

FEB 27 1995

Place On Calendar

*Substituted by
SF 155
4-6-95
(P. 1364)*

HOUSE FILE

188

BY COMMITTEE ON LABOR AND
INDUSTRIAL RELATIONS

(SUCCESSOR TO HSB 72)

(COMPANION TO SF 155
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS)

WITHDRAWN
4-11-95

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to employment services by eliminating wage credit
2 liability transfers and allowing all employers relief from
3 charges when an unemployment compensation overpayment is made
4 and providing an applicability date.

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

6
7
8
9
10
11
12
13
14
15
16
17
18

WITHDRAWN

HF 188

1 Section 1. Section 96.3, subsection 7, unnumbered
2 paragraph 2, Code 1995, is amended to read as follows:

3 If the division determines that an overpayment has been
4 made, the charge for the overpayment against the employer's
5 account shall be removed and the account shall be credited
6 with an amount equal to the overpayment from the unemployment
7 compensation trust fund and this credit shall include both
8 contributory and reimbursable employers, notwithstanding
9 section 96.8, subsection 5.

10 Sec. 2. Section 96.5, subsection 1, paragraph a, Code
11 1995, is amended to read as follows:

12 a. The individual left employment in good faith for the
13 sole purpose of accepting other or better employment, which
14 the individual did accept, ~~and that the individual remained~~
15 ~~continuously in said new employment for not less than six~~
16 weeks and the individual performed services in the new
17 employment. Wages earned with the employer that the
18 ~~individual has left shall, for the purpose of computing and~~
19 ~~charging benefits, be deemed wages earned from the employer~~
20 ~~with whom the individual accepted other employment and~~
21 ~~benefits shall be charged to the employer with whom the~~
22 ~~individual accepted other employment. The division shall~~
23 ~~advise the chargeable employer of the name and address of the~~
24 ~~former employer, the period covered, and the extent of~~
25 ~~benefits which may be charged to the account of the chargeable~~
26 ~~employer. In those cases where the new employment is in~~
27 ~~another state, no employer's account shall be charged with~~
28 ~~benefits so paid except that employers who are required by law~~
29 ~~or by their election to reimburse the fund for benefits paid~~
30 ~~shall be charged with benefits under this paragraph. In those~~
31 ~~cases where the individual left employment in good faith for~~
32 ~~the sole purpose of accepting better employment, which the~~
33 ~~individual did accept and such employment is terminated by the~~
34 ~~employer, or the individual is laid off after one week but~~
35 ~~prior to the expiration of six weeks, the individual, provided~~

1 ~~the individual is otherwise eligible under this chapter, shall~~
2 ~~be eligible for benefits and such benefits shall not be~~
3 ~~charged to any employer's account.~~ Benefits relating to wage
4 credits earned with the employer that the individual has left
5 shall be charged to the unemployment compensation fund. This
6 paragraph applies to both contributory and reimbursable
7 employers, notwithstanding section 96.8, subsection 5.

8 Sec. 3. Section 96.6, subsection 2, Code 1995, is amended
9 to read as follows:

10 2. INITIAL DETERMINATION. A representative designated by
11 the commissioner shall promptly notify all interested parties
12 to the claim of its filing, and the parties have ten days from
13 the date of mailing the notice of the filing of the claim by
14 ordinary mail to the last known address to protest payment of
15 benefits to the claimant. The representative shall promptly
16 examine the claim and any protest, take the initiative to
17 ascertain relevant information concerning the claim, and, on
18 the basis of the facts found by the representative, shall
19 determine whether or not the claim is valid, the week with
20 respect to which benefits shall commence, the weekly benefit
21 amount payable and its maximum duration, and whether any
22 disqualification shall be imposed. The claimant has the
23 burden of proving that the claimant meets the basic
24 eligibility conditions of section 96.4. The employer has the
25 burden of proving that the claimant is disqualified for
26 benefits pursuant to section 96.5. However, the claimant has
27 the initial burden to produce evidence showing that the
28 claimant is not disqualified for benefits in cases involving
29 section 96.5, subsection 1, paragraphs "a" through "h", and
30 subsection 10. Unless the claimant or other interested party,
31 after notification or within ten calendar days after
32 notification was mailed to the claimant's last known address,
33 files an appeal from the decision, the decision is final and
34 benefits shall be paid or denied in accordance with ~~it~~ the
35 decision. If an administrative law judge affirms a decision

1 of the representative, or the appeal board affirms a decision
2 of the administrative law judge allowing benefits, the
3 benefits shall be paid regardless of any appeal which is
4 thereafter taken, but if the decision is finally reversed, no
5 employer's account shall be charged with benefits so paid and
6 this relief from charges shall apply to both contributory and
7 reimbursable employers, notwithstanding section 96.8,
8 subsection 5.

