

Business 3/25

Reprinted

MAR 12 1991

Place On Calendar

HOUSE FILE 459  
BY COMMITTEE ON LABOR AND  
INDUSTRIAL RELATIONS

(SUCCESSOR TO HSB 105)

Passed House, Date 3/20/91 (p. 153) Passed Senate, Date 4/16/91 (P. 1247)  
Vote: Ayes 98 Nays 0 Vote: Ayes 44 Nays 0  
Approved April 22, 1991

A BILL FOR

5272 1 An Act relating to the administration of the employment security  
2 law by the division of job service of the department of  
3 employment services.

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

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HF 459

1 Section 1. Section 96.4, subsection 3, Code 1991, is  
2 amended to read as follows:

3 3. The individual is able to work, is available for work,  
4 and is earnestly and actively seeking work. This subsection  
5 is waived if the individual is deemed partially unemployed,  
6 while employed at the individual's regular job, as defined in  
7 section 96.19, subsection 9, paragraph "b", unnumbered  
8 paragraph 1, or temporarily unemployed as defined in section  
9 96.19, subsection 9, paragraph "c". The work search  
10 requirements of this subsection and the disqualification  
11 requirement for failure to apply for, or to accept suitable  
12 work of section 96.5, subsection 3 are waived if the  
13 individual is not disqualified for benefits under section  
14 96.5, subsection 1, paragraph "i".

15 Sec. 2. Section 96.4, subsection 6, paragraph b,  
16 unnumbered paragraph 2, Code 1991, is amended to read as  
17 follows:

18 For purposes of this paragraph, "suitable employment" means  
19 work of a substantially equal or higher skill level than an  
20 individual's past adversely affected employment, as defined in  
21 19 U.S.C. sec. § 2319(1), if weekly wages for the work are not  
22 less than eighty percent of the individual's average weekly  
23 benefit-amount wage.

24 Sec. 3. Section 96.5, subsection 1, paragraph b, Code  
25 1991, is amended by striking the paragraph.

32727  
26 Sec. 4. Section 96.7, subsection 9, paragraph a, Code  
27 1991, is amended to read as follows:

28 a. The amount of the bond or deposit shall be equal to two  
29 and seven-tenths percent of the nonprofit organization's total  
30 taxable wages paid for employment during the four calendar  
31 quarters immediately preceding the effective date of the  
32 election, ~~or the renewal date of a bond or a deposit of money~~  
33 ~~or securities~~ during the calendar year immediately preceding  
34 the annual review date as determined by the division,  
35 whichever date is most recent and applicable. If the

1 nonprofit organization did not pay wages in each of the four  
2 calendar quarters, the amount of the bond or deposit shall be  
3 determined by the division.

4 Sec. 5. Section 96.8, subsection 5, Code 1991, is amended  
5 to read as follows:

6 5. Liability of certain employers. Employers who by  
7 election or determination of the division of job service are  
8 liable for payments in lieu of contributions shall not be  
9 relieved of any regular benefit charges or extended benefit  
10 charges by any provision of this chapter, except for those  
11 charges which are determined to be incorrect because of an  
12 error by the division of job service.

13 Sec. 6. Section 96.9, subsection 4, paragraph a, Code  
14 1991, is amended to read as follows:

15 a. Money credited to the account of this state in the  
16 unemployment trust fund by the secretary of the treasury of  
17 the United States pursuant to section 903 of the Social  
18 Security Act may not be requisitioned from this state's  
19 account or used except for the payment of benefits and for the  
20 payment of expenses incurred for the administration of this  
21 chapter. Such money may be requisitioned pursuant to  
22 subsection 3 of this section for the payment of benefits.  
23 Such money may also be requisitioned and used for the payment  
24 of expenses incurred for the administration of this chapter  
25 but only pursuant to a specific appropriation by the  
26 legislature and only if the expenses are incurred and the  
27 money is requisitioned after the enactment of an appropriation  
28 law which (1) specifies the purposes for which such money is  
29 appropriated and the amounts appropriated therefor, (2) limits  
30 the period within which such money may be obligated to a  
31 period ending not more than two years after the date of the  
32 enactment of the appropriation law, and (3) limits the amount  
33 which may be obligated during a twelve-month period beginning  
34 on July 1 and ending on the next June 30 to an amount which  
35 does not exceed the amount by which ~~(i)~~ the aggregate of the

