STATE OF IOWA

1977

Iowa Employment Security Law

Administered by the
IOWA DEPARTMENT OF JOB SERVICE

1977

IOWA EMPLOYMENT SECURITY LAW

Including Revisions by the
Sixty-seventh General Assembly

Administered by the
IOWA DEPARTMENT OF JOB SERVICE
1000 EAST GRAND
DES MOINES, IOWA 50319

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Director

Administrative Rules of the Iowa Department of Job Service are available through the office of the Director of Staff Services or may be viewed at the administrative or any local office of Job Service.

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CHAPTER 96

Employment Security

SHORT TITLE

96.1 Name.

This chapter shall be known and may be cited as the "Iowa Employment Security Law." (C39, section *1551.07*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.1)

DECLARATION OF STATE PUBLIC POLICY

96.2 Guide for interpretation.

As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his or her family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own. (C39, section *1551.08*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.2; 66GA, ch 92, section 35)

BENEFITS

96.3 How paid and amounts.

1. *Payment.* Twenty-four months after the date when contributions first accrue under this chapter, benefits shall become payable from the fund; provided, that wages earned for services defined in section 96.19, subsection 7, paragraph "*g*" (3), irrespective of when performed, shall not be included for purposes of determining eligibility, under section 96.4 or full-time weekly wages, under subsection 4 of this section, for the purposes of any benefit year commencing on or after July 1, 1939, nor shall any benefits with respect to unemployment occurring on and after July 1, 1939, be payable under subsection 5 of this section on the basis of such wages. All benefits shall be paid through employment offices in accordance with such regulations as the department of job service may prescribe.

2. *Total unemployment.* Each eligible individual who is totally unemployed in any week shall be paid with respect to such week benefits in an amount which shall be equal to his or her weekly benefit amount.

3. *Partial unemployment.* Each individual who is partially unemployed in any week as defined in section 96.19, subsection 10, paragraph "*b*", and who meets the conditions of eligibility for benefits shall be paid with respect to such week an amount equal to that individual's weekly benefit amount less fifty percent of that part of wages payable to him or her with respect to such week in excess of fifteen dollars. Such benefits shall be rounded to the higher multiple of one dollar.

4. *Determination of benefits.* With respect to benefit years beginning on or after July 1, 1975, 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 total wages in insured work paid during that quarter of his or her base period in which such total wages were highest, subject to the following limitation: The director shall determine annually a maximum weekly benefit amount by computing sixty-six and two-thirds percent 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. Such maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the higher multiple of one dollar.

For the purposes of this subsection statewide average weekly wage means the amount computed by the director at least once a year on the basis of the aggregate amount of wages reported by employers in each preceding twelve-month period ending on December 31 and divided by the figure that results from fifty-two times the average of mid-month employment reported by employers for the same period. In determining the aggregate amount of wages paid statewide, the director shall disregard any limitation on the amount of wages subject to contributions under state law.

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 account during his or her base period, or twenty-six times his or her 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 account with one-half of the wages for insured work paid him or her during his or her base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in his or her 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 the maximum benefits payable shall be extended to thirty-nine times his or her weekly benefit amount, but not to exceed the total of the wage credits accrued to his or her account.

Referred to in section 96.20 (2)

6. *Part-time workers.*

a. As used in this subsection the term "part-time worker" means an individual whose normal work is in an occupation in which his or her services are not required for the customary scheduled full-time hours prevailing in the establishment in which he or she is employed, or

who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which he or she is employed.

b. The director shall prescribe fair and reasonable general rules applicable to part-time workers, for determining their full-time weekly wage, and the total wages in employment by employers required to qualify such workers for benefits. (C39, section *1551.09*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.3; 66GA, ch 92, sections 1-3, 35, ch 1068, sections 4, 39)

Referred to in sections 85.31, 85.34 (2, 3), 85.36, 85.37, 96.19 (13), 96.20 (2)

BENEFIT ELIGIBILITY CONDITIONS

96.4 Required findings.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

1. He or she has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the department may prescribe. The provisions of this subsection shall be waived if the individual is deemed temporarily unemployed as defined in section 96.19, subsection 10, paragraph "*c*".

2. He or she has made a claim for benefits in accordance with the provisions of section 96.6, subsection 1.

3. He or she is able to work, is available for work, and is earnestly and actively seeking work. The provision of this subsection shall be waived if he or she is deemed temporarily unemployed as defined in section 96.19, subsection 10, paragraph "*c*".

4. He or she has been paid wages for insured work of not less than four hundred dollars in that calendar quarter in his or her base period in which his or her wages were the highest, and also he or she has been paid wages for insured work of not less than two hundred dollars in a calendar quarter in his or her base period other than the calendar quarter in which his or her wages were the highest; and provided further if he or she has drawn benefits in any benefit year, he or she must during or subsequent to that year, be paid wages in insured work totaling two hundred dollars as a condition to receive benefits in the next benefit year.

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section ninety-six point nineteen (96.19), subsection six (6) of the Code, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave, provided for in the individual's contract if the individual has a contract or contracts to perform

services in any such capacity for any institution or institutions of higher education for both such academic years or both such terms.

b. Benefits based on service in employment, defined in section ninety-six point nineteen (96.19), subsection six (6) of the Code, 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, and

c. With respect to services in any other capacity for an educational institution (other than an institution of higher education) after December 31, 1977, benefits shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms.

d. With respect to any services performed after July 1, 1977, in any capacity for an educational institution other than an institution of higher education, compensation payable on the basis of such services shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such service in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such service in the period immediately following such vacation period or holiday recess.

e. With respect to services performed after December 31, 1977, in an instructional, research, or principal administrative capacity in an institution of higher education, compensation payable on the basis of such services shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

6. Notwithstanding any other provisions in this subsection, no otherwise eligible individual shall be denied benefits for any week because he or she is in training with the approval of the director, nor shall such individual be denied benefits with respect to any week in which he or she is in training with the approval of the director by reason of the application of the provision in

subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However no employer's account shall be charged with benefits so paid. (C39, section *1551.10*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.4; 66GA, ch 67, section 10, ch 92, sections 4, 35, ch 1068, sections 5, 6, 39, 40)

Referred to in sections 96.3, 96.19(13), 96.20(2), 239.2

DISQUALIFICATION FOR BENEFITS

96.5 Causes.

An individual shall be disqualified for benefits:

1. *Voluntary quitting.* If he or she has left his or her work voluntarily without good cause attributable to his or her employer, if so found by the department. But he or she shall not be disqualified if the department finds that:

a. He or she left his or her employment in good faith for the sole purpose of accepting other employment, which he or she did accept, and that he or she remained continuously in said new employment for not less than six weeks. Wages earned with the employer that he or she has left shall, for the purpose of computing and charging benefits, be deemed wages earned from the employer with whom the individual accepted other employment and benefits shall be charged to the employer with whom he or she accepted other employment. The department shall advise the chargeable employer of the name and address of the former employer, the period covered, and the extent of benefits which may be charged to the account of the chargeable employer. In those cases where the new employment is in another state, no employer's account shall be charged with benefits so paid except that employers who are required by law or by their election to reimburse the fund for benefits paid shall be charged with benefits under this paragraph. In those cases where he or she left his or her employment in good faith for the sole purpose of accepting better employment, which he or she did accept and such employment is terminated by the employer, or he or she is laid off after one week but prior to the expiration of six weeks, the claimant, provided he or she is otherwise eligible under this chapter, shall be eligible for benefits and such benefits shall not be charged to any employer's account.

b. He or she has been laid off from his or her regular employment and has sought temporary employment, and has notified his or her temporary employer that he or she expected to return to his or her regular job when it became available, and the temporary employer employed him or her under these conditions, and the worker did return to his or her regular employment with his or her regular employer as soon as it was available.

c. He or she left his or her employment for the necessary and sole purpose of taking care of a member of his or her immediate family who was then injured or ill, and if after said member of his or her family sufficiently recovered, he or she immediately returned to and offered his or her services to his or her employer, provided, however, that during such period he or she did not accept any other employment.

d. He or she 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 employer, or his or her employer consented to such absence, and after recovering from such illness, injury or pregnancy when recovery is certified by a licensed and practicing physician, he or she returned to his or her employer and offered his or her service and his or her regular work or comparable suitable work was not available, if so found by the commission, provided he or she is otherwise eligible.

