

CHAPTER 33
UNEMPLOYMENT COMPENSATION

S. F. 373

AN ACT relating to unemployment compensation by limiting benefits through requiring a one-week waiting period for eligibility for benefits, by recomputing partial benefits, by recomputing individual weekly benefit amounts and maximum benefits as a percentage of the statewide average weekly wage to vary with the number of dependents, by reducing certain benefits from thirty-nine to twenty-six weeks, by reducing the percentage of wages credited to an individual's account, by providing thirty-nine weeks of benefits and a greater percentage of wage credits to individuals laid off due to an employer going out of business, by mandating contribution rate table three for fiscal years 1980 and 1981, by exempting severance pay from employer taxation, by providing for the recovery of overpayments, back pay, certain benefits, and funds due from government entities, by denying benefits during paid sabbatical leave, by offsetting benefits with severance pay, governmental retirement pay and back pay, by modifying the attachment and reattachment to-the-work-force requirements and certain disqualification and requalification requirements for voluntary quits, misconduct, and failure to accept suitable work, by establishing procedures for employer liability determinations, by establishing rates of contribution for government contributing employers, by allowing government employers to elect reimbursable or contributing status for a one-year period, by recomputing certain charges against employer accounts and rates of contribution when employer reports are delinquent, by extending the appeal period for protesting employers and the period for transmission of the job service record to a reviewing court, by clarifying the confidentiality of job service information and the job service subpoena and garnishment powers, by allowing certain vacation pay to offset benefits, by making technical corrections to chapter ninety-six (96) of the Code, and by making certain penalties consistent with the criminal code.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section ninety-six point three (96.3), subsection three (3), Code 1979, is amended to read as follows:

3. PARTIAL UNEMPLOYMENT. Each An individual who is partially unemployed in any week as defined in section 96.19, subsection 9, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to ~~such that~~ that week an amount equal to ~~that~~ the individual's weekly benefit amount less ~~fifty-percent--of~~ that part of wages payable to ~~him-or-her~~ the individual with respect to ~~such that~~ that week in excess of ~~fifteen--dollars~~ one-fourth of the individual's weekly benefit amount. Such benefits shall be rounded to the higher multiple of one dollar.

Sec. 2. Section ninety-six point three (96.3), subsection, four (4), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

With respect to benefit years beginning on or after July 1, ~~1975~~ 1979, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to ~~one-twentieth-of-his-or-her~~ the following fractions of the individual's total wages in insured work paid during that quarter of his-or-her the individual's base period in which such total wages were highest, subject to the following limitation: The; the director shall determine annually a maximum weekly benefit amount ~~by computing sixty-six and two-thirds percent~~ equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

<u>If the number of dependents is:</u>	<u>The weekly benefit amount shall equal the following fraction of high quarter wages:</u>	<u>Subject to the following maximum percentage of the statewide average weekly wage:</u>
0	1/23	58%
1	1/22	60%
2	1/21	62%
3	1/20	65%
4 or more	1/19	70%

~~Such~~ The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the higher multiple of one dollar. However, until such time as fifty-eight percent of the statewide average weekly wage exceeds one hundred thirty-three dollars, an individual with zero or one dependent who would be entitled to the maximum weekly benefit amount if the individual's weekly benefit amount were computed by using one-twenty-first of the individual's high quarter wages, subject to a maximum percentage of sixty-two percent of the statewide average weekly wage, the individual shall receive the maximum weekly benefit amount of sixty-two percent of the statewide average weekly wage. As used in this section "dependent" means dependent as defined in section four hundred twenty-two point twelve (422.12), subsection one (1), paragraph c of the Code, as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Sec. 3. Section ninety-six point three (96.3), subsection five (5), Code 1979, is amended to read as follows:

5. DURATION OF BENEFITS. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed the total of the wage credits accrued to ~~his-or-her~~ the individual's account during ~~his-or-her~~ the individual's base period, or twenty-six times ~~his--or-her~~ the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by

crediting ~~his-or-her~~ the individual's account with ~~one-half~~ one-third of the wages for insured work paid ~~him-or-her~~ to the individual during ~~his-or-her~~ the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in ~~his-or-her~~ the individual's account which have not been previously charged hereunder, in the inverse chronological order as the wages on which such wage credits are based were paid. However if the state and national "off indicators" are in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times ~~his--or--her~~ the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to ~~his-or-her~~ the individual's account.

