

Senate Study Bill 1149 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON LABOR AND BUSINESS
RELATIONS BILL BY
CHAIRPERSON SCHULTZ)

A BILL FOR

1 An Act concerning unemployment insurance and including
2 effective date and applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

UNEMPLOYMENT INSURANCE TAX AND BENEFITS — 2019

1
2 Section 1. Section 96.3, subsection 5, paragraph a, Code
3 2019, is amended to read as follows:

4 *a. Duration of benefits.* The maximum total amount of
5 benefits payable to an eligible individual during a benefit
6 year shall not exceed the total of the wage credits accrued
7 to the individual's account during the individual's base
8 period, or twenty-six times the individual's weekly benefit
9 amount, whichever is the lesser. The director shall maintain
10 a separate account for each individual who earns wages in
11 insured work. The director shall compute wage credits for
12 each individual by crediting the individual's account with
13 one-third of the wages for insured work paid to the individual
14 during the individual's base period. ~~However, the director~~
15 ~~shall recompute wage credits for an individual who is laid~~
16 ~~off due to the individual's employer going out of business at~~
17 ~~the factory, establishment, or other premises at which the~~
18 ~~individual was last employed, by crediting the individual's~~
19 ~~account with one-half, instead of one-third, of the wages for~~
20 ~~insured work paid to the individual during the individual's~~
21 ~~base period.~~ Benefits paid to an eligible individual shall
22 be charged against the base period wage credits in the
23 individual's account which have not been previously charged,
24 in the inverse chronological order as the wages on which the
25 wage credits are based were paid. ~~However if the state "off"~~
26 ~~indicator is in effect and if the individual is laid off due to~~
27 ~~the individual's employer going out of business at the factory,~~
28 ~~establishment, or other premises at which the individual was~~
29 ~~last employed, the maximum benefits payable shall be extended~~
30 ~~to thirty-nine times the individual's weekly benefit amount,~~
31 ~~but not to exceed the total of the wage credits accrued to the~~
32 ~~individual's account.~~

33
34 Sec. 2. Section 96.5, subsection 2, Code 2019, is amended by
35 adding the following new paragraph:

1 NEW PARAGRAPH. *d.* For purposes of this subsection,
2 “*misconduct*” means a deliberate act or omission by an
3 employee that constitutes a material breach of the duties
4 and obligations arising out of the employee’s contract of
5 employment. “*Misconduct*” is limited to conduct evincing such
6 willful or wanton disregard of an employer’s interest as
7 is found in deliberate violation or disregard of standards
8 of behavior which the employer has the right to expect of
9 employees, or in carelessness or negligence of such degree of
10 recurrence as to manifest equal culpability, wrongful intent
11 or evil design, or to show an intentional and substantial
12 disregard of the employer’s interests or of the employee’s
13 duties and obligations to the employer. “*Misconduct*” includes
14 but is not limited to all of the following:

15 (1) Falsification by the individual of an employment
16 application to obtain employment.

17 (2) Knowing violation by the individual of a reasonable and
18 uniformly enforced rule of an employer.

19 (3) Damage of the employer’s property through willful
20 negligence by the individual.

21 (4) Refusal by the individual to obey reasonable
22 instructions of the employer.

23 (5) Disobedience, or manifestation of an intent to disobey,
24 reasonable instructions of the employer by the individual.

25 (6) Lack of truthfulness or candor with the employer by the
26 individual.

27 (7) Conduct not in the best interest of the employer by the
28 individual.

29 (8) Consumption by the individual of alcohol, illegal or
30 nonprescribed prescription drugs, or an impairing substance
31 in an off-label manner, or a combination of such substances,
32 on the employer’s premises in violation of the employer’s
33 employment policies.

34 (9) Reporting to work under the influence of alcohol,
35 illegal or nonprescribed prescription drugs, or an impairing

1 substance used in an off-label manner, or a combination of such
2 substances, in violation of the employer's employment policies,
3 unless the individual is compelled to report to work by the
4 employer outside of scheduled or on-call working hours.