e. He or she left his or her employment upon the advice of a licensed and practicing physician, for the sole purpose of taking a member of his or her family to a place having a different climate, during which time he or she shall be deemed unavailable for work, and notwithstanding during such absence he or she secures temporary employment, and returned to his or her regular employer and offered his or her services and his or her regular work or comparable work was not available, provided he or she is otherwise eligible.

f. He or she is the principal support of his or her family, or is a widow, widower, legally separated from his or her spouse, or a single person, and he or she left his or her employing unit for not to exceed ten working days, or such additional time as may be allowed by his or her employer, for compelling personal reasons (if so found by the department), and prior to such leaving had informed his or her employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist he or she returned to his or her employer and offered his or her services and his or her regular or comparable work was not available, provided he or she is otherwise eligible; except that during the time he or she is away from his or her work because of the continuance of such compelling personal reasons, he or she shall not be eligible for benefits.

g. In the case where he or she left his or her work voluntarily without good cause attributable to his or her employer under circumstances which did or would disqualify him or her for benefits, except as provided in subsection 1, paragraph "*a*", under this subsection he or she, subsequent to such leaving, worked in and was paid wages for insured work for not less than six consecutive weeks, provided he or she is otherwise eligible.

h. "Principal support" shall mean exclusive of the earnings of any child of the wage earner.

Referred to in section 96.7(3a), 96.22

2. *Discharge for misconduct.* If the department finds that he or she has been discharged for misconduct in connection with his or her employment:

a. He or she shall forfeit one to nine weeks benefits.

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.

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

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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.

3. *Failure to accept work.* If the department finds that he or she has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the commission or to accept suitable work when offered him or her, or to return to his or her customary self-employment, if any.

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 health, safety, and morals, his or her 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 customary occupation, and the distance of the available work from his or her residence, and any other factor which it finds bears a reasonable relation to the purposes of this subsection.

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.

4. *Labor disputes.* For any week with respect to which the department finds that his or her total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he or she is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the department that:

a. He or she is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

b. He or she does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

5. *Other compensation.* For any week with respect to which he or she is receiving or has received payment in the form of:

a. Wages in lieu of notice;

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.

Provided, that if such remuneration is less than the benefits which would otherwise be due under this chapter, he or she 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.

6. *Benefits from other state.* For any week with respect to which or a part of which he or she has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States, provided that if the appropriate agency of such other state or of the United States finally determines that he or she is not entitled to such unemployment benefits, this disqualification shall not apply.

7. *Vacation pay.*

a. When an employer makes a payment or becomes obligated to make a payment to an individual for vacation pay, or for vacation pay allowance, or as pay in lieu of vacation, such payment or amount shall be deemed "wages" as defined in section 96.19, subsection 12, and shall be applied as provided in paragraph "*c*" hereof.

b. Whenever, in connection with any separation or layoff of an individual, his or her employer makes a payment or payments to him or her, or becomes obligated to make such payment to him or her as, or in the nature of, vacation pay, or vacation pay allowance, or as pay in lieu of vacation, and within seven calendar days after notification of the filing of his or her claim designates by notice in writing to the department the period to which such payment shall be allocated; provided, that if such designated period is extended by the employer, he or she

may again similarly designate an extended period, by giving notice thereof in writing to the commission not later than the beginning of the extension of such period, with the same effect as if such period of extension were included in the original designation. The amount of any such payment or obligation to make payment, shall be deemed "wages" as defined in section 96.19, subsection 12, and shall be applied as provided in paragraph "*c*" of this subsection 7.

c. Of the wages described in paragraph "*a*" (whether or not the employer has designated the period therein described), or of the wages described in paragraph "*b*", if the period therein described has been designated by the employer as therein provided, a sum equal to the wages of such individual for a normal workday shall be attributed to, or deemed to be payable to him or her with respect to, the first and each subsequent workday in such period until such amount so paid or owing is exhausted. Any individual receiving or entitled to receive wages as provided herein shall be ineligible for benefits for any week in which the sums, so designated or attributed to such normal workdays, equal or exceed his or her weekly benefit amount. If the amount so designated or attributed as wages is less than the weekly benefit amount of such individual, his or her benefits shall be reduced by such amount.

d. Notwithstanding the provisions of paragraphs "*a*", "*b*" and "*c*" of this subsection, if an individual is separated from employment and is scheduled to receive vacation payments during the period of unemployment attributable to the employer and if the individual is not scheduled to return to work within a period of four consecutive weeks or less then payments made by an employer to an individual or an obligation to make a payment by an employer to an individual for vacation pay, vacation pay allowance or pay in lieu of vacation for any period in excess of one week shall not be deemed wages as defined in section 96.19, subsection 12, and such payments in excess of that amount received for one week or the value of such obligations for one week shall not be deducted from the unemployment benefits an employee is otherwise entitled to receive under this chapter.

8. *Administrative penalty.* If the department finds that, with respect to any week of an insured worker's unemployment for which such person claims credit or benefits, such person has, within the thirty-six calendar months immediately preceding such week, with intent to defraud by obtaining any benefits not due under this chapter, willfully and knowingly made a false statement or misrepresentation, or willfully and knowingly failed to disclose a material fact; such person shall be disqualified for the week in which the department makes such determination, and forfeit all benefit rights under the unemployment compensation law for a period of not more than the remaining benefit period as determined by the department according to the circumstances of each case. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter. (C39, section *1551.11*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.5; 66GA, ch 92, sections 5-11, 35, ch 1068, sections 7, 8, 9, 40, ch 1084, section 43)

Referred to in sections 96.4, 96.7(3A), 96.19(10), 96.22

9. *Athletes disqualified.* Services performed by an individual, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons or similar periods, if such individual performs such services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such season or similar periods.

10. *Aliens disqualified.* For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purpose of performing such services or was permanently residing in the United States; under color of law, including an alien who is lawfully present in the United States as a result of the application of the provisions of section two hundred three (a) seven (203 (a) (7)) or section two hundred twelve (d) five (212 (d) (5)) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence.

CLAIMS FOR BENEFITS

96.6 Filing—determination—appeal.

1. *Filing.* Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Referred to in sections 96.4(2), 96.19(16)

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 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.

Referred to in section 96.7(3)

3. *Appeals.* Unless such appeal is withdrawn, a hearing officer, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. The parties shall be duly notified of the hearing officer's decision, together with the hearing officer's reasons therefor, which shall be deemed to be the final decision of the department, unless within fifteen days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection 5 of this section.

4. *Appeal board.* To hear and decide disputed claims, there is established an appeal board. The appeal board shall consist of three members appointed by the governor with the approval of two-thirds of the members of the senate. One member shall be a representative of employers, one member shall be a representative of employees, and one member who shall be impartial and shall represent the general public. The member shall serve six-year terms beginning on July 1. For the initial board, the member representing employers shall serve a two-year term, the member representing employees shall serve a four-year term; and the member representing the general public shall serve a term of six years. No more than two members of the appeal board shall be members of the same political party. Any vacancy in the membership occurring during a session of the general assembly shall be filled in the same manner as the original appointment. Any vacancy in the membership occurring while the general assembly is not in session shall be filled by appointment by the governor which appointment shall expire thirty days after the general assembly next convenes. Within the thirty-day period, the governor shall transmit an appointment to the senate.

The members of the appeal board shall select a chairperson and vice chairperson from their membership.

The appeal board shall meet as often as deemed necessary, but not less than one time per month. Meetings shall be set by a majority of the appeal board or upon the call of the chairperson and vice chairperson.

Members of the appeal board shall each be paid twenty-one thousand seven hundred fifty dollars annually until July 1, 1978 and shall receive actual and necessary expenses. Thereafter each member shall be paid forty dollars per day for each day of official business of the appeal board and shall receive actual and necessary expenses, including travel, from funds appropriated to the department.

5. *Appeal board review.* The appeal board may on its own motion affirm, modify, or set aside any decision of a hearing officer on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of a hearing officer and by the representative whose decision has been overruled or modified by the hearing officer. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

6. *Procedure.* The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the department under chapter 17A. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed. The record shall be retained for sixty days following the final date for appeal of a disputed claim and may be destroyed thereafter.

7. *Witness fees.* Witnesses subpoenaed pursuant to this section shall be allowed fees and necessary traveling expenses at a rate fixed by the director, which fees shall be charged to the unemployment compensation administration fund of the department.