1 amounts credited to the account of this state pursuant to  
2 section 903 of the Social Security Act during the same twelve-  
3 month period and the thirty-four preceding twelve-month  
4 periods, exceeds (ii) the aggregate of the amounts obligated  
5 for administration and paid out for benefits and charged  
6 against the amounts credited to the account of this state  
7 during such thirty-five twelve-month periods transferred to  
8 the account of this state pursuant to section 903 of the  
9 Social Security Act exceeds the aggregate of the amounts used  
10 by this state pursuant to this chapter and charged against the  
11 amounts transferred to the account of this state during the  
12 same twelve-month period. For purposes of this subsection,  
13 amounts used by this state for administration shall be  
14 chargeable against transferred amounts at the exact time the  
15 obligation is entered into. The use of money appropriated  
16 under this subsection shall be accounted for in accordance  
17 with standards established by the United States secretary of  
18 labor.

19 Sec. 7. Section 96.9, subsection 4, paragraph b, Code  
20 1991, is amended by striking the subsection.

21 Sec. 8. Section 96.11, Code 1991, is amended by adding the  
22 following new subsection:

23 NEW SUBSECTION. 16. The division shall include in the  
24 amount set off in accordance with section 421.17, subsection  
25 29 for the collection of an overpayment created pursuant to  
26 section 96.3, subsection 7, or section 96.16, subsection 4, an  
27 additional amount for the reimbursement of setoff costs  
28 incurred by the department of revenue and finance.

29 Sec. 9. Section 96.13, subsection 3, paragraph a,  
30 unnumbered paragraph 3, Code 1991, is amended to read as  
31 follows:

32 Balances to the credit of the fund shall not lapse at any  
33 time but shall continuously be available to the division of  
34 job service for expenditures consistent with this subsection.  
35 ~~However, the division shall not expend more than fifty~~

1 thousand-dollars-from-the-fund-in-a-state-fiscal-year  
 2 beginning-July-1-and-ending-June-30---After-the-end-of-a-state  
 3 fiscal-year-the-treasurer-of-state-shall-promptly-transfer-the  
 4 entire-amount-of-the-fund-in-excess-of-that-portion-of-the  
 5 fifty-thousand-dollars,which-the-division-has-expended-or  
 6 obligated-for-the-preceding-state-fiscal-year,7-to-the  
 7 temporary-emergency-surcharge-fund,7-but-if-the-treasurer-of  
 8 state-determines-that-the-division-does-not-have-and-will-not  
 9 on-September-30-have-an-outstanding-balance-of-interest  
 10 accrued-on-advance-moneys-received-from-the-federal-government  
 11 for-the-payment-of-unemployment-compensation-benefits,7-the  
 12 treasurer-of-state-shall-instead-promptly-transfer-the-entire  
 13 excess-amount-to-the-unemployment-trust-fund-established-in  
 14 section-9679- Moneys remaining in the fund at the end of each  
 15 fiscal year shall not revert to any fund and shall remain in  
 16 the fund.

17 Sec. 10. Section 96.14, subsection 2, unnumbered paragraph  
 18 5, Code 1991, is amended to read as follows:

19 A penalty shall not be less than ten dollars for each the  
 20 first delinquent report or each the first insufficient report  
 21 not made sufficient within thirty days after a request to do  
 22 so. The penalty shall not be less than twenty-five dollars  
 23 for the second delinquent or insufficient report, and not less  
 24 than fifty dollars for each delinquent or insufficient report  
 25 thereafter, until four consecutive calendar quarters of  
 26 reports are timely and sufficiently filed. Interest,  
 27 penalties, and cost shall be collected by the division in the  
 28 same manner as provided by this chapter for contributions.