Sec. 4. Section ninety-six point three (96.3), subsection seven (7), Code 1979, is amended by striking the subsection and inserting in lieu thereof the following:

7. RECOVERY OF OVERPAYMENT OF BENEFITS. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department cannot recover an overpayment after two years from the last date of the overpayment the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund.

Sec. 5. Section ninety-six point three (96.3), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. BACK PAY. If an individual receives benefits for a period of unemployment and subsequently receives a payment for the same period from the individual's employer in the form of or in lieu of back pay, the benefits shall be recovered. The department, in its discretion, may reach an agreement with the individual and the employer to allow the employer to deduct the amount of the benefits from the back pay and remit a sum equal to that amount to the unemployment compensation fund and the balance to the individual, or may recover the amount of the benefits either by having a sum equal to that amount deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to that amount. If an agreement is reached to allow the employer to deduct the amount of benefits from the back pay and remit that amount to the fund, the

department shall not charge that amount to the employer's account under section ninety-six point seven (96.7) of the Code.

Sec. 6. Section ninety-six point four (96.4), subsection four (4), Code 1979, is amended to read as follows:

4. ~~He-or-she~~ The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work of not less than four hundred dollars in that calendar quarter in ~~his-or-her~~ the individual's base period in which ~~his-or-her~~ the individual's wages were ~~the~~ highest, and ~~also--he--or--she~~ the individual has been paid wages for insured work of not less than two hundred dollars in a calendar quarter in ~~his-or--her~~ the individual's base period other than the calendar quarter in which ~~his-or-her~~ the individual's wages were ~~the~~ highest, ~~and-provided-further-if-he-or-she.~~

If the individual has drawn benefits in any benefit year, ~~he--or--she~~ the individual must during or subsequent to that year, work in and be paid wages in for insured work totaling ~~two-hundred--dollars~~ at least ten times the weekly benefit amount, as a condition to receive benefits in the next benefit year.

Sec. 7. Section ninety-six point four (96.4), subsection five (5), paragraph b, Code 1979, is amended to read as follows:

b. Benefits based on service in employment, defined in section 96.19, subsection 6, and based on service after December 31, 1977 in an instructional, research, or principal administrative capacity for an educational institution operated by a government entity or a nonprofit organization, shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or terms, (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution the second of such academic years or terms, or during a period of paid sabbatical leave, provided for in the individual's contract, and

Sec. 8. Section ninety-six point five (96.5), subsection one (1), paragraph d, Code 1979, is amended to read as follows:

d. ~~He-or-she~~ The individual left ~~his--or--her~~ employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for ~~such~~ absence immediately notified ~~his--or--her~~ the employer, or ~~his-or-her~~ the employer consented to ~~such~~ the absence, and after recovering from ~~such~~ the illness, injury or pregnancy, when recovery ~~is~~ was certified by a licensed and practicing physician, ~~he-or-she~~ the individual returned to ~~his-or-her~~ the employer and offered ~~his--or--her--service~~ to perform services and ~~his--or--her~~ the individual's regular work or comparable suitable work was not available, if so found by the ~~commission~~ department, provided ~~he-or-she~~ the individual is otherwise eligible.

Sec. 9. Section ninety-six point five (96.5), subsection one (1), paragraph g, Code 1979, is amended to read as follows:

g. ~~in--the--case--where--he--or--she~~ The individual left his-or-her work voluntarily without good cause attributable to his-or-her the employer under circumstances which did or would disqualify him-or-her the individual for benefits, except as provided in subsection-1, paragraph "a"7--under of this subsection he--or--she, but subsequent to such the leaving, the individual worked in and was paid wages for insured work for--not--less--than--six consecutive--weeks equal to ten times the individual's weekly benefit amount, provided he--or--she the individual is otherwise eligible.

Sec. 10. Section ninety-six point five (96.5), subsection two (2), Code 1979, is amended to read as follows:

2. DISCHARGE FOR MISCONDUCT. If the department finds that ~~he--or--she the individual~~ has been discharged for misconduct in connection with his--or--her the individual's employment:

a. ~~He--or--she--shall--forfeit--one--to--nine--weeks--benefits~~ The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

b. Provided further, if gross misconduct is established, ~~he--or--she--shall forfeit--from--ten--weeks--benefits--to--the--maximum--amount--payable--in--his--or--her current--benefit--period~~ the department shall cancel the individual's wage credits earned, prior to the date of discharge, from all employers.

c. Gross misconduct is deemed to have occurred after a claimant loses employment as a result of an act constituting an indictable offense in connection with his or her employment, provided the claimant is duly convicted thereof or has signed a statement admitting that he or she has committed such an act. Determinations regarding a benefit claim may be redetermined within five years from the effective date of the claim. Any benefits paid to a claimant prior to a determination that the claimant has lost employment as a result of such act shall not be considered to have been accepted by the claimant in good faith.