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. 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. 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. (C39, section *1551.12*, C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.6; 66GA, ch 92, section 12, 35, ch 1068, sections 10, 11, 12, 40 ch 1084, section 43)

Referred to in sections 96.4, 96.7(3), 96.19(16), 97B.27
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CONTRIBUTIONS

96.7 Payment—rates.

1. *Payment.*

a. On and after July 1, 1936, contributions shall accrue on all taxable wages paid by an employer for insured work.

b. Such contributions shall become due and be paid to the department for the fund at such times and in such manner as the director by regulation prescribes.

c. In the payment of any contribution the fractional part of a cent shall be disregarded unless it amounts to one-half cent or more in which case it shall be increased to one cent.

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d. Contributions required from an employer shall not be deducted in whole or in part from the wages paid to individuals in his employ.

Referred to in section 96.19(21)

2. *Rate of contribution by employers.* Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

a. One and eight-tenths percent with respect to employment for the six months' period beginning July 1, 1936, provided that if the total of such contributions at such one and eight-tenths percent rate equals less than nine-tenths of one percent of the annual payroll of any employer for the calendar year 1936, such employer shall pay, at such time as the department shall prescribe, an additional lump-sum contribution with respect to employment for such six months' period beginning July 1, 1936, equal to the difference between nine-tenths of one percent of his or her annual payroll for the calendar year 1936 and the total of his or her contributions at such one and eight-tenths percent rate for such six months' period beginning July 1, 1936, and provided further that in no event shall employer's contributions at such one and eight-tenths percent rate exceed nine-tenths of one percent of his annual payroll for the calendar year 1936;

b. One and eight-tenths percent with respect to employment in the calendar year 1937;

c. Two and seven-tenths percent with respect to employment during the calendar years 1938, 1939, 1940; and

d. Two and seven-tenths percent of wages paid by him or her during the calendar year 1941, and during each calendar year thereafter, with respect to employment occurring after December 31, 1940, except as may be otherwise prescribed in subsection 3 of this section.

Referred to in section 96.19(21)

3. *Future rates based on benefit experience.*

a. (1) The department shall maintain a separate account for each employer and shall credit his or her account with all contributions which he or she has paid or which have been paid on his behalf.

(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 individual occurred. Provided, that in any case in which a claimant to whom such benefits are paid is in the employ of a base period employer at the time he or she is receiving such benefits, and he or she is receiving the same employment from such employer that he or she received during his or her base period, then no charge of benefits paid to such claimant shall be made against the account of such employer. No employer's account shall be charged with benefit payments made to any individual who quit such employment, 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*".

(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.

(4) The director shall by general rule prescribe the manner in which benefits shall be charged against the accounts of several employers for whom an individual performed employment during the same calendar quarter.

(5) Nothing in this chapter shall be construed to grant any employer or the individuals in his or her service prior claims or rights to the amounts paid by him or her into the fund either on his or her own behalf or on behalf of such individuals.

(6) As soon as practicable after the close of each calendar quarter, and in any event within forty days after the close of such quarter, the department shall notify each employer of the amount that has been charged to the employer's account for benefits paid during such quarter. This statement to the employer shall show the name of each claimant to whom such benefit payments were made, the claimant's social security number, and the amount of benefits paid to such claimant. Any employer who has not been notified as provided in section 96.6, subsection 2, of the allowance of benefits to such claimants may within thirty days after the receipt of such statement appeal to the director for a hearing to determine the eligibility of the claimant to receive such benefits. The director shall refer the same to a hearing officer for hearing and both the employer and the claimant shall receive notice of the time and place of such hearing.

(7) Any employer may at any time make voluntary payments to his or her account in excess of the other requirements of this chapter, and all such payments shall be considered on any computation date as contributions required under the provisions of this chapter if they are paid by the employer not later than the next December fifteenth after such computation date. Voluntary contributions shall not exceed the maximum voluntary contribution. For the purposes of this subparagraph "maximum voluntary contribution" shall equal an amount sufficient to lower the rate of contribution of an employer to the lower rate of contribution assigned in the next lower percentage of excess rank. Provided that an employer shall not contribute an amount sufficient to reduce the rate of contribution of the employer to a zero contribution rate.

b. In any case in which the enterprise or business for which contributions have been paid has been sold or otherwise transferred to a subsequent employing unit, or in any case in which one or more employing units have been reorganized or merged into a single employing unit and the successor employer continues to operate such enterprise, such successor employer shall assume the posi-

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tion of the predecessor employer or employers with respect to such predecessors' payrolls, contributions, accounts and contribution rates to the same extent as if there had been no change in the ownership or control of such enterprise or business.

In any case in which a clearly segregable and identifiable part of an enterprise or business for which contributions have been paid has been sold or otherwise transferred to a subsequent employing unit, and such successor employing unit having qualified as an "employer" as defined under section 96.19, subsection 5, paragraph "*b*", continues to operate such enterprise or business, such successor shall assume the position of the predecessor employer with respect to such predecessor's payrolls, contributions, accounts and contribution rates which are attributable to the part of the enterprise or business transferred to the same extent as if there has been no change in the ownership or control of such enterprise or business.

The contribution rate to be assigned to the acquiring employer for the period beginning not earlier than the date of the transfer and ending not later than the next following effective date of contribution rates, shall be the contribution rate applicable to the transferring employer with respect to the period immediately preceding the date of the transfer, provided that the acquiring employer was not, prior to the transfer, a subject employer, and only one transferring employer, or only transferring employers having identical rates, are involved; or a newly computed rate based on the experience of the transferring employer attributable to the part of the business transferred to the acquiring employer combined with the experience of the acquiring employer as of the last computation date.

The contribution rate to be assigned to the acquiring employer for the next following regular rate year, is a contribution rate based on the experience of the acquiring employer and only so much of the experience of the transferring employer as is attributable to the part of the business transferred.

Provided, however, that application for such transfer of partial record is made within sixty days from the date of transfer and meets the approval of the predecessor and the director, and provided further that such partial record shall include sufficient information for the proper administration of this chapter with respect to payment of unemployment benefits and computation of future rates based on benefit experience.

In determining each employer's rate of contribution for the calendar year 1945, and for each year thereafter, such employer shall be given full credit for the payrolls, contributions, accounts and contribution rates of his or her predecessor employer or employers to the same extent as if there had been no change in the organization or the ownership of the business. Provided, that in any case in which such sale, transfer, merger or reorganization has taken place in any year after the predecessor employer's rate of contribution (hereafter called rate) has been determined for such year the employer's rate for the remainder of such year, shall, upon his or her application to the department be determined in the following manner:

(1) If the successor employer has no rate or if he or she has a rate and it is the same rate as that of his or her predecessor employer or employers, their rates being the same rate, his or her rate shall be that of the predecessor employer or employers.

(2) If the rate or rates of the predecessor employers are not the same rate, and that of the successor employer if he or she has a rate is not the same rate as that of the predecessor employer then the rate of the successor employer shall be redetermined under the combined experience of the predecessor employer or employers and the successor employers.

Referred to in section 96.8(4)

c. Each contributing employer's rate of contribution shall be two and seven-tenths percent except as otherwise provided in this chapter. No reduced rate of contribution shall be granted to a contributing employer until there shall have been twelve consecutive calendar quarters immediately preceding the first computation date throughout which his or her account has been chargeable with benefit payments. Provided, that with respect to the calendar year commencing January 1, 1972, and each calendar year thereafter, except as provided in paragraph "*d*" of this subsection, a contributing employer who has not been subject to this chapter for a sufficient period of time to meet the twelve-quarter requirement shall qualify for a computed rate of contribution if there shall have been a lesser period throughout which his or her account has been chargeable, but in no event less than eight consecutive calendar quarters immediately preceding the computation date; provided further, that with respect to the calendar years commencing January 1, 1972, and ending December 31, 1977, except as provided in paragraph "*d*" of this subsection, each contributing employer newly subject to this chapter shall pay contributions at the rate of one and five-tenths percent and beginning January 1, 1978 at the rate specified in the ninth percentage of excess rank but not less than one point eight percent until the end of the calendar year in which the employer shall have had eight consecutive calendar quarters immediately preceding the computation date throughout which his or her account has been chargeable with benefit payments, thereafter his or her contribution rate shall be determined in accordance with paragraph "*d*" of this subsection.

d. The department shall determine the rate table to be in effect for the rate year following the rate computation date, by determining the ratio of the current reserve fund ratio to the highest benefit cost rate on the rate computation date.