5 (10) Conduct by the individual that endangers the personal
6 safety of the individual or coworkers.

7 (11) Incarceration of the individual that results in
8 missing work for an act for which one could reasonably expect
9 to be incarcerated.

10 (12) Incarceration of the individual following
11 conviction of a misdemeanor or felony by a court of competent
12 jurisdiction.

13 (13) Any breach of duty in connection with work which is
14 reasonably owed the employer by the individual.

15 (14) Excessive unexcused tardiness or absenteeism.

16 (15) Falsification by the individual of any work-related
17 report, task, or job that could expose the employer or
18 coworkers to legal liability or sanction for violation of
19 health or safety laws.

20 (16) Failure by the individual to maintain any license,
21 registration, or certification that is reasonably required by
22 the employer, that is required by law, or that is a functional
23 requirement to perform the individual's regular job duties,
24 unless the failure is not within the control of the individual.

25 (17) Conduct by the individual that is defamatory toward the
26 employer or an employee of the employer if such conduct is not
27 protected under state or federal law.

28 (18) Conduct by the individual creating or attempting to
29 create dissention or animus against the employer or a coworker
30 if such conduct is not protected under state or federal law.

31 (19) Theft of funds or property of the employer or a
32 coworker by the individual.

33 (20) Misrepresentation by the individual of time worked
34 or work carried out that results in the individual receiving
35 unearned wages or unearned benefits.

1 Sec. 3. Section 96.6, subsection 2, Code 2019, is amended
2 to read as follows:

3 2. *Initial determination.* A representative designated by
4 the director shall promptly notify all interested parties to
5 the claim of its filing, and the parties have ten days from
6 the date of ~~mailing~~ issuing the notice of the filing of the
7 claim ~~by ordinary mail to the last known address~~ to protest
8 payment of benefits to the claimant. All interested parties
9 shall select a format as specified by the department to receive
10 such notifications. The representative shall promptly examine
11 the claim and any protest, take the initiative to ascertain
12 relevant information concerning the claim, and, on the basis of
13 the facts found by the representative, shall determine whether
14 or not the claim is valid, the week with respect to which
15 benefits shall commence, the weekly benefit amount payable
16 and its maximum duration, and whether any disqualification
17 shall be imposed. The claimant has the burden of proving
18 that the claimant meets the basic eligibility conditions of
19 section 96.4. The employer has the burden of proving that the
20 claimant is disqualified for benefits pursuant to [section 96.5](#),
21 except as provided by [this subsection](#). The claimant has the
22 initial burden to produce evidence showing that the claimant
23 is not disqualified for benefits in cases involving section
24 96.5, subsections 10 and 11, and has the burden of proving
25 that a voluntary quit pursuant to [section 96.5, subsection 1](#),
26 was for good cause attributable to the employer and that the
27 claimant is not disqualified for benefits in cases involving
28 section 96.5, subsection 1, paragraphs "a" through "h". Unless
29 the claimant or other interested party, after notification or
30 within ten calendar days after notification was ~~mailed~~ issued
31 to the claimant's last known address, files an appeal from the
32 decision, the decision is final and benefits shall be paid or
33 denied in accordance with the decision. If an administrative
34 law judge affirms a decision of the representative, or the
35 appeal board affirms a decision of the administrative law judge

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

7 Sec. 4. Section 96.14, subsection 16, Code 2019, is amended
8 to read as follows:

9 16. *Injunction upon nonpayment.* Any employer or employing
10 unit refusing or failing to make and file required reports,
11 records, or to pay any contributions, interest, or penalty
12 under the provisions of **this chapter**, after ten days' written
13 notice sent by the department to the employer's or employing
14 unit's last known address by certified mail, may be enjoined
15 from operating any business in the state while in violation
16 of **this chapter** upon the complaint of the department in the
17 district court of a county in which the employer or employing
18 unit has or had a place of business within the state, and
19 any temporary injunction enjoining the continuance of such
20 business may be granted without notice and without a bond being
21 required from the department. Such injunction may enjoin any
22 employer or employing unit from operating a business unit
23 until the delinquent contributions, interest, or penalties
24 shall have been made and filed or paid; or the employer shall
25 have furnished a good and sufficient bond conditioned upon the
26 payment of such delinquencies in such an amount and containing
27 such terms as may be determined by the court; or the employer
28 has entered into a plan for the liquidation of the business to
29 pay for such delinquencies as the court may approve, provided
30 that such injunction may be reinstated upon the employer's
31 failure to comply with the terms of said plan.

