

**House Study Bill 35 - Introduced**

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

**A BILL FOR**

1 An Act relating to conformity with federal law concerning  
2 unemployment insurance employer charges and claimant  
3 misrepresentation regarding benefit overpayments, providing  
4 a penalty, and including applicability provisions.  
5 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 2013, 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 shall  
10 not be relieved of charges if benefits are paid because the  
11 employer or an agent of the employer failed to respond timely  
12 or adequately to the department's request for information  
13 relating to the payment of benefits. This prohibition  
14 against relief of charges shall apply to both contributory and  
15 reimbursable employers.

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

25 Sec. 2. Section 96.16, subsection 4, Code 2013, is amended  
26 to read as follows:

27 4. *Misrepresentation.*

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

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

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

20 Sec. 3. APPLICABILITY. The section of this Act amending  
21 section 96.3, subsection 7, relating to relief of charges  
22 applies to any overpayment determination issued on or after  
23 July 1, 2013.

24 Sec. 4. APPLICABILITY. The section of this Act amending  
25 section 96.16, subsection 4, providing a penalty relating to  
26 fraudulent overpayment applies to any fraudulent overpayment  
27 issued on or after July 1, 2013.

28 EXPLANATION

29 This bill conforms the state unemployment compensation law  
30 to the requirements of sections 251 and 252 of the federal  
31 Trade Adjustment Assistance Extension Act of 2011, Pub. L. No.  
32 112-40.

33 The bill prohibits the department of workforce development  
34 from relieving an employer of charges against the employer's  
35 account for an overpayment of unemployment compensation

1 benefits if the overpayment occurred because the employer or an  
2 agent of the employer failed to respond timely or adequately  
3 to the department's request for information relating to the  
4 payment of the benefits.

5 The bill removes the prohibition against charging an  
6 employer's account for an overpayment of unemployment  
7 compensation benefits when the overpayment is not recovered  
8 from the claimant because the employer did not participate in  
9 an initial determination to award benefits and the overpayment  
10 occurred because of a subsequent reversal on appeal regarding  
11 the issue of the claimant's separation from employment.

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

17 The bill applies to any overpayment determination or  
18 fraudulent overpayment issued on or after July 1, 2013.