(1) The current reserve fund ratio shall be computed by dividing the total trust funds available for payment of benefits, on the rate computation date, by the total wages paid in covered employment excluding reimbursable employment wages during the first four calendar quarters of the five calendar quarters immediately preceding the rate computation date.

(2) The highest benefit cost rate shall be the highest of the resulting ratios computed by dividing the total benefit payments, excluding reimbursable benefit pay-

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ments, during each consecutive twelve-month period, during the ten-year period ending on the rate computation date, by the total wages, excluding reimbursable employment wages, paid in the four calendar quarters ending nearest and prior to the last day of such twelve-month period.

If the current reserve fund ratio, divided by the highest benefit cost rate:

Equals or exceeds	But is less than	The contribution rate table in effect shall be
0.0	0.5	1
0.5	0.75	2
0.75	1.0	3
1.0	1.5	4
1.5	1.9	5
1.9	2.3	6
2.3	2.7	7
2.7	3.0	8
3.0	—	9

The term "percentage of excess" means a number computed to six decimal places on July first of each year obtained by dividing the excess of all contributions attributable to an employer over the sum of all benefits charged to an employer by the employer's average annual payroll. An employer's percentage of excess is a positive number when the total of all contributions paid to an employer's account for all past periods to and including those for the quarter immediately preceding the rate computation date exceeds the total benefits charged to such account for the same period. An employer's percentage of excess is a negative number when the total of all contributions paid to an employer's account for all past periods to and including those for the quarter immediately preceding the rate computation date is less than the total benefits charged to such account for the same period.

Each employer qualified for an experience rating shall be assigned a contribution rate for each rate year that corresponds to the employer's percentage of excess rank in the rate table effective for the rate year from the following rate tables. Each employer's percentage of excess rank shall be computed by listing all the employers by decreasing percentages of excess, from the highest positive percentage of excess to the highest negative percentage of excess and grouping the employers so listed into twenty-one separate ranks containing as nearly as possible four point seventy-six percent of the total taxable wages, excluding reimbursable employment wages, paid in covered employment during the first four completed calendar quarters immediately preceding the rate computation date. If an employer's taxable wages qualify the employer for two separate percentage of excess ranks the employer shall be afforded the percentage of excess rank assigned the lower contribution rate. Employers with identical percentages of excess shall be assigned to the same percentage of excess rank.

Provided, however, that notwithstanding any other provision of this chapter, any employer which employs individuals for construction as defined by the department pursuant to rules, that has not qualified for an experience rating shall pay four point zero percent in the calendar year 1968 through the calendar year 1977 and be assigned to the rate specified in the twenty-first percentage of excess rank for the rate year beginning January 1, 1978 and every year thereafter until such time as the employer has qualified for an experience rating. However, such employer shall not qualify for an experience rating until there shall have been twelve consecutive calendar quarters immediately preceding the rate computation date throughout which his account has been chargeable with benefit payments.

On or before the fifth day of September immediately

Contribution Rate Tables

Percentage of Excess Rank	Approximate Cumulative Taxable Payroll Limit	1	2	3	4	5	6	7	8	9
1	4.8%	.8	.6	0	0	0	0	0	0	0
2	9.5%	1.0	.7	.5	.3	0	0	0	0	0
3	14.3%	1.2	.8	.6	.5	.4	0	0	0	0
4	19.0%	1.4	1.0	.7	.6	.5	.3	0	0	0
5	23.8%	1.6	1.2	.8	.8	.6	.4	.2	0	0
6	28.6%	1.8	1.4	1.0	.9	.7	.5	.2	.1	0
7	33.3%	2.0	1.6	1.2	1.0	.8	.6	.3	.2	.1
8	38.1%	2.3	1.8	1.4	1.1	.9	.7	.4	.2	.1
9	42.8%	2.6	2.0	1.6	1.2	1.0	.8	.5	.3	.2
10	47.6%	2.9	2.3	1.8	1.3	1.1	.9	.6	.4	.2
11	52.4%	3.2	2.6	2.1	1.5	1.2	1.0	.7	.5	.2
12	57.1%	3.5	2.9	2.5	1.7	1.3	1.1	.8	.6	.2
13	61.9%	3.8	3.3	2.8	2.0	1.5	1.3	.9	.7	.3
14	66.6%	4.2	3.7	3.1	2.4	1.7	1.5	1.1	.9	.5
15	71.4%	4.6	4.1	3.5	2.9	1.9	1.7	1.3	1.0	.5
16	76.2%	5.0	4.5	3.9	3.4	2.3	1.9	1.7	1.0	.7
17	80.9%	5.5	5.0	4.4	4.0	3.0	2.5	2.0	1.5	.8
18	85.7%	6.0	5.5	5.0	4.5	3.7	3.1	2.5	2.0	1.0
19	90.4%	6.0	6.0	5.5	5.0	4.4	3.8	3.2	2.5	1.8
20	95.2%	6.0	6.0	6.0	5.5	5.0	4.5	4.0	3.0	2.5
21	100.0%	6.0	6.0	6.0	6.0	5.5	5.0	4.5	4.0	4.0

preceding the next following rate period the department shall make available to employers the table which will apply to the contribution rates in the following rate year.

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. 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.

e. Based upon the formula above provided in this section the department shall fix the rate of contribution for each employer. The department shall notify the employer of the rate so fixed. An employer may appeal to the department for a revision of the rate of contribution so fixed within thirty days from the date of the notice to such employer. The department after such hearing may set aside its former determination or modify it and may grant the employer a new rate of contribution. The department shall notify the employer of this determination by certified mail. Judicial review of action of the department may be sought in accordance with the terms of the Iowa administrative procedure Act.

Referred to in section 96.9(5)

4. *Determination and assessment of contributions.*

a. As soon as practicable and in any event within two years after an employer has filed reports, as required by the department pursuant to section 96.11, subsection 7, the department shall examine such reports and determine the correct amount of contributions due, and the amount so determined by the department shall be the contributions payable. If the contributions found due shall be greater than the amount theretofore paid, the notice with respect to the additional contributions, together with any interest and penalty, shall be sent by certified mail. A lien shall attach as provided in section 96.14, subsection three (3), if the assessment is not paid or appealed within thirty days of the date of the notice of assessment.

b. If the department discovers from the examination of the reports or otherwise that wages payable for employment, or any part thereof, have not been listed in the reports, or that no reports were filed when due, or that reports have been filed showing contributions due but no contributions in fact have been paid, it may at any time within five years after the time such reports were due, determine the correct amount of contributions payable, together with interest as provided in this chapter. The amount so determined shall be assessed and a lien shall attach as provided in paragraph "*a*" of this subsection.

c. The certificate of the department to the effect that contributions have not been paid, that reports have not been filed, or that information has not been furnished, as required under the provisions of this chapter shall be prima-facie evidence thereof.

Referred to in section 96.14(3)

5. *Revision of contributions.* An employer may appeal to the department for revision of the contributions and interest assessed against such employer at any time within thirty days from the date of the notice of the assessment of such contributions and interest. The department shall grant a hearing thereon and if, upon such hearing, it shall determine that the amount of contributions payable with interest thereon is incorrect, it shall revise the same according to the law and the facts and adjust the computation of the contributions and interest accordingly. The department shall notify the employer by certified mail of its findings.

6. *Judicial review.* 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 such employer resides, or in which such employer's principal place of business is located, or in the case of a nonresident not maintaining a place of business in this state either in any county in which the wages payable for employment were earned or paid or in Polk county, within thirty days after the date of the notice to such employer notifying such employer of his rate of contribution, or of the department's determination as provided for in subsection 3 of this section or subsection 5 of this section.

The petitioner shall file with the clerk of said court a bond for the use of the respondent, with sureties approved by the clerk, in penalty to be fixed and approved by the clerk of said court. In no case shall the bond be less than fifty dollars conditioned that the petitioner shall perform the orders of the court. In all other respects, the judicial review shall be in accordance with the terms of the Iowa administrative procedure Act.

An appeal may be taken by the employer or the department to the supreme court of this state, irrespective of the amount involved.

7. *Jeopardy assessments.* If the department believes that the assessment or collection of contributions payable or benefits reimbursable will be jeopardized by delay, the department may immediately make an assessment of the estimated amount of contributions due or benefits reimbursable, together with all interest and penalty thereon as provided by this chapter, and demand payment thereof from the employer. If such payment is not made, a distress warrant may be issued or a lien filed against such employer immediately.

