

# Senate File 2160 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON LABOR AND  
BUSINESS RELATIONS

(SUCCESSOR TO SSB 3045)

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

## A BILL FOR

1 An Act relating to employers' participation in unemployment  
2 insurance adjudications and unemployment insurance tax  
3 penalties, and providing an effective date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 SF 2160  
6 ak/ml/12

PAG LIN

1 1 Section 1. Section 96.3, subsection 7, Code 2007, is  
1 2 amended to read as follows:

1 3 7. RECOVERY OF OVERPAYMENT OF BENEFITS.

1 4 a. If an individual receives benefits for which the  
1 5 individual is subsequently determined to be ineligible, even  
1 6 though the individual acts in good faith and is not otherwise  
1 7 at fault, the benefits shall be recovered. The department in  
1 8 its discretion may recover the overpayment of benefits either  
1 9 by having a sum equal to the overpayment deducted from any  
1 10 future benefits payable to the individual or by having the  
1 11 individual pay to the department a sum equal to the  
1 12 overpayment.

1 13 b. (1) If the department determines that an overpayment  
1 14 has been made, the charge for the overpayment against the  
1 15 employer's account shall be removed and the account shall be  
1 16 credited with an amount equal to the overpayment from the  
1 17 unemployment compensation trust fund and this credit shall  
1 18 include both contributory and reimbursable employers,  
1 19 notwithstanding section 96.8, subsection 5. However, provided  
1 20 the benefits were not received as the result of fraud or  
1 21 willful misrepresentation by the individual, benefits shall  
1 22 not be recovered from an individual if the employer did not  
1 23 participate in the initial determination to award benefits  
1 24 pursuant to section 96.6, subsection 2, and an overpayment  
1 25 occurred because of a subsequent reversal on appeal regarding  
1 26 the issue of the individual's separation from employment. The  
1 27 employer shall not be charged with the benefits.

1 28 (2) An accounting firm, agent, unemployment insurance  
1 29 accounting firm, or other entity that represents an employer  
1 30 in unemployment claim matters and demonstrates a continuous  
1 31 pattern of failing to participate in the initial  
1 32 determinations to award benefits, as determined and defined by  
1 33 rule by the department, shall be denied permission by the  
1 34 department to represent any employers in unemployment  
1 35 insurance matters. This subparagraph does not apply to

2 1 attorneys or counselors admitted to practice in the courts of  
2 2 this state pursuant to section 602.10101.

2 3 Sec. 2. Section 96.14, subsection 2, paragraph d, Code  
2 4 Supplement 2007, is amended to read as follows:

2 5 d. A penalty shall not be less than ~~ten dollars for the~~  
2 6 ~~first delinquent report or the first insufficient report not~~  
2 7 ~~made sufficient within thirty days after a request to do so.~~  
2 8 ~~The penalty shall not be less than twenty-five dollars for the~~  
2 9 ~~second delinquent or insufficient report, and not less than~~  
2 10 ~~fifty thirty-five dollars for each delinquent or insufficient~~  
2 11 ~~report thereafter, until four consecutive calendar quarters of~~  
2 12 ~~reports are timely and sufficiently filed. Interest,~~

2 13 penalties, and cost shall be collected by the department in  
2 14 the same manner as provided by this chapter for contributions.

2 15 Sec. 3. Section 96.14, subsection 2, Code Supplement 2007,  
2 16 is amended by adding the following new paragraph:

2 17 NEW PARAGRAPH. ee. If any tendered payment of any amount  
2 18 due in the form of a check, draft, or money order is not  
2 19 honored when presented to a financial institution, any costs  
2 20 assessed to the department by the financial institution and a  
2 21 fee of thirty dollars shall be assessed to the employer.  
2 22 Sec. 4. Section 96.14, Code Supplement 2007, is amended by  
2 23 adding the following new subsection:  
2 24 NEW SUBSECTION. 17. EMPLOYER SUBPOENA COST AND PENALTY.  
2 25 An employer who is served with a subpoena pursuant to section  
2 26 96.11, subsection 7, for the investigation of an employer  
2 27 liability issue, to complete audits, to secure reports, or to  
2 28 assess contributions shall pay all costs associated with the  
2 29 subpoena, including service fees and court costs. The  
2 30 department shall penalize an employer in the amount of two  
2 31 hundred fifty dollars if that employer refused to honor a  
2 32 subpoena or negligently failed to honor a subpoena. The cost  
2 33 of the subpoena and any penalty shall be collected in the  
2 34 manner provided in section 96.14, subsection 3.  
2 35 Sec. 5. EFFECTIVE DATE. The sections of this Act amending  
3 1 section 96.14 take effect January 1, 2009.  
3 2 SF 2160  
3 3 ak/ml/12