Sec. 11. Section ninety-six point five (96.5), subsection three (3), Code 1979, is amended to read as follows:

3. FAILURE TO ACCEPT WORK. If the department finds that ~~he--or--she an individual~~ has failed, without good cause, either to apply for available, suitable work when ~~se~~ directed by the employment office or the ~~commission~~ department or to accept suitable work when offered him--or--her that individual, or to return to his--or--her customary self-employment, if any. The department in cooperation with the employment office shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department, unless the employers refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual from further benefits until regualified. To regualify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work

equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to ~~his-or-her~~ the individual's health, safety, and morals, ~~his-or-her~~ the individual's physical fitness ~~and,~~ prior training, ~~his-or-her-experience-and-prior-earnings,~~ ~~his-or-her~~ length of unemployment, and prospects for securing local work in ~~his--or-her~~ the individual's customary occupation, ~~and~~ the distance of the available work from ~~his-or-her~~ the individual's residence, and any other factor which ~~is~~ the department finds bears a reasonable relation to the purposes of this ~~subsection~~ paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(1) One hundred percent, if the work is offered during the first five weeks of unemployment.

(2) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(3) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(4) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Sec. 12. Section ninety-six point five (96.5), subsection five (5), Code 1979, is amended to read as follows:

5. OTHER COMPENSATION. For any week with respect to which ~~he-or-she~~ the individual is receiving or has received payment in the form of:

a. Wages in lieu of notice, separation allowance, severance pay or dismissal pay;

b. Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States;

c. Old-age benefits under title II of the Social Security Act (42 USC, chapter 7), as amended, or similar retirement payments under any Act of Congress; ~~however-only-fifty-percent-of-the-old-age-benefits-under--title--II-of-the-Social-Security-Act-shall-be-deducted-from-his-or-her-weekly-benefits;~~

d. ~~Benefits--paid-as-retirement-pay-or-as-private-pension~~ A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of the individual.

Provided, that if such remuneration is less than the benefits which would otherwise be due under this chapter, ~~he--or--she~~ the individual shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraphs "a", "b", "c", or "d", of this subsection were paid on a retroactive basis for the same period, or any part thereof, the department shall recover any such excess amount of benefits paid by the department for such period, and no employer's account shall be charged with benefits so paid, provided further, however, that ~~retirement--pay---or~~ compensation for service-connected disabilities or ~~pensions-and~~ compensation for accrued leave based on military service, by the beneficiary, with the armed forces of the United States, irrespective of the amount of the benefit, shall in no way disqualify any individual, otherwise qualified, from any of the benefits contemplated herein.

Sec. 13. Section ninety-six point six (96.6), subsection two (2), Code 1979, is amended to read as follows:

2. INITIAL DETERMINATION. A representative designated by the director shall promptly notify all interested parties to the claim of the filing thereof, and said parties shall have ~~seven~~ ten days from the date of mailing the notice of the filing of said claim by ordinary mail to the last known address to protest payment of benefits to said claimant. The representative shall promptly examine the claim and any protest thereto and, on the basis of the facts found by the representative, shall determine whether or not such claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, and whether any disqualification shall be imposed. Unless the claimant or other interested party, after notification or within ten calendar days after such notification was mailed to the claimant's last known address, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith. If a hearing officer affirms a decision of the representative, or the appeal board affirms a decision of the hearing officer, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no employer's account shall be charged with benefits so paid.

Sec. 14. Section ninety-six point six (96.6), subsection eight (8), Code 1979, is amended to read as follows:

8. JUDICIAL REVIEW. ~~A decision of the appeal board shall become final ten days after the date of notification or mailing thereof. Judicial review of any decision of the appeal board may be sought in accordance with the terms of the Iowa administrative procedure Act.~~ An application for rehearing shall be filed pursuant to section seventeen A point sixteen (17A.16) of the Code. A petition for judicial review of a decision of the department or of the appeal board shall be filed pursuant to section seventeen A point nineteen (17A.19) of the Code. The department may be represented in any such

judicial review proceeding by any qualified attorney who is a regular salaried employee of the department or who has been designated by the department for that purpose, or at the department's request, by the attorney general. Notwithstanding the terms of the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the claimant was last employed or resides, provided that if the claimant does not reside in the state of Iowa the action shall be brought in the district court of Polk county, Iowa, and any other party to the proceeding before the appeal board shall be named in the petition. Notwithstanding the thirty-day requirement in section seventeen A point nineteen (17A.19), subsection six (6) of the Code, the department shall, within sixty days after filing of the petition for judicial review or within a longer period of time allowed by the court, transmit to the reviewing court the original or a certified copy of the entire record of a contested claim. The department may also certify to such courts, questions of law involved in any decision by it. Petitions for judicial review and the questions so certified shall be given precedence over all other civil cases except cases arising under the workers' compensation law of this state. No bond shall be required for entering an appeal from any final order, judgment or decree of the district court to the supreme court.

Sec. 15. Section ninety-six point seven (96.7), subsection three (3), paragraph a, subparagraph two (2), Code 1979, is amended to read as follows:

(2) The amount of regular benefits plus fifty percent of the amount of extended benefits, as determined under section 96.29, paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of ~~such the~~ individual occurred. Provided, that in any case in which ~~a--claimant the~~ individual to whom ~~such the~~ benefits are paid is in the employ of a base period employer at the time ~~he--or--she the individual~~ is receiving ~~such the~~ benefits, and ~~he--or--she the individual~~ is receiving the same employment from ~~such the~~ employer that ~~he--or--she the individual~~ received during ~~his--or--her the individual's~~ base period, then ~~he--charge--of~~ benefits paid to ~~such claimant the individual~~ shall not be made charged against the account of ~~such the~~ employer. No An employer's account shall not be charged with benefit payments made to any individual who ~~quit--such--employment~~ has left the work of the employer voluntarily without good cause attributable to the employer, but shall be charged to the account of the next succeeding employer with whom the individual requalified for benefits as determined under section 96.5, subsection 1, paragraph "g". However, the succeeding employer's account shall first be charged with benefit payments to the individual due to wage credits earned by the individual while employed by the succeeding employer. After exhausting those wage credits, the succeeding employer's account shall not be charged with ten weeks of benefit payments to the individual due to wage credits earned by the individual from a previous employer, but rather the unemployment compensation trust fund shall be charged. After exhausting the ten weeks of noncharging, the succeeding employer's account shall again be charged with benefit payments. Provided further, that an employer's account shall not be charged with benefit payments made to an individual who

has been discharged for misconduct in connection with the individual's employment, and shall not be charged with benefit payments made to an individual after the individual has failed without good cause, either to apply for available, suitable work or to accept suitable work or to return to customary self-employment, but shall be charged to the account of the next succeeding employer with whom the individual requalifies for benefits as determined respectively under section ninety-six point five (96.5), subsections two (2) and three (3) of the Code.

However, with respect to a succeeding employer who employs an individual who has been discharged for misconduct by a previous employer, the succeeding employer's account shall first be charged with benefit payments to the individual due to wage credits earned by the individual while employed by the succeeding employer. After exhausting those wage credits, the succeeding employer's account shall not be charged with ten weeks of benefit payments to the individual due to wage credits earned by the individual from a previous employer, but rather the unemployment compensation trust fund shall be charged. After exhausting the ten weeks of noncharging, the succeeding employer's account shall again be charged with benefit payments.

Sec. 16. Section ninety-six point seven (96.7), subsection three (3), paragraph a, subparagraph three (3), Code 1979, is amended to read as follows:

(3) The amount of regular benefits so charged in any calendar quarter against the account of any employer shall not exceed the amount of such individual's wage credits based on employment with such employer during such quarter. The amount of extended benefits so charged in any calendar quarter against the account of any employer shall not exceed an additional fifty percent of the amount of such individual's wage credits based on employment with such employer during such quarter except that all extended benefits shall be so charged if a government reimbursable employer pays all extended benefits under subsection eight (8), paragraph c of this section.

Sec. 17. Section ninety-six point seven (96.7), subsection three (3), paragraph d, unnumbered paragraph six (6), Code 1979, is amended to read as follows:

Provided, however, that notwithstanding any other provisions of this chapter, the applicable contribution rate table for the calendar years 1978 and 1979 will be table two if the ratio of the current reserve fund ratio to the highest benefit cost rate on the rate computation date is less than 0.75. However, notwithstanding any other provision of this chapter, the applicable contribution rate table for the calendar years 1980 and 1981 shall be table three unless the ratio of the current reserve fund ratio to the highest benefit cost rate on the rate computation date is 1.0 or higher. Provided further that during any rate year in which a rate table in rate tables four through nine is effective an employer assigned a contribution rate under the provisions of this paragraph shall not be required to contribute to the unemployment compensation trust fund if the employer's percentage of excess is seven point five percent or greater for the rate year and the employer has not been charged with benefit payments for any time within the forty calendar quarters immediately preceding the rate computation date for the rate year.