The department shall be permitted to accept a bond from the employer to satisfy collection until the amount of contributions legally due shall be determined. Such bond to be in an amount deemed necessary, but no more than double the amount of the contributions involved, and with securities satisfactory to the department.

8. *Financing benefits paid to employees of the state or political subdivisions of the state and their instrumentalities.*

a. A government entity which is an employer under the provisions of this chapter shall make benefit pay-

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ments 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 calendar years and may be changed if an election is made to be a government reimbursable employer prior to December first for a minimum of the two following calendar years.

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

(1) For the calendar year beginning January 1, 1978, the contribution rate shall be one percent.

(2) For the calendar year beginning January 1, 1979, the contribution rate shall be one percent, provided that the department may reduce the contribution rate by fifteen hundredths of one percent or increase the contribution rate by not more than one percent. A rate adjustment shall be made only in an amount necessary to raise sufficient funds from contributing employers to finance an amount equal to the benefits for the previous calendar year and the amount by which the benefits of the preceding calendar year exceeded the employers' contributions.

A government entity electing to contribute at a fixed contribution rate in lieu of making payments as a government reimbursable employer may elect to finance benefits as a government reimbursable employer however the government entity shall be obligated to pay within a time period determined by the department to the fund the amount by which benefit payments for the government entity exceed contributions by the government entity on the effective date of the election.

c. For the purposes of this subsection "government reimbursable employer" means an employer paying to the department for the unemployment fund an amount equal to the sum of the regular benefits attributable to service in the employ of the employer and prior to January 1, 1979, plus one-half of the extended benefits paid for service in the employ of the employer, and beginning January 1, 1979, plus all of the extended benefits paid for service in the employ of the employer. Payments shall be made in accordance with the provisions of subsection nine (9), paragraph "*b*" of this section of the Code.

9. *Financing benefits paid to employees of nonprofit organizations.* Benefits paid to employees of nonprofit organizations or of any state-owned hospital or institution of higher education shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection and section 96.19, a nonprofit organization is an organization described in the U.S. Internal Revenue Code, 26 U.S.C. 501 (c) (3), which is exempt from income tax under 26 U.S.C. 501 (a) of such Code.

a. Any state-owned hospital or institution of higher education, which, pursuant to section 96.19, subsection 5, paragraph "*h*", or any nonprofit organization which, pursuant to section 96.19, subsection 5, paragraph "*i*", is, or becomes, subject to this chapter on or after January 1, 1972, shall pay contributions under the provisions of subsections 1, 2, and 3 of this section, unless it elects, in accordance with this paragraph, to pay to the department for the unemployment fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(1) Any nonprofit organization or any state-owned hospital or institution of higher education which is, or becomes, subject to this chapter on January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years commencing January 1, 1972, provided it files with the department a written notice of its election within the thirty-day period immediately following such date or within a like period immediately following the effective date of this Act*, whichever occurs later.

*64GA, ch 113

(2) Any nonprofit organization or any state-owned hospital or institution of higher education, which becomes subject to this chapter after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years following the date on which such subjectivity begins by filing a written notice of its election with the department not later than thirty days immediately following the date of the determination of such subjectivity.

(3) Any nonprofit organization or any state-owned hospital or institution of higher education, which makes an election in accordance with subparagraphs (1) or (2) of this paragraph shall continue to be liable for payments in lieu of contributions until it files with the department a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(4) Any nonprofit organization or any state-owned hospital or institution of higher education, which has been paying contributions under this chapter for a period on or after January 1, 1972, may change to a reimbursable basis by filing with the department not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(5) The department may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(6) The department, in accordance with such regulations as it may prescribe, shall notify each nonprofit organization of any determination which it may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of subsections 5 and 6 of this section.

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b. Payments in lieu of contributions shall be made in accordance with the following:

(1) At the end of each calendar quarter, or at the end of any other period as determined by the department, the department shall bill each nonprofit organization which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization. Unless federal funds are otherwise provided, at the end of each calendar quarter or other period determined by the department, the department shall also bill each governmental entity the amount of regular plus extended benefits owed as a governmental reimbursable employer for benefits paid during the quarter or period for such organization electing governmental reimbursable status including any benefits paid for a government entity for claims filed while the government entity was a contributing employer prior to an election to become a government reimbursable employer which were paid during the quarter or period.

(2) Payment of any bill rendered shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subparagraph (4) of this paragraph.

(3) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(4) The amount due specified in any bill from the department shall be conclusive on the organization unless, not later than fifteen days following the date the bill was mailed to its last known address or otherwise delivered to it, the organization files an application for redetermination by the department setting forth the grounds for such application. The department shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless, not later than sixty days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the district court pursuant to subsection 6 of this section.

(5) The provisions for collection of contributions under section 96.14 shall be applicable to payments in lieu of contributions.

10. *Provision of bond or other security.* Any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required within thirty days after the effective date of its election to execute and file with the department a surety bond approved by the department or it may elect instead to deposit with the department money or securities. The amount of such bond or deposit shall be determined in accordance with the provisions of this subsection.

a. The amount of the bond or deposit required by this subsection shall be equal to two and seven-tenths percent of the organization's total taxable wages paid for employment for the four calendar quarters immediately preceding the effective date of the election, the renewal date in the case of a bond, or the biennial anniversary of the effective date of election in the case of a deposit of money or securities, whichever date shall be most recent and applicable. If the nonprofit organization did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the department.

b. Any bond deposited under this subsection shall be in force for a period of not less than two taxable years and shall be renewed with the approval of the department, at such times as the department may prescribe, but not less frequently than at two-year intervals as long as the organization continues to be liable for payments in lieu of contributions. The department shall require adjustments to be made in a previously filed bond as it deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within thirty days of the date notice of the required adjustment was mailed or otherwise delivered to it. Failure by any organization covered by such bond to pay the full amount of payments in lieu of contributions when due, together with any applicable interest and penalties provided for in section 96.14 shall render the surety liable on said bond to the extent of the bond, as though the surety was such organization.

c. Any deposit of money or securities in accordance with this subsection shall be retained by the department in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The department may deduct from the money deposited under this paragraph by a nonprofit organization or sell the securities it has so deposited to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in section 96.14. The department shall require the organization within thirty days following any deduction from a money deposit or sale of deposited securities under the provisions of this paragraph to deposit sufficient additional money or securities to make whole the organization's deposit at the prior level. Any cash remaining from the sale of such securities shall be a part of the organization's escrow account. The department may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, it determines that an adjustment is necessary, it shall require the organization to make additional deposit within thirty days of written notice of its determination or shall return to it such portion of the deposit as it no longer considers necessary, whichever action is appropriate. Disposition of income from securities held in escrow shall be governed by the applicable provisions of the Code.

11. *Authority to terminate elections.* If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an increased amount or to increase or make whole the amount of a previously made deposit, the de-

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partment may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the four-consecutive-calendar-quarter period beginning with the quarter in which such termination becomes effective; provided, that the department may extend for good cause the applicable filing, deposit, or adjustment period by not more than thirty days.

12. *Allocation of benefit cost.* Each employer that is liable for payments in lieu of contributions shall pay to the department for the fund the amount of regular benefits and unless a government entity plus the amount of one-half of extended benefits paid during each quarter that are attributable to service in the employ of such employer. A government entity shall make benefit payments in the amounts provided for a government reimbursable employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payment shall be payable each quarter by the base period employers in inverse chronological order in which the employment of such individual occurred. Provided, that the amount of any such employer's liability in any calendar quarter shall not exceed the amount of such individual's wage credits and unless a government entity plus one-half the amount of extended benefits based on employment with such employer during such quarter of the base period. A government entity's liability in any calendar quarter shall not exceed the amount of the individual's wage credits plus that amount of extended benefits a government entity is required to pay as a government reimbursable employer.

13. *Group accounts.* Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of subsection eight (8) and subsection 9, paragraph "*a*", of this section of the Code may file a joint application to the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon its approval of the application, the department shall establish a group account for such employers effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than one year and thereafter until terminated at the discretion of the department or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The department shall prescribe such regulations as it deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection by members of the group and the time and manner of such payments.