32 Sec. 5. Section 96.40, subsection 2, paragraphs e and i,
33 Code 2019, are amended to read as follows:

34 e. The reduction in hours and corresponding reduction in
35 wages must be applied equally to all employees in the affected

1 unit for each week reported.

2 *i.* The duration of the shared work plan will not exceed
3 fifty-two weeks. The employer shall only be authorized one
4 plan during a twenty-four-month period.

5 Sec. 6. Section 96.40, subsection 2, Code 2019, is amended
6 by adding the following new paragraph:

7 NEW PARAGRAPH. 1. The employer shall notify all affected
8 employees and receive consent from each participating employee
9 before the plan is authorized.

10 Sec. 7. Section 96.40, Code 2019, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 4A. An employer may file an appeal in
13 writing of a denial or approval of a plan or revocation of an
14 approved plan by the department within thirty days from the
15 date of the decision.

16 Sec. 8. Section 96.40, subsection 9, paragraph b, Code 2019,
17 is amended to read as follows:

18 *b.* An employer may provide as part of the plan a training
19 program the employees may attend during the hours that have
20 been reduced. Such a training program may include a training
21 program funded under the Workforce ~~Investment~~ Innovation and
22 Opportunity Act, of 1998, Pub. L. No. 105-220 113-128. If the
23 employer is able to show that the training program will provide
24 a substantive increase in the workplace and employability
25 skills of the employee so as to reduce the potential for
26 future periods of unemployment, the department shall relieve
27 the employer of charges for benefits paid to the individual
28 attending training under the plan. The employee may attend
29 the training at the work site utilizing internal resources,
30 provided the training is outside of the normal course of
31 employment, or in conjunction with an educational institution.

32 Sec. 9. EFFECTIVE DATE. This division of this Act, being
33 deemed of immediate importance, takes effect upon enactment.

34 Sec. 10. APPLICABILITY.

35 1. The following applies to any week of unemployment

1 benefits beginning on or after the first Sunday after the
2 effective date of this division of this Act:

3 The section of this Act amending section 96.3.

4 2. The following apply to all voluntary shared work plans
5 approved by the department of workforce development on or after
6 the effective date of this division of this Act:

7 a. The section of this division of this Act amending section
8 96.40, subsection 2, paragraphs "e" and "i".

9 b. The section of this division of this Act enacting section
10 96.40, subsection 2, paragraph "l".

11 c. The section of this division of this Act enacting section
12 96.40, subsection 4A.

13 d. The section of this division of this Act amending section
14 96.40, subsection 9, paragraph "b".

15 DIVISION II

16 UNEMPLOYMENT INSURANCE TAX AND BENEFITS — 2020

17 Sec. 11. Section 96.3, subsection 4, Code 2019, is amended
18 to read as follows:

19 4. *Determination of benefits.* ~~With respect to benefit years~~
20 ~~beginning on or after July 1, 1983, an~~ An eligible individual's
21 weekly benefit amount for a week of total unemployment shall be
22 an amount equal to the following fractions of the individual's
23 total wages in insured work paid during that quarter of
24 the individual's base period in which such total wages were
25 highest; the director shall determine annually a maximum weekly
26 benefit amount equal to the following percentages, to vary ~~with~~
27 ~~the number of~~ based on whether the individual has dependents,
28 of the statewide average weekly wage paid to employees in
29 insured work which shall be effective the first day of the
30 first full week in ~~July:~~ July.

