for such other state. Venue of such  
8 proceedings shall be the same as for actions to collect  
9 delinquent contributions, penalites, interest and benefit  
10 overpayments due under this chapter. A certificate by the  
11 secretary of any such state attesting the authority of such  
12 official to collect the contributions, penalties, interest  
13 and benefit overpayments, is conclusive evidence of such  
14 authority. The requesting state shall pay the court costs.

15 Sec. 8. Section ninety-six point fourteen (96.14), subsec-  
16 tion four (4), Code 1973, is amended to read as follows:

17 4. PRIORITIES UNDER LEGAL DISSOLUTIONS OR DISTRIBUTIONS.  
18 In the event of any distribution of an employer's assets pur-  
19 suant to an order of any court under the laws of this state,  
20 including any receivership, assignment for benefit of credi-  
21 tors, adjudicated insolvency, composition, or similar  
22 proceeding, contributions then or thereafter due shall be  
23 paid in full prior to all other claims except taxes and claims  
24 for wages preferred as provided by statute. In the event  
25 of an employer's adjudication in bankruptcy, judicially  
26 confirmed extension proposal, or composition, under the federal  
27 Bankruptcy Act of 1898, as amended, contributions then or  
28 thereafter due shall be entitled to such priority as is  
29 provided in section 64 "b" a of that Act.

30 Sec. 9. Section ninety-six point nineteen (96.19), subsec-  
31 tion seven (7), paragraph a, subparagraph six (6), item d,  
32 Code 1973, is amended to read as follows:

33 (d) In a facility conducted for the purpose of carrying  
34 out a program of rehabilitation for individuals whose earning  
35 capacity is impaired by age or physical or mental deficiency

1 or injury or providing remunerative work for individuals who,  
2 because of their impaired physical or mental capacity, cannot  
3 be readily absorbed in the competitive labor market, by an  
4 individual receiving such rehabilitation or remunerative work.

5 Sec. 10. Section ninety-six point nineteen (96.19), sub-  
6 section ten (10), paragraph b, Code 1973, is amended to read  
7 as follows:

8 b. An individual shall be deemed partially unemployed  
9 in any week in which, while employed at his then regular job,  
10 he works less than the regular full-time week and in which  
11 he earns less than his weekly benefit amount plus ~~three~~ six  
12 dollars.

13 Sec. 11. Section ninety-six point nineteen (96.19), sub-  
14 section ten (10), paragraph c, Code 1973, is amended to read  
15 as follows:

16 c. An individual shall be deemed partially unemployed  
17 in any week in which he, having been separated from his regular  
18 job, earns at odd jobs less than his weekly benefit amount  
19 plus ~~three~~ six dollars.

20 Sec. 12. Section ninety-six point twenty (96.20), subsec-  
21 tion two (2), Code 1973, is amended to read as follows:

22 2. The commission may enter into arrangements with the  
23 appropriate agencies of other states, or a contiguous country  
24 with which the United States has an agreement with respect  
25 to unemployment compensation or of the federal government  
26 (a) whereby wages or services, upon the basis of which an  
27 individual may become entitled to benefits under the  
28 unemployment compensation law of another state or of the  
29 federal government, shall be deemed to be wages for employment  
30 by employers for the purposes of section 96.3 and section  
31 96.4, subsection 5; provided such other state agency or agency  
32 of the federal government has agreed to reimburse the fund  
33 for such portion of benefits paid under this chapter upon  
34 the basis of such wages or services as the commission finds  
35 will be fair and reasonable as to all affected interests,

1 and (b) whereby the commission will reimburse other state  
2 or federal agencies charged with the administration of  
3 unemployment compensation laws with such reasonable portion  
4 of benefits, paid under the law of any such other states or  
5 of the federal government upon the basis of employment or  
6 wages for employment by employers, as the commission finds  
7 will be fair and reasonable as to all affected interests.  
8 Reimbursements so payable shall be deemed to be benefits for  
9 the purposes of section 96.3, subsection 5, and section 96.9,  
10 but no reimbursement so payable shall be charged against any  
11 employer's account for the purposes of section 96.7, unless  
12 wages so transferred are sufficient to establish a valid claim  
13 in Iowa, and that such charges shall not exceed the amount  
14 that would have been charged on the basis of a valid claim.  
15 The commission is hereby authorized to make to other state  
16 or federal agencies and receive from such other state or  
17 federal agencies, reimbursements from or to the fund, in  
18 accordance with arrangements pursuant to this section. The  
19 commission shall participate in any arrangements for the  
20 payment of compensation on the basis of combining an  
21 individual's wages and employment covered under this Act with  
22 his wages and employment covered under the unemployment  
23 compensation laws of other states which are approved by the  
24 United States secretary of labor in consultation with the  
25 state unemployment compensation agencies as reasonably  
26 calculated to assure the prompt and full payment of  
27 compensation in such situations and which include provisions  
28 for: Applying the base period of a single state law to a  
29 claim involving the combining of an individual's wages and  
30 employment covered under two or more state unemployment  
31 compensation laws, and avoiding the duplication use of wages  
32 and employment by reason of such combining.