14. *Nonprofit organization election.*

a. Notwithstanding any provisions in subsection 9 of this section, any nonprofit organization that prior to January 1, 1969, paid contributions required by this section and, pursuant to subsection 9, of this section, elects, before April 1, 1972, to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on or after the effective date of such election until the total amount of such benefits equals the amount of the positive balance in the experience rating account of such organization.

b. A nonprofit organization or group not required to be covered employment prior to January 1, 1978, that paid contributions as an employer prior to October 20, 1976, and which elects within thirty days after the effective date of this Act to make payments in lieu of contributions shall not be required to make any such payment for regular or extended benefits paid after its election until the total amount of benefits equal the amount of the positive balance in the experience rating account of such organization.

15. *Temporary emergency tax.* The department shall with respect to the calendar year 1976, levy a temporary emergency tax on all contributing employers by increasing by seven-tenths of one percent the contribution rate provided by this section.

16. *Additional tax.* The department shall, with respect to the calendar year beginning January 1, 1977, add to the contribution rate assigned each employer based upon the effective table a percentage equal to nine-tenths of one percent. The department shall monitor the total trust funds available for payment of benefits. If this total available becomes less than twenty percent of the total benefit payments paid in the previous calendar year recording the highest benefit payments, for a period longer than two weeks, an additional tax equal to twenty-five hundredths of one percent shall be added to the rate of each employer assigned a contribution rate under the effective rate table. The twenty-five hundredths of one percent add-on tax shall be collected on all taxable wages paid by an employer during the calendar year beginning January 1, 1977. The add-on tax shall be paid on all taxable wages paid by the employer prior to the effective date of the tax with the quarterly contributions following the effective date of the tax, and on all taxable wages for the remainder of calendar year 1977. Following assignment of the additional tax notice of a rate increase shall be enclosed in the quarterly reports sent by the de-

partment to each employer. (C39, section *1551.13*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.7; 66GA, ch 67, section 11, ch 92, sections 13-17, 35, ch 93, sections 1, 2, ch 1056, section 8, ch 1068, section 13-16, 39, 40)

Referred to in sections 96.8(4), 96.9(5), 96.14(3), 96.19(1, 21), 96.20(2)
*64 GA, ch 113

PERIOD, ELECTION, AND TERMINATION OF EMPLOYER'S COVERAGE

96.8 Conditions and requirements.

1. *Period of coverage.* Any employing unit which is or becomes an employer subject to this chapter within any calendar year shall be subject to this chapter during the whole of such calendar year.

2. *Voluntary termination.* Except as otherwise provided in subsection 3 of this section, an employing unit shall cease to be an employer subject to this chapter, as of the first day of January of any calendar year, if it files with the department, prior to the fifteenth day of February of such year, a written application for termination of coverage, and the department finds that such employing unit did not meet any of the qualifying liability requirements as provided under section 96.19, subsection 5, paragraphs "*a*," "*b*," "*c*," "*d*," "*e*," "*f*," or "*g*," "*l*" and "*m*" and section 96.19, subsection 5, paragraphs "*h*" or "*i*" in the preceding calendar year.

3. *Election by employer.*

a. An employing unit, not otherwise subject to this chapter, which files with the department its written election to become an employer subject hereto for not less than two calendar years, shall with the written approval of such election by the department, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if prior to the fifteenth day of February of such year, it has filed with the department a written notice to that effect.

b. Any employing unit for which services that do not constitute employment as defined in this chapter are performed, may file with the department a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter for not less than two calendar years. Upon the written approval of such election by the department, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if prior to the fifteenth day of February of such year such employing unit has filed with the department a written notice to that effect.

4. *Transfer or discontinuance of business.*

a. In any case in which the enterprise or business of a subject employer has been sold or otherwise transferred to a subsequent employing unit or reorganized or merged into a single employing unit under the provisions of section 96.7, subsection 3, paragraph "*b*", the account of the transferring employer shall terminate as of the date on

which such transfer, reorganization or merger was completed.

b. In any case in which the enterprise or business of a subject employer has been discontinued otherwise than by sale or transfer to a subsequent employing unit and such employer has had no employment for a period of one year, the department may, on its own motion, terminate said account. (C39, section *1551.14*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.8; 66GA, ch 92, sections 18, 19, ch 1068, section 40).

Referred to in section 96.19 (5, 6, 7)

UNEMPLOYMENT COMPENSATION FUND

96.9 Control, management, and use.

1. *Establishment and control.* There is hereby established as a special fund, separate and apart from all public moneys or funds of this state, an unemployment compensation fund, which shall be administered by the department exclusively for the purposes of this chapter. This fund shall consist of:

a. All contributions collected under this chapter,

b. Interest earned upon any moneys in the fund,

c. Any property or securities acquired through the use of moneys belonging to the fund,

d. All earnings of such property or securities, and

e. All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the Social Security Act (42USC sections 501 to 503, 1103 to 1105, 1321 to 1324). All moneys in the unemployment compensation fund shall be mingled and undivided.

2. *Accounts and deposits.* The state treasurer shall be ex officio treasurer and custodian of the fund and shall administer such fund in accordance with the directions of the department. The state comptroller shall issue warrants upon the fund pursuant to the order of the department and such warrants shall be paid from the fund by the treasurer. The treasurer shall maintain within the fund three separate accounts:

a. A clearing account.

b. An unemployment trust fund account.

c. A benefit account. All moneys payable to the unemployment compensation fund and all interest and penalties on delinquent contributions and reports shall, upon receipt thereof by the department, be forwarded to the treasurer who shall immediately deposit them in the clearing account, but the interest and penalties on delinquent contributions and reports shall not be deemed to be a part of the fund. Refunds of contributions payable pursuant to section 96.14 shall be paid by the treasurer from the clearing account upon warrants issued by the comptroller under the direction of the department. After clearance thereof, all other moneys in the clearing account, except interest and penalties on delinquent contributions and reports, shall be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act as amended, any provisions of law in this state relating to the deposit, ad-

96.9

ministration, release or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. Interest and penalties on delinquent contributions and reports collected from employers shall be transferred from the clearing account to the special employment security contingency fund. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund for the payment of benefits. Except as herein otherwise provided moneys in the clearing and benefit account may be deposited by the treasurer, under the direction of the department, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of his or her duties as custodian of the fund in an amount fixed by the governor and in form and manner prescribed by law. Premiums for said bond shall be paid from the administration fund.

Interest paid upon the trust fund deposited with the secretary of the treasury of the United States under the provisions of this subsection 2 of this section for any calendar year shall be allocated and credited to and become a part of each employer's reserve account, said allocation to be made in the following manner: For the calendar year 1950 and each calendar year thereafter, the department shall add and credit to each employer's reserve account, the percentage of the total interest paid upon the aggregate of the reserve accounts of all of the employers in the state in said year that each such employer's individual reserve account bears to said aggregate reserve account. Said interest shall be credited and applied in the same manner as a voluntary contribution made by each such employer.

3. *Withdrawals.* Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the department, except that money credited to this state's account pursuant to section 903 of the Social Security Act may, subject to the conditions prescribed in subsection 4 of this section, be used for the payment of expenses incurred for the administration of this chapter. The department shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to the account of this state therein, as the department deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account, and shall disburse such moneys upon warrants drawn by the comptroller pursuant to the order of the department for the payment of benefits solely from such benefit account. Expenditures of such moneys from the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants issued by the comptroller for the payment of benefits and refunds shall bear the signature of the comptroller. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the department, shall be redeposited with the secretary of the treasury of the United States, to the credit of this state's account in the unemployment trust fund, as provided in subsection 2 of this section.

4. *Money credited under section 903 of the Social Security Act.*

a. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. Such money may be requisitioned pursuant to subsection 3 of this section for the payment of benefits. Such money may also be requisitioned and used for the payment of expenses incurred for the administration of this chapter but only pursuant to a specific appropriation by the legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which (1) specifies the purposes for which such money is appropriated and the amounts appropriated therefor, (2) limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, and (3) limits the amount which may be obligated during a twelve-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which (*i*) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act during the same twelve-month period and the twenty-four preceding twelve-month periods, exceeds (*ii*) the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the account of this state during such twenty-five twelve-month periods.

b. Amounts credited to this state's account in the unemployment trust fund under section 903 of the Social Security Act which are obligated for administration or paid out for benefits shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during a twelve-month period specified herein may be charged against any amount credited during such a twelve-month period earlier than the twenty-fourth preceding such period.

c. Money requisitioned as provided herein for the payment of expenses of administration shall be deposited in the employment security administration fund, but, until expended, shall remain a part of the unemployment compensation fund. The treasurer of state shall maintain a separate record of the deposit, obligation, expenditure and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be ex-

pended, shall be returned promptly to the account of this state in the unemployment trust fund.