Sec. 18. Section ninety-six point seven (96.7), subsection three (3), Code 1979, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. If an employer has not filed a contribution or payroll quarterly report, as required under section ninety-six point eleven (96.11), subsection seven (7) of the Code, for a calendar quarter which precedes the computation date and upon which the employer's rate of contribution is computed, the employer's average annual taxable payroll shall be computed by adding the taxable wages in the appropriate quarterly reports on file and dividing that sum by the number of years and quarters of years for which quarterly reports are on file.

If a delinquent quarterly report is received by November fifteenth immediately following the computation date the rate of contribution shall be recomputed by using the taxable wages in all the appropriate quarterly reports on file to determine the average annual taxable payroll.

If a delinquent quarterly report is received after November fifteenth following the computation date the rate of contribution shall not be recomputed, unless the rate is appealed in writing to the department under paragraph e of this subsection and the delinquent quarterly report received after November fifteenth is also submitted not later than thirty days after the department notifies the employer of the rate under paragraph e of this subsection.

Sec. 19. Section ninety-six point seven (96.7), subsection four (4), Code 1979, is amended by adding the following new paragraph:

NEW PARAGRAPH. EMPLOYER LIABILITY DETERMINATION. The department shall initially determine all questions relating to the liability of an employing unit or employer, including the amount of contribution, the rate of contribution, and successorship. A copy of the initial determination shall be sent by regular mail to the last address, according to the records of the department, of each affected employing unit or employer.

The affected employing unit or employer may appeal in writing to the department from the initial determination. An appeal shall not be entertained for any reason by the department unless the appeal is filed with the department within thirty days from the date on which the initial determination is mailed. If an appeal is not so filed, the initial determination shall with the expiration of the appeal period become final and conclusive in all respects and for all purposes.

A hearing on an appeal shall be conducted according to the regulations and rules promulgated by the department. A copy of the decision of the hearing officer shall be sent by regular mail to the last address, according to the records of the department, of each affected employing unit or employer.

The department's decision on the appeal shall be final and conclusive as to the liability of the employing unit or employer unless the employing unit or employer files an appeal for judicial review within thirty days after the date of mailing of the decision as provided in subsection six (6) of this section.

Sec. 20. Section ninety-six point seven (96.7), subsection eight (8), paragraph a, Code 1979, is amended to read as follows:

a. A government entity which is an employer under the provisions of this chapter shall make benefit payments in a manner provided for a government reimbursable employer unless the employer elects to pay unemployment compensation benefits as a contributing employer. Government entities may establish a group account as provided in this section. Any election under this subsection to be a government contributing employer shall be effective for a minimum of ~~two~~ one calendar ~~years~~ year and may be changed if an election is made to be a government reimbursable employer prior to December ~~1~~ first for a minimum of the ~~two~~ following calendar ~~years~~ year.

Sec. 21. Section ninety-six point seven (96.7), subsection eight (8), paragraph b, unnumbered paragraph one (1), Code 1979, is amended to read as follows:

For the purposes of this subsection "government contributing employer" means a government entity electing to contribute for a minimum period of ~~two~~ one calendar ~~years~~ year at a contribution rate determined by the department in the following manner:

Sec. 22. Section ninety-six point seven (96.7), subsection eight (8), paragraph b, Code 1979, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. For the calendar year beginning January 1, 1980 the contribution rate shall be computed by the department immediately preceding the rate computation date by using the potential benefit charges of all government contributing employers for calendar year 1978 divided by the total of all taxable wages of government contributing employers for calendar year 1978.