29 EXPLANATION

30 Section 1 of the bill waives the requirement than an  
 31 individual be earnestly and actively seeking work in order to  
 32 collect unemployment benefits if the individual is considered  
 33 partially unemployed while employed with the individual's  
 34 regular employer.

35 Section 2 changes the definition of "suitable employment"

1 regarding collection of unemployment benefits from 80 percent  
2 of the individual's weekly benefit amount to 80 percent of the  
3 individual's average weekly wage.

4 Section 3 eliminates the liability of benefit charges of  
5 temporary employers who hire individuals with recall rights,  
6 who are laid off from their regular employment, voluntarily  
7 quit the temporary employer, return to the regular employer,  
8 and are again laid off.

9 Section 4 changes the date when sureties filed by nonprofit  
10 employers must be reviewed for adequacy of bond or deposit  
11 amount from the anniversary date of election to an annual  
12 review date.

13 Section 5 allows reimbursable employers to be relieved of  
14 unemployment insurance benefit charges if the charges are the  
15 result of an error by the division of job service.

16 Sections 6 and 7 of the bill implement changes required by  
17 the federal department of labor with regard to the expenditure  
18 of funds for certain expenses incurred by the state agency in  
19 the administration of its unemployment compensation law and  
20 public employment offices. The funds used for these  
21 expenditures are commonly referred to as Reed Act funds. The  
22 bill removes the 35-year limitation to appropriate and  
23 obligate Reed Act funds which are transferred on or after  
24 1956. The bill provides that the determination of the  
25 available amounts for obligation, amounts used by the state  
26 for administration expenses, shall be chargeable against the  
27 transferred amounts at the exact time the obligation was  
28 entered into. The bill further meets the federal requirement  
29 that these funds be accountable in accordance with standards  
30 established by the secretary of labor.

31 Section 8 makes the claimant liable for the fee charged by  
32 the department of revenue and finance for setting off an  
33 overpayment of unemployment insurance benefits from the state  
34 income tax refund or other moneys owed by the state of Iowa to  
35 the claimant.

1 Section 9 eliminates the June 30 transfer requirements of  
2 the penalty and interest fund and keeps the remaining balance  
3 in the fund. This section also eliminates the \$50,000  
4 limitation on annual expenditures by the division of job  
5 service from the fund.

6 Section 10 increases the minimum employer penalty for  
7 filing a delinquent or insufficient report of employee wages  
8 two or more times under the unemployment insurance law. The  
9 penalty for a first offense is \$10. The penalties are  
10 increased to \$25 for the second offense and \$50 for the third  
11 and subsequent offenses. A provision is included to return  
12 the penalty to \$10 if the business files correctly and timely  
13 for one year.

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**HOUSE FILE 459  
FISCAL NOTE**

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A fiscal note for House File 459 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 459 makes various changes in the manner in which the Department of Employment Services administers the Employment Security law. Only Section 10, which increases penalties for delinquent or insufficient tax filings, has fiscal impact.

**ASSUMPTIONS:**

1. 4,225 delinquent reports will be assessed the \$10 first offense penalty.
2. 650 delinquent reports will be assessed the \$25 second offense penalty.
3. 325 delinquent reports will be assessed the \$50 third offense penalty.
4. Filings will remain constant for FY 1992 and FY 1993.

Under current law, 5,200 delinquent reports at \$10 each generate \$52,000.

**FISCAL IMPACT:**

This bill will increase revenues to the General Fund by \$22,500 each year for FY 1992 and FY 1993.

Source: Department of Employment Services

(LSB 1258hv, MAS)

FILED MARCH 22, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR



HOUSE FILE 459

H-3272

1 Amend House File 459 as follows:

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

4 "Sec. \_\_\_\_\_. Section 96.5, subsection 10, Code 1991,  
5 is amended to read as follows:

6 10. ALIENS -- DISQUALIFIED. For services  
7 performed by an alien unless such alien is an  
8 individual who was lawfully admitted for permanent  
9 residence at the time such services were performed,  
10 was lawfully present for the purpose of performing  
11 such services, or was permanently residing in the  
12 United States under color of law at the time such  
13 services were performed, including an alien who is  
14 lawfully present in the United States as a result of  
15 the application of the provisions of ~~section-203(a)(7)~~  
16 or section 212(d)(5) of the Immigration and  
17 Nationality Act. Any data or information required of  
18 individuals applying for benefits to determine whether  
19 benefits are not payable to them because of their  
20 alien status shall be uniformly required from all  
21 applicants for benefits. In the case of an individual  
22 whose application for benefits would otherwise be  
23 approved, no determination that benefits to such  
24 individual are not payable because of the individual's  
25 alien status shall be made except upon a preponderance  
26 of the evidence."