Referred to in section 96.13(1)

5. *Administration expenses excluded.* Any amount credited to this state's account in the unemployment trust fund under section 903 of the Social Security Act which has been appropriated for expenses of administration pursuant to subsection 4 of this section, whether or not withdrawn from such account, shall not be deemed assets of the unemployment compensation fund for the purpose of computing contribution rates under section 96.7, subsection 3, of this chapter.

6. *Management of funds in the event of discontinuance of unemployment trust fund.* The provisions of subsections 1, 2, and 3 to the extent that they relate to the unemployment trust fund shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States continues to maintain for this state a separate book account of all funds deposited therein by this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the director, treasurer of state and governor, in accordance with the provisions of this chapter: Provided, that such moneys shall be invested in the following readily marketable classes of securities; such securities as are authorized by the laws of the state of Iowa for the investment of trust funds. The treasurer shall dispose of securities and other properties belonging to the unemployment compensation fund only under the direction of the director, treasurer of state and governor.

7. *Transfer to railroad account.* Notwithstanding any requirements of the foregoing subsections of this section, the commission shall, prior to July 1, 1939, authorize and direct the secretary of the treasury of the United States to transfer from this state's account in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act as amended, to the railroad unemployment insurance account, established and maintained pursuant to section 10 of the Railroad Unemployment Insurance Act*, an amount hereinafter referred to as the preliminary amount; and shall, prior to January 1, 1940, authorize and direct the secretary of the treasury of the United States to transfer from this state's account in said unemployment trust fund to said railroad unemployment insurance account an additional amount, hereinafter referred to as the liquidating amount. The social security board shall determine both such amounts after consultation with the commission and the railroad retirement board. The preliminary amount shall consist of that proportion of the balance in the unemployment compensation fund as of June 30, 1939, as the total amount of contributions collected from "employers" as the term "employer" is defined in section 1 "*a*" of the Railroad Unemployment Insurance Act, and credited to the unemployment compensation fund bears to all contributions theretofore collected under this chapter and credited to the unemployment compensation fund. The liquidating amount shall consist of the total amount of contributions collected from "employers" as the term "employer" is defined in section 1 "*a*" of the Railroad Unemployment Insurance Act pursuant to the provisions of this chapter during the period July 1, 1939, to December 31, 1939.

8. *Cancellation of warrants.* The state comptroller, as of January 1, April 1, July 1, and October 1 of each year, shall stop payment on all warrants for the payment of benefits which have been outstanding and unredeemed by the state treasurer for six months or longer. Should the original warrants subsequently be presented for payment, warrants in lieu thereof shall be issued by the state comptroller at the discretion of and certification by the department. (C39, section *1551.15*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.9; 66GA, ch 92, section 35, ch 1068, sections 17, 40)

Referred to in sections 96.13(1, 3), 96.20(2)
Omnibus repeal, 50GA, ch 75, section 2
*See 45 USC, ch 11

EMPLOYMENT SECURITY DEPARTMENT

96.10 Department of employment security.

There is established an Iowa department of job service. The chief executive officer of the department is the director of job service who shall be appointed by the governor with the approval of two-thirds of the members of the senate and shall serve at the pleasure of the governor. The director shall be selected solely on the ability to administer the duties and functions granted to the department and shall devote full time to the duties of director. If the office of director becomes vacant during a session of the general assembly, the vacancy shall be filled in the same manner as the original appointment. Any vacancy in the office of director occurring while the general assembly is not in session shall be filled by appointment by the governor which appointment shall expire thirty days after the general assembly next convenes. Within the thirty day period, the governor shall transmit an appointment to the senate.

The salary of the director shall be set by the general assembly.

The director of the department may establish, consolidate, and abolish divisions of the department when necessary for the efficient performance of the various functions and duties of the department of employment security. (C39, section *1551.16*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.10; 66GA, ch 1068, section 18)

ADMINISTRATION

96.11 Powers, rules and personnel.

1. *Duties and powers of director.* It shall be the duty of the director to administer this chapter; and the director shall have power and authority to adopt, amend, or rescind pursuant to chapter 17A such rules, to employ

such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Not later than the fifteenth day of December of each year, the director shall submit to the governor a report covering the administration and operation of this chapter during the preceding fiscal year and shall make such recommendations for amendments to this chapter as the director deems proper. Such report shall include a balance sheet of the moneys in the fund. Whenever the director believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, the director shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

2. *General and special rules.* Each employer shall post and maintain printed statements of all rules of the department in places readily accessible to individuals in the employer's service, and shall make available to each such individual at the time the individual becomes unemployed a printed statement of such rules relating to the filing of claims for benefits. Such printed statements shall be supplied by the department to each employer without cost to him.

Referred to in section 96.19 (7, *g* (3))

3. *Publication.* The director shall cause to be printed for distribution to the public the text of this chapter, the department's general rules, its annual reports to the governor, and any other material the director deems relevant and suitable and shall furnish the same to any person upon application therefor.

4. *Personnel.* The director shall provide for the employment of such personnel as are necessary to carry out the functions of the department. Personnel shall be employed under the provisions of chapter 19A. The director, a deputy director, a confidential secretary, the members of the appeal board, and a secretary for each member if deemed necessary, shall be exempt from the merit system under the provisions of section 19A.3.

The director may bond any employee handling moneys or signing checks.

5. *Advisory council.*

a. There is established a job service advisory council composed of nine members appointed by the governor and approved by two-thirds of the members of the senate. Three members shall be appointed to represent employees; three members shall be appointed to represent employers; and three members shall be appointed to represent the general public. Not more than five members of the advisory council shall be members of the same political party. The term of office shall be six years beginning on the first day of July following their appointment, except that for the initial board three members representing all three categories shall be appointed for two-year terms; three members representing all three categories shall be appointed for four-year terms; and three members representing all three categories shall be appointed for six-year terms. Members shall serve without compensation, but shall be reimbursed for actual and necessary expenses, including travel, incurred for official meetings of the advisory council from funds appropriated to the department.

Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

b. The advisory council shall meet with the director as least quarterly to discuss problems relating to the administration of this chapter and may meet more often upon the call of the director.

The advisory council annually shall elect a chairperson.

6. *Employment stabilization.* The director with the advice and aid of the advisory council, and through the appropriate divisions of the department, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the re-employment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

7. *Records and reports.* 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 may require from any employing unit any sworn or unsworn reports, with respect to persons employed by the department, which the director deems necessary for 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. 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.

Referred to in section 96.7(4)

8. *Oaths and witnesses.* In the discharge of the duties imposed by this chapter, the chairman of the appeal board and any duly authorized representative of the department shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this chapter.

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, 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 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.

10. *Protection against self-incrimination.* No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the department, or the appeal board, or in obedience to a subpoena in any cause or proceeding provided for in this chapter, on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty for forfeiture; but no individual shall be prosecuted or subjected to any penalty of forfeiture for or on account of any transaction, matter, or thing concerning which the individual is compelled, after having claimed his or her privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

11. *State-federal cooperation.* In the administration of this chapter, the department shall cooperate with the United States department of labor to the fullest extent consistent with the provisions of this chapter, and shall take such action, through the adoption of appropriate rules, regulations, administrative methods and standards, as may be necessary to secure to this state and its citizens all advantages available under the provisions of the Social Security Act that relates to unemployment compensation, the federal Unemployment Tax Act, the Wagner-Peyser Act, and the Federal-State Extended Unemployment Compensation Act of 1970.

In the administration of the provisions of section 96.29 which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the department shall take such action as may be necessary to insure that the provisions are so interpreted and applied as to meet the requirements of such federal Act as interpreted by the United States department of labor, and to secure to this state the full reimbursement of the federal share of extended benefits paid under this chapter that are reimbursable under the federal Act.

The department shall make such reports, in such form and containing such information as the United States department of labor may from time to time require, and shall comply with such provisions as the United States department of labor may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the United States department of labor governing the expenditures of such sums as may be allotted and paid to this state under Title III of the Social Security

Act for the purpose of assisting in administration of this chapter.