NEW SUBPARAGRAPH. For the calendar year beginning January 1, 1981 and each subsequent year, each government contributing employer with at least eight consecutive calendar quarters immediately preceding the rate computation date throughout which the employer's account has been chargeable with benefit payments, shall be assigned a contribution rate under the provisions of this subparagraph. Contribution rates shall be assigned by listing all such government contributing employers by decreasing percentages of excess from the highest positive percentage of excess to the highest negative percentage of excess. The employers so listed shall be grouped into seven separate percentage of excess ranks each containing as nearly as possible one-seventh of the total taxable wages of government entities eligible to be assigned a rate under this subparagraph. The department shall annually calculate a base rate for each calendar year. The base rate is equal to the sum of the benefit payments charged to government contributing employers in the preceding calendar year at the time of the rate computation plus the difference between the total benefits less contributions made by government contributing employers since January 1, 1980 which sum is divided by the total taxable wages of government contributing employers for the preceding year rounded to the next highest one-tenth of a percentage point. If total contributions since January 1, 1980 exceed total benefit payments for government contributing employers, the difference shall be subtracted from the benefit payments of the preceding year. If benefits since January 1, 1980 exceed total contributions for government contributing employers the difference shall be added to the benefit payment of the preceding year.

Excess contributions for the years 1978 and 1979 will be used to offset benefit payments in any year where total benefit payments exceed total contributions of government contributing employers. The contribution rate as a percentage of taxable wages of the employer shall be assigned as follows:

If the percentage of excess rank is:	The contribution rate shall be:	Approximate cumulative taxable payroll:
1	Base Rate - 0.9	14.3
2	Base Rate - 0.6	28.6
3	Base Rate - 0.3	42.9
4	Base Rate	57.2
5	Base Rate + 0.3	71.5
6	Base Rate + 0.6	85.8
7	Base Rate + 0.9	100.0

If a government contributing employer is grouped into two separate percentage of excess ranks, the employer shall be assigned the lower contribution rate of the two percentage of excess ranks. Notwithstanding the provisions of this subparagraph, a government contributing employer shall not be assigned a contribution rate less than one-tenth of one percent of taxable wages unless the employer has a positive percentage of excess greater than five percent. For the purposes of this subsection percentage of excess has the meaning provided in subsection three (3), paragraph d of this section.

For the calendar year beginning January 1, 1981, government entities electing to be government contributing employers which are not otherwise eligible to be assigned a contribution rate under this subparagraph shall be assigned the base rate for the calendar year as a contribution rate for the calendar year.

Sec. 23. Section ninety-six point eleven (96.11), subsection seven (7), Code 1979, is amended to read as follows:

7. RECORDS AND REPORTS.

a. Each employing unit shall keep true and accurate work records, containing such information as the department may prescribe. Such records shall be open to inspection and be subject to being copied by the department or its authorized representatives at any reasonable time and as often as may be necessary. The director or a duly authorized representative of the department may require from any employing unit any sworn or unsworn reports, with respect to persons employed by the department, employing unit which the director deems necessary for the effective administration of this chapter. ~~Information--thus--obtained--shall--not--be--published--or--be--open--to--public--inspection,--other--than--to--public--employees--in--the--performance--of--their--public--duties--or--to--an--agent--of--the--department--designated--as--such--in--writing--for--the--purpose--of--accomplishing--certain--functions--of--the--department,--in--any--manner--revealing--the--employing--unit's--identity,--but--any--claimant--at--a--hearing--before--a--hearing--officer--or--the--appeal--board--shall--be--supplied--with--information--from--such--records--to--the--extent--necessary--for--the--proper--presentation--of--the--claim.~~

b. (1) The department shall hold confidential the information obtained from an employing unit or individual in the course of administering this

chapter and the initial determinations made by the department's representative under section ninety-six point six (96.6), subsection two (2) of the Code as to the benefit rights of an individual. The department shall not disclose or open this information for public inspection in a manner that reveals the identity of the individual or employing unit, except as provided in subparagraph three (3) of this paragraph and paragraph c of this subsection.

(2) A report or statement, whether written or verbal, made by a person to the department or to a person administering this law is a privileged communication. A person is not liable for slander or libel on account of such a report or statement.

(3) Information obtained from an employing unit or individual in the course of administering this chapter and initial determinations made by the department's representative under section ninety-six point six (96.6), subsection two (2) of the Code as to benefit rights of an individual shall not be used in any action or proceeding except in a contested case proceeding or judicial review under the provisions of chapter seventeen A (17A) of the Code. Information in the department's possession that may affect a claim for benefits or a change in an employer's rating account shall be made available to the affected parties or their legal representatives. Such information may be used by the affected parties in a proceeding under this chapter to the extent necessary for the proper presentation or defense of a claim.

c. Subject to conditions as the department by rule prescribes, information obtained from an employing unit or individual in the course of administering this chapter and initial determinations made by the department's representative under section ninety-six point six (96.6), subsection two (2) of the Code as to benefit rights of an individual may be made available to any of the following:

(1) An agency of this or any other state, or a federal agency responsible for the administration of an unemployment compensation law or the maintenance of a system of public employment offices.