27 2. Page 4, by inserting after line 28 the  
28 following:

29 "Sec. \_\_\_\_\_. Sections 6 and 7 of this Act take  
30 effect October 1, 1991."

31 3. Title page, line 3, by inserting after the  
32 word "services" the following: "and providing an  
33 effective date".

34 4. By renumbering as necessary.

By TEAFORD Of Black Hawk

H-3272 FILED MARCH 19, 1991

*Adopted 3/20 (p. 753)*

*See Amendment To Pass 3/28 (p. 948)*

HOUSE FILE 459  
BY COMMITTEE ON LABOR AND  
INDUSTRIAL RELATIONS

(SUCCESSOR TO HSB 105)

(As Amended and Passed by the House March 20, 1991)

Passed House, Date 3/20/91 (p. 753) Passed Senate, Date 4/16/91 (p. 1247)  
Vote: Ayes 98 Nays 0 Vote: Ayes 44 Nays 0  
Approved April 22, 1991 (p. 1472)

A BILL FOR

1 An Act relating to the administration of the employment security  
2 law by the division of job service of the department of  
3 employment services and providing an effective date.

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

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House Amendments \_\_\_\_\_

1 Section 1. Section 96.4, subsection 3, Code 1991, is  
2 amended to read as follows:

3 3. The individual is able to work, is available for work,  
4 and is earnestly and actively seeking work. This subsection  
5 is waived if the individual is deemed partially unemployed,  
6 while employed at the individual's regular job, as defined in  
7 section 96.19, subsection 9, paragraph "b", unnumbered  
8 paragraph 1, or temporarily unemployed as defined in section  
9 96.19, subsection 9, paragraph "c". The work search  
10 requirements of this subsection and the disqualification  
11 requirement for failure to apply for, or to accept suitable  
12 work of section 96.5, subsection 3 are waived if the  
13 individual is not disqualified for benefits under section  
14 96.5, subsection 1, paragraph "i".

15 Sec. 2. Section 96.4, subsection 6, paragraph b,  
16 unnumbered paragraph 2, Code 1991, is amended to read as  
17 follows:

18 For purposes of this paragraph, "suitable employment" means  
19 work of a substantially equal or higher skill level than an  
20 individual's past adversely affected employment, as defined in  
21 19 U.S.C. ~~sec-~~ § 2319(1), if weekly wages for the work are not  
22 less than eighty percent of the individual's average weekly  
23 benefit-amount wage.

24 Sec. 3. Section 96.5, subsection 1, paragraph b, Code  
25 1991, is amended by striking the paragraph.

26 Sec. 4. Section 96.5, subsection 10, Code 1991, is amended  
27 to read as follows:

28 10. ALIENS -- DISQUALIFIED. For services performed by an  
29 alien unless such alien is an individual who was lawfully  
30 admitted for permanent residence at the time such services  
31 were performed, was lawfully present for the purpose of  
32 performing such services, or was permanently residing in the  
33 United States under color of law at the time such services  
34 were performed, including an alien who is lawfully present in  
35 the United States as a result of the application of the

1 provisions of section-203(a)(7)-or section 212(d)(5) of the  
2 Immigration and Nationality Act. Any data or information  
3 required of individuals applying for benefits to determine  
4 whether benefits are not payable to them because of their  
5 alien status shall be uniformly required from all applicants  
6 for benefits. In the case of an individual whose application  
7 for benefits would otherwise be approved, no determination  
8 that benefits to such individual are not payable because of  
9 the individual's alien status shall be made except upon a  
10 preponderance of the evidence.