33 EXPLANATION

34 Section 1. This amendment corrects an error. The law  
35 as it now reads states "section three of this section" in

1 referring to the acceptance of the suitable work requirement.  
2 The suitable work provision is in section 96.5.

3 Sections 2, 3, and 4. These amendments increase the time  
4 allowed for appeals at the various stages of the appeal pro-  
5 cess. The time is now too short between the time of notice  
6 and the expiration of the appeal time that many inequities  
7 have resulted to both claimants and employers.

8 Section 5. The Supreme Court now requires that there be a  
9 sum of \$1,000 involved before a case can be appealed unless  
10 otherwise provided. In most of the cases sums much smaller  
11 than this are involved, but it is necessary that all parties  
12 have the right to have their appeals adjudicated, and in many  
13 cases there are precedent issues involved which should be  
14 adjudicated by the Supreme Court.

15 Section 6. For administrative reasons it is advisable  
16 to have the date for voluntary election of coverage changed  
17 to March 15th.

18 Section 7. This section was amended to correct an error.  
19 The Commission has its own legal counsel and it is not neces-  
20 sary to request the attorney general to prosecute its actions.

21 Section 8. The federal Bankruptcy Act has now been changed  
22 and the applicable section is now section 64, subsection a.

23 Section 9. This section corrects an error by inserting  
24 a comma which was inadvertently omitted.

25 Sections 10 and 11. These sections of this bill correct  
26 an oversight which occurred when the amount of nondeductible  
27 earnings permitted was changed from three dollars to six dol-  
28 lars in subsection 3 of section 96.3. In these sections the  
29 amount was inadvertently left at three dollars and these  
30 amendments make these subsections consistent with subsection  
31 3 of section 96.3.

32 Section 12. This section amends the reciprocal benefit  
33 provision to charge Iowa employers for wage credits transferred  
34 to another state for a claimant under the combined wage credit  
35 plan. In the past an employer's account was not charged

1 because valid wage credits were never transferred. This  
2 amendment is proposed in order to meet federal standards which  
3 require the transfer of such valid wage credits, charging  
4 the account of Iowa employers whose employees' wages have  
5 been transferred to another state.  
6

H-2530

1 Amend House File 1311 as follows:

2 1. Page 5, after line 25, by inserting the  
3 following:

4 "Section ninety-six point seven (96.7), subsec-  
5 tion three (3), paragraph c, is amended to read as  
6 follows:

7 c. Each contributing employer's rate of contribu-  
8 tion shall be two and seven-tenths percent except as  
9 otherwise provided in this chapter. No reduced rate  
10 of contribution shall be granted to a contributing  
11 employer until there shall have been twelve consecu-  
12 tive calendar quarters immediately preceding the first  
13 computation date throughout which his account has been  
14 chargeable with benefit payments. Provided, that with  
15 respect to the calendar year commencing January 1,  
16 1972, and each calendar year thereafter, except as  
17 provided in paragraphs "d" and "e" of this subsection,  
18 a contributing employer who has not been subject to  
19 this chapter for a sufficient period of time to meet  
20 the twelve-quarter requirement shall qualify for a  
21 computed rate of contribution if there shall have  
22 been a lesser period throughout which his account has  
23 been chargeable, but in no event less than eight  
24 consecutive calendar quarters immediately preceding  
25 the computation date; provided further, that with  
26 respect to the calendar year commencing January 1,  
27 1972, and each calendar year thereafter, except as  
28 provided in paragraphs "d" and "e" of this subsec-  
29 tion, each contributing employer newly subject to this  
30 chapter shall pay contributions at the rate of one and  
31 five-tenths percent until the end of the calendar year  
32 in which the employer shall have had eight consecutive  
33 calendar quarters immediately preceding the computa-  
34 tion date throughout which his account has been  
35 chargeable with benefit payments, thereafter his con-  
36 tribution rate shall be determined in accordance with  
37 paragraphs "d" and "e" of this subsection."

H-2530 Filed *Adopted 4/8*  
March 18, 1974

By HOLDEN of Scott