(2) The bureau of internal revenue of the United States department of the treasury.

(3) The Iowa department of revenue.

(4) The social security administration of the United States department of health, education and welfare.

(5) An agency of this or any other state or a federal agency responsible for the administration of public works or the administration of public assistance to unemployed workers.

(6) Colleges, universities and public agencies of this state for use in connection with research of a public nature, provided the department does not reveal the identity of any individual or employing unit.

Information released by the department shall only be used for purposes consistent with the purposes of this chapter.

d. Upon request of an agency of this or another state or of the federal government which administers or operates a program of public assistance under either federal law or the law of this or another state, or which is charged with a duty or responsibility under any such program, and if that agency is

required by law to impose safeguards for the confidentiality of information at least as effective as required under this section, then the department shall provide to the requesting agency, with respect to any named individual specified, any of the following information:

(1) Whether the individual is receiving, has received, or has made application for unemployment compensation under this chapter.

(2) The period, if any, for which unemployment compensation was payable and the weekly rate of compensation paid.

(3) The individual's most recent address.

(4) Whether the individual has refused an offer of employment, and, if so, the date of the refusal and a description of the employment refused, including duties, conditions of employment, and the rate of pay.

e. The department may require an agency that is provided information under this section to reimburse the department for the costs of furnishing the information.

f. Any employee of the department or member of the appeal board who violates any provision of this section shall be ~~fined not less than twenty dollars nor more than two hundred dollars, or imprisoned for not longer than ninety days, or both~~ guilty of a serious misdemeanor.

g. Information subject to the confidentiality of this section shall not be made available to any authorized agency prior to notification in writing to the individual involved, except in criminal investigations.

Sec. 24. Section ninety-six point eleven (96.11), subsection nine (9), Code 1979, is amended to read as follows:

9. SUBPOENAS. In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the ~~appeal-board~~ department, or any member or duly authorized representative thereof, shall have jurisdiction to issue to such person an order requiring such person to appear before the ~~appeal---board,---there~~ department or any member or duly authorized representative thereof to produce evidence if so ordered or ~~there~~ to give testimony touching the matter under investigation or in question; any failure to obey such order of the court may be punished by said court as a contempt thereof.

Sec. 25. Section ninety-six point fourteen (96.14), subsection three (3), Code 1979, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If an amount due from a governmental entity of this state remains due and unpaid for a period of one hundred twenty days after the due date, the director shall take action as necessary to collect the amount and shall levy against any funds due the governmental entity from the state treasurer, director of the department of revenue, or any other official or agency of this state or against an account established by the entity in any bank. The official, agency or bank shall deduct the amount certified by the director from any accounts or deposits or any funds due the delinquent governmental entity without regard to any prior claim and shall promptly forward the amount to the director for the fund. However, the

director shall notify the delinquent entity of the director's intent to file a levy by certified mail at least ten days prior to filing the levy on any funds due the entity from any state official or agency.

Sec. 26. Section ninety-six point sixteen (96.16), subsection one (1), Code 1979, is amended to read as follows:

1. PENALTIES. ~~Whoever~~ An individual who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for ~~himself-or-herself~~ the individual or for any other ~~person~~ individual, ~~shall-be~~ is guilty of a fraudulent practice as defined in section seven hundred fourteen point eight (714.8) through seven hundred fourteen point fourteen (714.14) of the Code. ~~Each--such--false--statement--or representation--or--failure--to--disclose--a--material--fact--shall--constitute--a separate--offense.~~ The total amount of benefits or payments involved in the completion of or in the attempt to complete a fraudulent practice shall be used in determining the value involved under section seven hundred fourteen point fourteen (714.14) of the Code.

Sec. 27. Section ninety-six point sixteen (96.16), subsection two (2), Code 1979, is amended to read as follows:

2. FALSE STATEMENT. Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto, or to avoid or reduce any contribution or other payment required from an employing unit under this chapter, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, ~~shall-be~~ is guilty of a fraudulent practice, ~~and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal, shall constitute a separate offense~~ as defined in sections seven hundred fourteen point eight (714.8) through seven hundred fourteen point fourteen (714.14) of the Code. The total amount of benefits, contributions or payments involved in the completion of or in the attempt to complete a fraudulent practice shall be used in determining the value involved under section seven hundred fourteen point fourteen (714.14) of the Code.