11 Sec. 5. Section 96.7, subsection 9, paragraph a, Code  
12 1991, is amended to read as follows:

13 a. The amount of the bond or deposit shall be equal to two  
14 and seven-tenths percent of the nonprofit organization's total  
15 taxable wages paid for employment during the four calendar  
16 quarters immediately preceding the effective date of the  
17 election, or the-renewal-date-of-a-bond-or-a-deposit-of-money  
18 or-securities during the calendar year immediately preceding  
19 the annual review date as determined by the division,  
20 whichever date is most recent and applicable. If the  
21 nonprofit organization did not pay wages in each of the four  
22 calendar quarters, the amount of the bond or deposit shall be  
23 determined by the division.

24 Sec. 6. Section 96.8, subsection 5, Code 1991, is amended  
25 to read as follows:

26 5. Liability of certain employers. Employers who by  
27 election or determination of the division of job service are  
28 liable for payments in lieu of contributions shall not be  
29 relieved of any regular benefit charges or extended benefit  
30 charges by-any-provision-of-this-chapter, except for those  
31 charges which are determined to be incorrect because of an  
32 error by the division of job service.

33 Sec. 7. Section 96.9, subsection 4, paragraph a, Code  
34 1991, is amended to read as follows:

35 a. Money credited to the account of this state in the

1 unemployment trust fund by the secretary of the treasury of  
2 the United States pursuant to section 903 of the Social  
3 Security Act may not be requisitioned from this state's  
4 account or used except for the payment of benefits and for the  
5 payment of expenses incurred for the administration of this  
6 chapter. Such money may be requisitioned pursuant to  
7 subsection 3 of this section for the payment of benefits.  
8 Such money may also be requisitioned and used for the payment  
9 of expenses incurred for the administration of this chapter  
10 but only pursuant to a specific appropriation by the  
11 legislature and only if the expenses are incurred and the  
12 money is requisitioned after the enactment of an appropriation  
13 law which (1) specifies the purposes for which such money is  
14 appropriated and the amounts appropriated therefor, (2) limits  
15 the period within which such money may be obligated to a  
16 period ending not more than two years after the date of the  
17 enactment of the appropriation law, and (3) limits the amount  
18 which may be obligated during a twelve-month period beginning  
19 on July 1 and ending on the next June 30 to an amount which  
20 does not exceed the amount by which (i) the aggregate of the  
21 ~~amounts credited to the account of this state pursuant to~~  
22 ~~section 903 of the Social Security Act during the same twelve-~~  
23 ~~month period and the thirty-four preceding twelve-month~~  
24 ~~periods, exceeds (ii) the aggregate of the amounts obligated~~  
25 ~~for administration and paid out for benefits and charged~~  
26 ~~against the amounts credited to the account of this state~~  
27 ~~during such thirty-five twelve-month periods~~ transferred to  
28 the account of this state pursuant to section 903 of the  
29 Social Security Act exceeds the aggregate of the amounts used  
30 by this state pursuant to this chapter and charged against the  
31 amounts transferred to the account of this state during the  
32 same twelve-month period. For purposes of this subsection,  
33 amounts used by this state for administration shall be  
34 chargeable against transferred amounts at the exact time the  
35 obligation is entered into. The use of money appropriated

1 under this subsection shall be accounted for in accordance  
 2 with standards established by the United States secretary of  
 3 labor.

4 Sec. 8. Section 96.9, subsection 4, paragraph b, Code  
 5 1991, is amended by striking the subsection.

6 Sec. 9. Section 96.11, Code 1991, is amended by adding the  
 7 following new subsection:

8 NEW SUBSECTION. 16. The division shall include in the  
 9 amount set off in accordance with section 421.17, subsection  
 10 29 for the collection of an overpayment created pursuant to  
 11 section 96.3, subsection 7, or section 96.16, subsection 4, an  
 12 additional amount for the reimbursement of setoff costs  
 13 incurred by the department of revenue and finance.