31 If the The weekly Subject to
32 number of benefit amount the following
33 dependents shall equal maximum
34 is: the following percentage of
35 fraction of high the statewide

1	quarter wages:	average
2		weekly wage:
3	0	1/23 53%
4	1 <u>or more</u>	1/22 55% <u>57%</u>
5	2	1/21 57%
6	3	1/20 60%
7	4 or more	1/19 65%

8 The maximum weekly benefit amount, if not a multiple of one
 9 dollar, shall be rounded to the lower multiple of one dollar.
 10 ~~However, until such time as sixty five percent of the statewide~~
 11 ~~average weekly wage exceeds one hundred ninety dollars, the~~
 12 The maximum weekly benefit amounts shall be determined using
 13 the statewide average weekly wage computed on the basis of
 14 wages reported for the current calendar year 1981. ~~As used in~~
 15 ~~this section~~ "dependent" means dependent as defined in section
 16 ~~422.12, subsection 1, paragraph "a", as if the individual~~
 17 ~~claimant was a taxpayer, except that an individual claimant's~~
 18 ~~nonworking spouse shall be deemed to be a dependent under this~~
 19 ~~section. "Nonworking spouse" means a spouse who does not earn~~
 20 ~~more than one hundred twenty dollars in gross wages in one~~
 21 ~~week.~~

22 Sec. 12. Section 96.4, Code 2019, is amended by adding the
 23 following new subsection:

24 NEW SUBSECTION. 8. The individual has satisfied a single
 25 one-week waiting period during the individual's benefit year.
 26 To satisfy the one-week waiting period, the individual, with
 27 respect to the week in question, must be eligible for benefits
 28 from this state, but must not have received benefits from this
 29 state, and must not be eligible for benefits from another
 30 state.

31 Sec. 13. Section 96.7, subsection 2, paragraph c,
 32 subparagraph (2), Code 2019, is amended to read as follows:

33 (2) A construction or landscaping contributory employer,
 34 as defined under rules adopted by the department pursuant to
 35 chapter 17A, which is newly subject to this chapter shall pay

1 contributions at the rate specified in the twenty-first benefit
2 ratio rank until the end of the calendar year in which the
3 employer's account has been chargeable with benefits for twelve
4 consecutive calendar quarters.

5 Sec. 14. Section 96.19, subsection 20, unnumbered paragraph
6 1, Code 2019, is amended to read as follows:

7 "*Exhaustee*" means an individual who, with respect to any
8 week of unemployment in the individual's eligibility period
9 has received, prior to such week, all of the regular benefits
10 that were available to the individual under **this chapter** or any
11 other state law, including ~~dependents' allowances and~~ benefits
12 payable to federal civilian employees and former armed forces
13 personnel under 5 U.S.C. ch. 85, in the individual's current
14 benefit year that includes such weeks. Provided that for the
15 purposes of **this subsection** an individual shall be deemed to
16 have received all of the regular benefits that were available
17 to the individual, although as a result of a pending appeal
18 with respect to wages that were not considered in the original
19 monetary determination in the individual's benefit year the
20 individual may subsequently be determined to be entitled to add
21 regular benefits, or:

22 Sec. 15. EFFECTIVE DATE. This division of this Act takes
23 effect July 1, 2020.

24 Sec. 16. APPLICABILITY.

25 1. The following apply to any week of unemployment benefits
26 beginning on or after July 5, 2020:

27 a. The section of this division of this Act amending section
28 96.3, subsection 4.

29 b. The section of this division of this Act amending section
30 96.19, subsection 20.

31 2. The following applies to any new claim of unemployment
32 benefits with an effective date on or after July 5, 2020:

33 The section of this division of this Act enacting section
34 96.4, subsection 8.

35

EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 This bill relates to unemployment insurance under Code
4 chapter 96.