Sec. 28. Section ninety-six point sixteen (96.16), subsection four (4), Code 1979, is amended to read as follows:

4. MISREPRESENTATION. ~~Any person~~ An individual who, by reason of the nondisclosure or misrepresentation by ~~him--or--her~~ the individual or by another, of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in ~~his-or-her~~ the individual's case, or while ~~he or she~~ the individual was disqualified from receiving benefits, shall, in the discretion of the department, either be liable to have ~~such~~ the sum deducted from any future benefits payable to ~~him-or-her~~ the individual under this chapter or shall be liable to repay to the department for the unemployment

compensation fund, a sum equal to the amount so received by ~~him or her, and such sum shall be collectible in the manner provided in section 96.14, subsection 3, for the collection of past due contributions~~ the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past due contributions in section ninety-six point fourteen (96.14), subsection three (3) of the Code.

Sec. 29. Section ninety-six point nineteen (96.19), subsection six (6), paragraph a, subparagraph seven (7)(a), Code 1979, is amended to read as follows:

(7)(a) A person in agricultural labor when such labor is performed for an employing unit which during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor excluding labor performed before January 1, 1980, by an alien referred to in this subparagraph; or on each of some twenty days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor for some portion of the day ten or more individuals, excluding labor performed before January 1, 1980, by an alien referred to in this subparagraph; and such labor is not agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(~~++~~)(H) of the Immigration and Nationality Act, 8 U.S.C. s. 1184(c), 1101(a)(15)(H) (1976).

Sec. 30. Section ninety-six point nineteen (96.19), subsection twelve (12), Code 1979, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A separation allowance, severance pay or dismissal pay.

Sec. 31. Section ninety-six point nineteen (96.19), subsection twenty-eight (28), Code 1979, is amended to read as follows:

28. There is a state "on" indicator for a week if the rate of insured unemployment under the state law for the period consisting of such week and the immediately preceding twelve weeks+

~~a. --Equalled or exceeded five percent, or~~

~~b. ---Equalled~~ equalled or exceeded four percent and equalled or exceeded one hundred twenty percent of the average of ~~these~~ the rates for the corresponding thirteen-week period ending in each of the two preceding ~~two~~ calendar years.

Sec. 32. Section ninety-six point nineteen (96.19), subsection twenty-nine (29), Code 1979, is amended to read as follows:

29. There is a state "off" indicator for a week if, for the period consisting of ~~such~~ the week and the immediately preceding twelve weeks, the rate of insured unemployment under the state law was+

~~a. --Less~~ less than four percent, or

~~b.---Less~~ less than ~~five-percent-and-less-than~~ one hundred twenty percent of the average of ~~these~~ the rates for thirteen weeks ending in each of the two preceding calendar years, except that, notwithstanding any ~~such~~ provision of this subsection, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator.

Sec. 33. Section six hundred twenty-six point twenty-nine (626.29), Code 1979, is amended to read as follows:

626.29 DISTRESS WARRANT BY DIRECTOR OF REVENUE OR DIRECTOR OF JOB SERVICE. In the service of a distress warrant issued by the director of revenue for the collection of income tax, sales tax, freight line and equipment car tax or use tax or in the service of a distress warrant issued by the director of job service for the collection of employment security contributions, the property of the taxpayer or the employer in the possession of another, or debts due ~~him~~ the taxpayer or the employer, may be reached by garnishment.

Sec. 34. Section ninety-six point five (96.5), subsection seven (7), paragraph d, Code 1979, is repealed.

Sec. 35. This Act is effective July 1, 1979.

Approved June 8, 1979

CHAPTER 34

PUBLIC RETIREMENT SYSTEMS BENEFITS

S. F. 489

AN ACT relating to administration and benefits of certain public retirement systems and to make an appropriation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section ninety-seven A point one (97A.1), subsection nineteen (19), Code 1979, is amended by striking the subsection.

Sec. 2. Section ninety-seven A point six (97A.6), subsection fourteen (14), paragraph a, unnumbered paragraph one (1), Code 1979, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

As of the first of July of each year for members who retire on or after July 1, 1979, the monthly pensions authorized in this section payable to retired members and to beneficiaries, except children of a deceased member, shall be adjusted as provided in this paragraph. An amount equal to the following percentages of the difference between the monthly earnable compensation received by an active member of the department, of the same rank and position on the salary scale as was held by the retired or deceased member at the time of the member's retirement or death, for July of the