14 Sec. 10. Section 96.13, subsection 3, paragraph a,  
 15 unnumbered paragraph 3, Code 1991, is amended to read as  
 16 follows:

17 Balances to the credit of the fund shall not lapse at any  
 18 time but shall continuously be available to the division of  
 19 job service for expenditures consistent with this subsection.  
 20 ~~However, the division shall not expend more than fifty~~  
 21 ~~thousand dollars from the fund in a state fiscal year~~  
 22 ~~beginning July 1 and ending June 30. After the end of a state~~  
 23 ~~fiscal year the treasurer of state shall promptly transfer the~~  
 24 ~~entire amount of the fund in excess of that portion of the~~  
 25 ~~fifty thousand dollars, which the division has expended or~~  
 26 ~~obligated for the preceding state fiscal year, to the~~  
 27 ~~temporary emergency surcharge fund, but if the treasurer of~~  
 28 ~~state determines that the division does not have and will not~~  
 29 ~~on September 30 have an outstanding balance of interest~~  
 30 ~~accrued on advance moneys received from the federal government~~  
 31 ~~for the payment of unemployment compensation benefits, the~~  
 32 ~~treasurer of state shall instead promptly transfer the entire~~  
 33 ~~excess amount to the unemployment trust fund established in~~  
 34 section 96.9. Moneys remaining in the fund at the end of each  
 35 fiscal year shall not revert to any fund and shall remain in

1 the fund.

2 Sec. 11. Section 96.14, subsection 2, unnumbered paragraph  
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5 first delinquent report or each the first insufficient report  
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9 than fifty dollars for each delinquent or insufficient report  
10 thereafter, until four consecutive calendar quarters of  
11 reports are timely and sufficiently filed. Interest,  
12 penalties, and cost shall be collected by the division in the  
13 same manner as provided by this chapter for contributions.

14 Sec. 12. Sections 7 and 8 of this Act take effect October  
15 1, 1991.

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Seaford, Ch.  
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HSB 105 MWB

LABOR & INDUSTRIAL RELATIONS

SENATE/HOUSE FILE 459  
BY (PROPOSED DEPARTMENT OF  
EMPLOYMENT SERVICES BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

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21 19 U.S.C. sec- § 2319(1), if weekly wages for the work are not  
22 less than eighty percent of the individual's average weekly  
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25 1991, is amended by striking the paragraph.

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30 taxable wages paid for employment during the four calendar  
31 quarters immediately preceding the effective date of the  
32 election, or ~~the-renewal-date-of-a-bond-or-a-deposit-of-money~~  
33 ~~or-securities~~ during the calendar year immediately preceding  
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35 ~~state determines that the division does not have and will not~~

1 on-September-30-have-an-outstanding-balance-of-interest  
2 accrued-on-advance-moneys-received-from-the-federal-government  
3 for-the-payment-of-unemployment-compensation-benefits, the  
4 treasurer-of-state-shall-instead-promptly-transfer-the-entire  
5 excess-amount-to-the-unemployment-trust-fund-established-in  
6 section-96-9: Moneys remaining in the fund at the end of each  
7 fiscal year shall not revert to any fund and shall remain in  
8 the fund.

9 Sec. 8. Section 96.14, subsection 2, unnumbered paragraph  
10 5, Code 1991, is amended to read as follows:

11 A penalty shall not be less than ten dollars for each the  
12 first delinquent report or each the first insufficient report  
13 not made sufficient within thirty days after a request to do  
14 so. The penalty shall not be less than twenty-five dollars  
15 for the second delinquent or insufficient report, and not less  
16 than fifty dollars for each delinquent or insufficient report  
17 thereafter, until four consecutive calendar quarters of  
18 reports are timely and sufficiently filed. Interest,  
19 penalties, and cost shall be collected by the division in the  
20 same manner as provided by this chapter for contributions.

21 EXPLANATION

22 Section 1 of the bill waives the requirement that an  
23 individual be earnestly and actively seeking work in order to  
24 collect unemployment benefits if the individual is considered  
25 partially unemployed while employed with the individual's  
26 regular employer.

