

**Senate Study Bill 3005 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
WORKFORCE DEVELOPMENT BILL)

**A BILL FOR**

1 An Act relating to unemployment insurance employer charges and  
2 claimant misrepresentation regarding benefit overpayments,  
3 providing a penalty, and including applicability provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 96.3, subsection 7, paragraph b,  
2 subparagraph (1), Code 2011, is amended to read as follows:

3 (1) (a) If the department determines that an overpayment  
4 has been made, the charge for the overpayment against the  
5 employer's account shall be removed and the account shall  
6 be credited with an amount equal to the overpayment from  
7 the unemployment compensation trust fund and this credit  
8 shall include both contributory and reimbursable employers,  
9 notwithstanding section 96.8, subsection 5. The employer  
10 shall not be relieved of charges if benefits are paid because  
11 the employer failed to respond timely or adequately to the  
12 department's request for information relating to the payment  
13 of benefits. This prohibition against relief of charges shall  
14 apply to both contributory and reimbursable employers.

15 (b) However, provided the benefits were not received as the  
16 result of fraud or willful misrepresentation by the individual,  
17 benefits shall not be recovered from an individual if the  
18 employer did not participate in the initial determination to  
19 award benefits pursuant to section 96.6, subsection 2, and  
20 an overpayment occurred because of a subsequent reversal on  
21 appeal regarding the issue of the individual's separation  
22 from employment. ~~The employer shall not be charged with the~~  
23 ~~benefits.~~

24 Sec. 2. Section 96.16, subsection 4, Code 2011, is amended  
25 to read as follows:

26 4. *Misrepresentation.*

27 a. An individual who, by reason of the nondisclosure or  
28 misrepresentation by the individual or by another of a material  
29 fact, has received any sum as benefits under this chapter  
30 while any conditions for the receipt of benefits imposed by  
31 this chapter were not fulfilled in the individual's case, or  
32 while the individual was disqualified from receiving benefits,  
33 shall, in the discretion of the department, either be liable  
34 to have the sum deducted from any future benefits payable to  
35 the individual under this chapter or shall be liable to repay

1 to the department for the unemployment compensation fund, a  
2 sum equal to the amount so received by the individual. If  
3 the department seeks to recover the amount of the benefits by  
4 having the individual pay to the department a sum equal to that  
5 amount, the department may file a lien with the county recorder  
6 in favor of the state on the individual's property and rights  
7 to property, whether real or personal. The amount of the lien  
8 shall be collected in a manner similar to the provisions for  
9 the collection of past-due contributions in section 96.14,  
10 subsection 3.

11 b. The department shall assess a penalty equal to fifteen  
12 percent of the amount of a fraudulent overpayment. The penalty  
13 shall be collected in the same manner as the overpayment. The  
14 penalty shall be added to the amount of any lien filed pursuant  
15 to paragraph "a" and shall not be deducted from any future  
16 benefits payable to the individual under this chapter. Funds  
17 received for overpayment penalties shall be deposited in the  
18 unemployment trust fund.

19 Sec. 3. APPLICABILITY. The section of this Act relating  
20 to relief of charges applies to any overpayment determination  
21 issued on or after July 1, 2012. The section of this Act  
22 providing a penalty relating to fraudulent overpayment applies  
23 to any fraudulent overpayment issued on or after July 1, 2012.

24 EXPLANATION

25 This bill prohibits the department of workforce development  
26 from relieving an employer of charges against the employer's  
27 account for an overpayment of unemployment compensation  
28 benefits if the overpayment occurred because the employer  
29 failed to respond timely or adequately to the department's  
30 request for information relating to the payment of the  
31 benefits.

32 The bill removes the prohibition against charging an  
33 employer's for an overpayment of unemployment compensation  
34 benefits when the overpayment is not recovered from the  
35 claimant because the employer did not participate in an initial

1 determination to award benefits and the overpayment occurred  
2 because of a subsequent reversal on appeal regarding the issue  
3 of the claimant's separation from employment.

4 The bill establishes a penalty on individuals who receive  
5 unemployment compensation benefits through fraud. The penalty  
6 is equal to 15 percent of the amount of the overpayment and is  
7 to be collected in the same manner as the overpayment but shall  
8 not be collected from any future benefits.

9 The bill applies to any overpayment determination or  
10 fraudulent overpayment issued on or after July 1, 2012.