9 Sec. 4. Section 96.7, subsection 2, paragraph a,
10 subparagraph (2), unnumbered paragraph 3, Code 1995, is
11 amended to read as follows:

12 An employer's account shall not be charged with benefits
13 paid to an individual who left the work of the employer
14 voluntarily without good cause attributable to the employer or
15 to an individual who was discharged for misconduct in
16 connection with the individual's employment, or to an
17 individual who failed without good cause, either to apply for
18 available, suitable work or to accept suitable work with that
19 employer, but shall be charged to the account-of-the-next
20 succeeding-employer-with-whom-the-individual-qualified-for
21 benefits-as-determined-respectively-under-section-96.5,
22 subsection-1, paragraph-"g"-and-section-96.5, subsection-2,
23 paragraph-"a" unemployment compensation fund. However, the
24 succeeding-employer's-account-shall-first-be-charged-with
25 benefits-paid-to-the-individual-due-to-wage-credits-earned-by
26 the-individual-while-employed-by-the-succeeding-employer.
27 After-exhausting-those-wage-credits, the succeeding-employer's
28 account-shall-not-be-charged-with-ten-weeks-of-benefits-paid
29 to-the-individual-due-to-wage-credits-earned-by-the-individual
30 from-a-previous-employer, but rather the unemployment
31 compensation fund shall be charged. After exhausting the ten
32 weeks-of-noncharging, the succeeding-employer's-account-shall
33 again-be-charged-with-the-benefits-paid. This paragraph
34 applies to both contributory and reimbursable employers,
35 notwithstanding section 96.8, subsection 5.

HSB 72

HANSON - CHAIR
LORD
HARPER

LABOR & INDUSTRIAL RELATIONS

Succeeded By

SENATE/HOUSE FILE 188

BY (PROPOSED DEPARTMENT OF
EMPLOYMENT SERVICES BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to employment services by eliminating wage credit
2 liability transfers and allowing all employers relief from
3 charges when an unemployment compensation overpayment is made
4 and providing an applicability date.

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

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 ²⁸ ^{bc'} ³ Section 1. Section 96.3, subsection 7, unnumbered
2 paragraph 2, Code 1995, is amended to read as follows:

3 If the division determines that an overpayment has been
4 made, the charge for the overpayment against the employer's
5 account shall be removed and the account shall be credited
6 with an amount equal to the overpayment from the unemployment
7 compensation trust fund and this credit shall include both
8 contributory and reimbursable employers, notwithstanding
9 section 96.8, subsection 5.

10 Sec. 2. Section 96.5, subsection 1, paragraph a, Code
11 1995, is amended to read as follows:

12 a. The individual left employment in good faith for the
13 sole purpose of accepting other or better employment, which
14 the individual did accept, ~~and that the individual remained~~
15 ~~continuously in said new employment for not less than six~~
16 ~~weeks and the individual performed services in the new~~
17 ~~employment. Wages earned with the employer that the~~
18 ~~individual has left shall, for the purpose of computing and~~
19 ~~charging benefits, be deemed wages earned from the employer~~
20 ~~with whom the individual accepted other employment and~~
21 ~~benefits shall be charged to the employer with whom the~~
22 ~~individual accepted other employment. The division shall~~
23 ~~advise the chargeable employer of the name and address of the~~
24 ~~former employer, the period covered, and the extent of~~
25 ~~benefits which may be charged to the account of the chargeable~~
26 ~~employer. In those cases where the new employment is in~~
27 ~~another state, no employer's account shall be charged with~~
28 ~~benefits so paid except that employers who are required by law~~
29 ~~or by their election to reimburse the fund for benefits paid~~
30 ~~shall be charged with benefits under this paragraph. In those~~
31 ~~cases where the individual left employment in good faith for~~
32 ~~the sole purpose of accepting better employment, which the~~
33 ~~individual did accept and such employment is terminated by the~~
34 ~~employer, or the individual is laid off after one week but~~
35 ~~prior to the expiration of six weeks, the individual, provided~~

1 ~~the individual is otherwise eligible under this chapter, shall~~
2 ~~be eligible for benefits and such benefits shall not be~~
3 ~~charged to any employer's account.~~ Benefits relating to wage
4 credits earned with the employer that the individual has left
5 shall be charged to the unemployment compensation fund. This
6 paragraph applies to both contributory and reimbursable
7 employers, notwithstanding section 96.8, subsection 5.