27 Section 2 changes the definition of "suitable employment"  
28 regarding collection of unemployment benefits from 80 percent  
29 of the individual's weekly benefit amount to 80 percent of the  
30 individual's average weekly wage.

31 Section 3 eliminates the liability of benefit charges of  
32 temporary employers who hire individuals with recall rights,  
33 who are laid off from their regular employment, voluntarily  
34 quit the temporary employer, return to the regular employer,  
35 and are again laid off.

1 Section 4 changes the date when sureties filed by nonprofit  
2 employers must be reviewed for adequacy of bond or deposit  
3 amount from the anniversary date of election to an annual  
4 review date.

5 Section 5 allows reimbursable employers to be relieved of  
6 unemployment insurance benefit charges if the charges are the  
7 result of an error by the division of job service.

8 Section 6 makes the claimant liable for the fee charged by  
9 the department of revenue and finance for setting off an  
10 overpayment of unemployment insurance benefits from the state  
11 income tax refund or other moneys owed by the state of Iowa to  
12 the claimant.

13 Section 7 eliminates the June 30 transfer requirements of  
14 the penalty and interest fund and keeps the remaining balance  
15 in the fund. This section also eliminates the \$50,000  
16 limitation on annual expenditures by the division of job  
17 service from the fund.

18 Section 8 increases the minimum employer penalty for filing  
19 a delinquent or insufficient report of employee wages two or  
20 more times under the unemployment insurance law. The penalty  
21 for a first offense is \$10. The penalties are increased to  
22 \$25 for the second offense and \$50 for the third and  
23 subsequent offenses. A provision is included to return the  
24 penalty to \$10 if the business files correctly and timely for  
25 one year.

#### 26 BACKGROUND STATEMENT

#### 27 SUBMITTED BY THE AGENCY

28 Section 1 codifies current practice of waiving the  
29 requirement that an individual be earnestly and actively  
30 seeking work when the individual is partially employed with  
31 the individual's regular employer. The legality of continuing  
32 this waiver has been questioned. The department has waived  
33 this requirement since 1959.

34 Section 2 changes the definition of suitable employment to  
35 conform to the federal law (the Trade Adjustment Assistance

1 Act) or risk losing federal funds.

2 Section 3 allows wages earned by an individual with the  
3 temporary employer to be transferred to the regular employer  
4 and assesses the benefit charges against the regular employer  
5 based on wages paid by the regular and temporary employers and  
6 the regular employer would be liable for the benefit charges.  
7 This section would have no effect on the individual because  
8 the individual's voluntary quit from the temporary employer  
9 would be considered a voluntary quit for other employment.  
10 This section provides an incentive for employers to offer  
11 employment to individuals on temporary layoff which would  
12 lower the regular employer's overall unemployment insurance  
13 benefit costs.

14 Section 4 codifies current practice by allowing the  
15 department to annually review bonds filed by reimbursable  
16 employers. Currently, the law requires the department to  
17 review the amount of each nonprofit organization's filed bond  
18 based on the four quarters preceding the renewal date of the  
19 bond. The state auditor has questioned whether current  
20 practice meets the Code requirement.

21 Section 5 allows the division of job service to correct  
22 internal errors in charges to reimbursable employers. The  
23 current Code is too stringent and gives no latitude for the  
24 department to correct errors. There may be some cases where,  
25 if relief from benefit charges is granted, the trust fund will  
26 absorb the charge.

27 Section 6 allows the division of job service to charge an  
28 individual with an unemployment insurance overpayment for the  
29 cost of collecting that overpayment through the income tax  
30 offset program. Currently, the fee charged by the department  
31 of revenue and finance of \$5 for each match. The United  
32 States Department of Labor will not allow the trust fund to  
33 incur the match cost.

34 Section 7 eliminates the June 30 transfer requirements of  
35 the special employment security contingency (penalty and

HOUSE FILE 459

AN ACT

RELATING TO THE ADMINISTRATION OF THE EMPLOYMENT SECURITY  
LAW BY THE DIVISION OF JOB SERVICE OF THE DEPARTMENT  
OF EMPLOYMENT SERVICES AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 96.4, subsection 3, Code 1991, is amended to read as follows:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 9, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 9, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "i".