5 DIVISION I. This division strikes language requiring
6 the director of the department of workforce development
7 to recompute wage credits for purposes of calculating an
8 individual's maximum total amount of unemployment benefits
9 payable during a benefit year. The stricken language applied
10 to an individual who is laid off due to the individual's
11 employer going out of business at the factory, establishment,
12 or other premises at which the individual was last employed by
13 crediting the individual's account with one-half, instead of
14 one-third, of the wages for insured work paid to the individual
15 during the individual's base period. The division also strikes
16 language providing an additional 13 weeks of benefits to such
17 individuals if the state "off" indicator, which relates to
18 the rate of insured unemployment in the state, is in effect.
19 This provision applies to any week of unemployment benefits
20 beginning on or after the first Sunday after the effective date
21 of the division.

22 Under current law, an individual is disqualified from
23 eligibility for unemployment benefits if the department of
24 workforce development finds that the individual has been
25 discharged for misconduct in connection with the individual's
26 employment. "Misconduct" is defined by the department by rule.

27 The division provides that "misconduct" means a deliberate
28 act or omission by an employee that constitutes a material
29 breach of the duties and obligations arising out of the
30 employee's contract of employment. "Misconduct" is limited
31 to conduct evincing such willful or wanton disregard of an
32 employer's interest as is found in deliberate violation or
33 disregard of standards of behavior which the employer has the
34 right to expect of employees, or in carelessness or negligence
35 of such degree of recurrence as to manifest equal culpability,

1 wrongful intent or evil design, or to show an intentional
2 and substantial disregard of the employer's interests or
3 of the employee's duties and obligations to the employer.
4 The division includes a nonexclusive list of behaviors that
5 constitute misconduct.

6 The division strikes language providing that notifications
7 of interested parties that a claim for unemployment benefits
8 has been made be sent by ordinary mail. The division instead
9 provides that such notifications shall be in a format as
10 specified by the department selected by the parties.

11 The division provides that an employer or employing unit
12 refusing or failing to make and file required records is
13 subject to a possible injunction by the department for the
14 violation.

15 The division modifies a reference to plans for liquidation
16 of deficiencies under Code chapter 96 by an employer or
17 employing unit to specify that such a plan is for the
18 liquidation of a business to pay for such deficiencies.

19 The division modifies conditions for approval of a voluntary
20 shared work program by the department. The division provides
21 that a reduction in hours and corresponding reduction in wages
22 that must be applied equally to all employees in the affected
23 unit must be applied equally for each week reported. The
24 division provides that an employer shall only be authorized
25 one plan during a 24-month period. The division requires
26 an employer to notify all affected employees and receive
27 consent from each participating employee before the plan is
28 authorized. The division also permits an employer to file
29 an appeal in writing of a denial or approval of a plan or
30 revocation of an approved plan by the department within 30 days
31 from the date of the decision and replaces a reference to the
32 federal Workforce Investment Act of 1998 with a reference to
33 the federal Workforce Innovation and Opportunity Act. These
34 provisions apply to all voluntary shared work plans approved
35 by the department of workforce development on or after the

1 effective date of the division.

2 The division takes effect upon enactment.

3 DIVISION II. This division strikes language providing that
4 an eligible individual's maximum weekly benefit amount varies
5 with the number of dependents the individual has. The division
6 instead provides that an individual with dependents is subject
7 to a maximum of 57 percent of the statewide average weekly
8 wage. The division strikes language defining "dependent".
9 The division strikes additional obsolete language. These
10 provisions apply to any week of unemployment benefits beginning
11 on or after July 5, 2020.

12 The division provides that in order to be eligible for
13 unemployment benefits, an individual must satisfy a single
14 one-week waiting period during the individual's benefit year.
15 To satisfy the one-week waiting period, the individual, with
16 respect to the week in question, must be eligible for benefits
17 from this state, but must not have received benefits from this
18 state, and must not be eligible for benefits from another
19 state. This provision applies to any new claim of unemployment
20 benefits with an effective date on or after July 5, 2020.

21 The division provides that a landscaping contributory
22 employer, as defined by the department by rule, which is newly
23 subject to Code chapter 96 shall pay contributions at the rate
24 specified in the twenty-first benefit ratio rank until the end
25 of the calendar year in which the employer's account has been
26 chargeable with benefits for 12 consecutive calendar quarters.

27 The division takes effect July 1, 2020.