8 Sec. 3. Section 96.6, subsection 2, Code 1995, is amended
9 to read as follows:

10 2. INITIAL DETERMINATION. A representative designated by
11 the commissioner shall promptly notify all interested parties
12 to the claim of its filing, and the parties have ten days from
13 the date of mailing the notice of the filing of the claim by
14 ordinary mail to the last known address to protest payment of
15 benefits to the claimant. The representative shall promptly
16 examine the claim and any protest, take the initiative to
17 ascertain relevant information concerning the claim, and, on
18 the basis of the facts found by the representative, shall
19 determine whether or not the claim is valid, the week with
20 respect to which benefits shall commence, the weekly benefit
21 amount payable and its maximum duration, and whether any
22 disqualification shall be imposed. The claimant has the
23 burden of proving that the claimant meets the basic
24 eligibility conditions of section 96.4. The employer has the
25 burden of proving that the claimant is disqualified for
26 benefits pursuant to section 96.5. However, the claimant has
27 the initial burden to produce evidence showing that the
28 claimant is not disqualified for benefits in cases involving
29 section 96.5, subsection 1, paragraphs "a" through "h", and
30 subsection 10. Unless the claimant or other interested party,
31 after notification or within ten calendar days after
32 notification was mailed to the claimant's last known address,
33 files an appeal from the decision, the decision is final and
34 benefits shall be paid or denied in accordance with ~~it~~ the
35 decision. If an administrative law judge affirms a decision

1 of the representative, or the appeal board affirms a decision
2 of the administrative law judge allowing benefits, the
3 benefits shall be paid regardless of any appeal which is
4 thereafter taken, but if the decision is finally reversed, no
5 employer's account shall be charged with benefits so paid and
6 this relief from charges shall apply to both contributory and
7 reimbursable employers, notwithstanding section 96.8,
8 subsection 5.

9 Sec. 4. Section 96.7, subsection 2, paragraph a,
10 subparagraph (2), unnumbered paragraph 3, Code 1995, is
11 amended to read as follows:

12 An employer's account shall not be charged with benefits
13 paid to an individual who left the work of the employer
14 voluntarily without good cause attributable to the employer or
15 to an individual who was discharged for misconduct in
16 connection with the individual's employment, or to an
17 individual who failed without good cause, either to apply for
18 available, suitable work or to accept suitable work with that
19 employer, but shall be charged to the account-of-the-next
20 succeeding-employer-with-whom-the-individual-qualified-for
21 benefits-as-determined-respectively-under-section-96.5,
22 subsection-1, paragraph-"g"-and-section-96.5, subsection-2,
23 paragraph-"a" unemployment compensation fund. However, the
24 succeeding-employer's-account-shall-first-be-charged-with
25 benefits-paid-to-the-individual-due-to-wage-credits-earned-by
26 the-individual-while-employed-by-the-succeeding-employer.
27 After-exhausting-those-wage-credits, the succeeding-employer's
28 account-shall-not-be-charged-with-ten-weeks-of-benefits-paid
29 to-the-individual-due-to-wage-credits-earned-by-the-individual
30 from-a-previous-employer, but rather the unemployment
31 compensation fund shall be charged. After exhausting the ten
32 weeks-of-noncharging, the succeeding-employer's-account-shall
33 again-be-charged-with-the-benefits-paid. This paragraph
34 applies to both contributory and reimbursable employers,
35 notwithstanding section 96.8, subsection 5.

1 that situation so an employer is charged only for the benefits
2 earned in their employ.

3 This proposal simplifies the unemployment insurance tax law
4 and eliminates inequities in benefit charges to employer
5 accounts. It reduces employer time and cost in dealing with
6 unemployment insurance taxes and fact-finding interviews and
7 enables employers to accurately project unemployment insurance
8 costs.

9 There will be no impact on people who file claims for unem-
10 ployment compensation, no direct cost to the unemployment
11 compensation fund, and no effect on the unemployment insurance
12 tax tables. Approximately \$6.5 million will be charged to the
13 unemployment compensation fund rather than specific employer
14 accounts. Reimbursable employers, as a group, will pay
15 \$210,000 less.

16 The transfer provisions were instituted in the 1970s to en-
17 sure the burden of unemployment insurance taxes were charged
18 to the employer who caused the layoff or loss of employment.
19 Elimination of the transfer provisions will only reduce the
20 experience rating by 4 percent. Only two states currently
21 have transfer provisions--Iowa and Michigan.

22 Sections 1 and 3 clarify the Code language in view of
23 several district court cases. Previously reimbursable
24 employers could not receive credit or relief from charges
25 until the overpayments were recovered. This will ensure
26 overpayments which are charged to reimbursable employers are
27 credited before the funds are recovered so they are treated
28 like all other employers.

29 Section 6 establishes an applicability date of July 2,
30 1995, for decisions issued on or after that date in order to
31 prevent double crediting of outstanding overpayments to
32 reimbursable employer accounts. This also ensures that
33 overpayments created on or after July 2, 1995, will not be
34 charged and the employers will not be forced to pay the amount
35 of the overpayment on or after that date.