Sec. 2. Section 96.4, subsection 6, paragraph b, unnumbered paragraph 2, Code 1991, is amended to read as follows:

For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. sec. § 2319(1), if weekly wages for the work are not less than eighty percent of the individual's average weekly benefit-amount wage.

Sec. 3. Section 96.5, subsection 1, paragraph b, Code 1991, is amended by striking the paragraph.

Sec. 4. Section 96.5, subsection 10, Code 1991, is amended to read as follows:

10. ALIENS -- DISQUALIFIED. For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of ~~section 203(a)(7)~~ or section 212(d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence.

Sec. 5. Section 96.7, subsection 9, paragraph a, Code 1991, is amended to read as follows:

a. The amount of the bond or deposit shall be equal to two and seven-tenths percent of the nonprofit organization's total taxable wages paid for employment during the four calendar quarters immediately preceding the effective date of the election, or ~~the renewal date of a bond or a deposit of money or securities during the calendar year immediately preceding the annual review date as determined by the division,~~ whichever date is most recent and applicable. If the nonprofit organization did not pay wages in each of the four calendar quarters, the amount of the bond or deposit shall be determined by the division.

Sec. 6. Section 96.8, subsection 5, Code 1991, is amended to read as follows:

5. Liability of certain employers. Employers who by election or determination of the division of job service are liable for payments in lieu of contributions shall not be relieved of any regular benefit charges or extended benefit charges by any provision of this chapter, except for those

charges which are determined to be incorrect because of an error by the division of job service.

Sec. 7. Section 96.9, subsection 4, paragraph a, Code 1991, is amended to read as follows:

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 (i) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act during the same twelve-month period and the thirty-four preceding twelve-month periods, exceeds (ii) the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the account of this state during such thirty-five twelve-month periods 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.

Sec. 8. Section 96.9, subsection 4, paragraph b, Code 1991, is amended by striking the subsection.

Sec. 9. Section 96.11, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 16. The division shall include in the amount set off in accordance with section 421.17, subsection 29 for the collection of an overpayment created pursuant to section 96.3, subsection 7, or section 96.16, subsection 4, an additional amount for the reimbursement of setoff costs incurred by the department of revenue and finance.

Sec. 10. Section 96.13, subsection 3, paragraph a, unnumbered paragraph 3, Code 1991, is amended to read as follows:

Balances to the credit of the fund shall not lapse at any time but shall continuously be available to the division of job service for expenditures consistent with this subsection. ~~However, the division shall not expend more than fifty thousand dollars from the fund in a state fiscal year beginning July 1 and ending June 30. After the end of a state fiscal year the treasurer of state shall promptly transfer the entire amount of the fund in excess of that portion of the fifty thousand dollars, which the division has expended or obligated for the preceding state fiscal year, to the temporary emergency surcharge fund, but if the treasurer of state determines that the division does not have and will not on September 30 have an outstanding balance of interest accrued on advance moneys received from the federal government for the payment of unemployment compensation benefits, the treasurer of state shall instead promptly transfer the entire excess amount to the unemployment trust fund established in section 96.9. Moneys remaining in the fund at the end of each fiscal year shall not revert to any fund and shall remain in the fund.~~

Sec. 11. Section 96.14, subsection 2, unnumbered paragraph 5, Code 1991, is amended to read as follows:

A penalty shall not be less than ten dollars for each the first delinquent report or each the first insufficient report not made sufficient within thirty days after a request to do so. The penalty shall not be less than twenty-five dollars for the second delinquent or insufficient report, and not less than fifty dollars for each delinquent or insufficient report thereafter, until four consecutive calendar quarters of reports are timely and sufficiently filed. Interest, penalties, and cost shall be collected by the division in the same manner as provided by this chapter for contributions.

Sec. 12. Sections 7 and 8 of this Act take effect October 1, 1991.

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ROBERT C. ARNOULD  
Speaker of the House

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JOE J. WELSH  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 459, Seventy-fourth General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved April 22, 1991

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TERRY E. BRANSTAD  
Governor

**HF 459**