The department may make its records relating to the administration of this chapter available to the railroad retirement board, and may furnish the railroad retirement board such copies thereof as the railroad retirement board deems necessary for its purposes. The department may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law. The railroad retirement board or any other agency requiring such services and reports from the department shall pay the department such compensation therefor as the department determines to be fair and reasonable.

12. *Destruction of records.* The Iowa department of job service may destroy or dispose of such original reports or records as have been properly recorded or summarized in the permanent records of the department and are deemed by the director and the state records commission to be no longer necessary to the proper administration of this chapter. Wage records of the individual worker or transcripts therefrom may be destroyed or disposed of, if approved by the state records commission, two years after the expiration of the period covered by such wage records or upon proof of the death of the worker. Such destruction or disposition shall be made only by order of the director in consultation with the state records commission. Any moneys received from the disposition of such records shall be deposited to the credit of the employment security administration fund, subject to rules promulgated by the department.

13. *Purging uncollectible overpayments.* Notwithstanding any other provision of this chapter, the department shall review all outstanding overpayment of benefit payments annually. The department may determine as uncollectible and purge from its records any remaining unpaid balances of outstanding overpayments which are ten years or older from the date of the overpayment decision. (C39, section *1551.17*; C46, 50, 54, 58, 62, 66, 71, 73, 75, 96.11; 66GA, ch 92, sections 20, 21, 35, ch 1068, sections 19-21, 40)

Referred to in sections 96.7(4), 96.19(7, g, (3))

EMPLOYMENT SERVICE

96.12 State employment service.

1. *Duties of department.* The department shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter and for the purpose of performing such duties as are within the purview of the Act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes", approved June 6, 1933, as amended, and known as the Wagner-Peyser Act (48 Stat. L. 113; 29 USC section 49). All duties and powers conferred upon any other department, agency, or officer of this state relating to the establishment, maintenance, and operation of free employment offices shall be vested in the department. The provisions of

the said Act of Congress, as amended, are hereby accepted by this state, in conformity with section 4 of said Act, and this state will observe and comply with the requirements thereof. The department is designated and constituted the agency of this state for the purpose of said Wagner-Peyser Act. The department may cooperate with the railroad retirement board with respect to the establishment, maintenance, and use of employment service facilities. The railroad retirement board shall compensate the department for such services or facilities in the amount determined by the department to be fair and reasonable.

2. *Financing.* For the purpose of establishing and maintaining free public employment offices, the department is authorized to enter into agreements with the railroad retirement board, or any other agency of the United States charged with the administration of an employment security law, with any political subdivision of this state, or with any private, nonprofit organization, and as a part of any such agreement the department may accept moneys, services, or quarters as a contribution to the employment security administration fund. (C39, section *1551.18*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.12; 66GA, ch 1068, sections 22, 40)

Referred to in sections 96.13(1), 239.2

EMPLOYMENT SECURITY ADMINISTRATION FUND

96.13 Control and use.

1. *Special fund.* There is hereby created in the state treasury a special fund to be known as the "Employment Security Administration Fund". All moneys which are deposited or paid into this fund are hereby appropriated and made available to the department. All moneys in this fund, except money received pursuant to section 96.9, subsection 4, which are received from the federal government or any agency thereof or which are appropriated by the state for the purposes described in section 96.12 shall be expended solely for the purposes and in the amounts found necessary by the secretary of labor for the proper and efficient administration of this chapter. This fund shall consist of all moneys appropriated by this state, and all moneys received from the United States, or any agency thereof, including the department of labor, the railroad retirement board, the United States employment service, established under the Wagner-Peyser Act, or from any other source for such purpose. Moneys received from the railroad retirement board, or any other agency, as compensation for services or facilities supplied to said board or agency shall be paid to the department, and the department shall allocate said moneys to the employment security administration fund. All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as is provided by law for special funds in the state treasury. Any balances in this fund shall not lapse at any time, but shall be continuously available to the department for expenditure consistent with this chapter. The state treasurer shall give a separate and additional bond conditioned upon the faithful performance of his or her duties in connection with the employment security administration fund in an amount and with such sureties as shall be fixed and approved by the governor. The premiums for such bond and the premiums for the bond given by the treasurer of the unemployment compensation fund under section 96.9, shall be paid from the moneys in the employment security administration fund. Notwithstanding any provision of this section, all money requisitioned and deposited in this fund pursuant to section 96.9, subsection 4, paragraph "*c*", shall remain part of the unemployment compensation fund and shall be used only in accordance with the conditions specified in section 96.9, subsection 4.

2. *Replenishment of lost funds.* If any moneys received after June 30, 1941, from the social security board under Title III of the Social Security Act, or any unencumbered balances in the unemployment compensation administration fund as of that date, or any moneys granted after that date to this state pursuant to the provisions of the Wagner-Peyser Act, or any moneys made available by this state or its political subdivisions and matched by such moneys granted to this state pursuant to the provisions of the Wagner-Peyser Act, are found by the social security board, because of any action or contingency, to have been lost or been expended for purposes other than or in amounts in excess of, those found necessary by the social security board for the proper administration of this chapter, it is the policy of this state that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this state to the unemployment compensation administration fund for expenditure as provided in subsection 1 of this section. Upon receipt of notice of such a finding by the social security board, the department shall promptly report the amount required for such replacement to the governor and the governor shall at the earliest opportunity, submit to the legislature a request for the appropriation of such amount. This subsection shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of Title III of the Social Security Act.

3. *Special employment security contingency fund.* There is hereby created in the state treasury a special fund to be known as the special employment security contingency fund. All interest, fines, and penalties, regardless of when the same become payable, collected from employers under the provisions of section 96.14 subsequent to July 1, 1970, shall be paid into this fund. Said moneys shall not be expended or available for expenditure in any manner which would permit their substitution for federal funds which would in the absence of said moneys be available to finance expenditures for the administration of the employment security law. Nothing in this section shall prevent said moneys from being used as a revolving fund to cover expenditures for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. Said fund may be used for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds, received for or in the employment security administration fund. The moneys in

this fund are hereby specifically made available to replace, within a reasonable time, any moneys received by this state in the form of grants from the federal government for administrative expenses which because of any action or contingency have been expended for purposes other than, or in excess of, those necessary for the proper administration of the employment security law. All moneys in the special employment security contingency fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds in the state treasury.

The treasurer of state shall be the custodian of said funds and shall give a separate and additional bond conditioned upon the faithful performance of his or her duties in connection with the special employment security contingency fund in an amount and with such sureties as shall be fixed and approved by the governor. The premiums for such bonds shall be paid from the moneys in the special employment security contingency fund. All sums recovered on such bond for losses sustained by the special employment security contingency fund shall be deposited in the fund. Refunds of interest and penalties collected on or after July 1, 1970, pursuant to this chapter shall be paid only from this fund.

Balances to the credit of the special employment security contingency fund shall not lapse at any time but shall continuously be available to the department for expenditures consistent herewith. However, if on July 1 of any year the balance in the special employment security contingency fund exceeds fifty thousand dollars by ten thousand dollars or more, the treasurer of state shall promptly transfer the entire amount over fifty thousand dollars to the unemployment compensation fund established in section 96.9 unless the department determines that such transfer should not be made because of immediate obligations to be met from the fund. (C39, section *1551.19*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.13; 66GA, ch 92, section 35, ch 1068, section 40)

Referred to in section 96.17

COLLECTION OF CONTRIBUTIONS

96.14 Priority—refunds.

1. *Interest.* Any employer who shall fail to pay any contribution and at the time required by this chapter and the rules of the department shall pay to the department in addition to such contribution, interest thereon at the rate of one percent per month and one-thirtieth of one percent for each day or fraction thereof computed from the date upon which said contribution should have been paid.

2. *Penalties.* Any employer who shall fail to file a report of wages paid to each of his or her employees for any period in the manner and within the time required by this chapter and the rules of the department or any employer who the commission finds has filed an insufficient report and fails to file a sufficient report within thirty days after a written request from the department to do so shall pay a penalty to the department.

The penalty shall become effective with the first day the report is delinquent or, where a report is insufficient,

with the thirty-first day following the written request for a sufficient report.

Penalty for failing to file a sufficient report shall be in addition to any penalty incurred for a delinquent report where the delinquent report is also insufficient.

The amount of the penalty for delinquent and insufficient reports shall be computed based on total wages in the period for which the report was due and shall be computed as follows:

Days Delinquent or Insufficient	Penalty Rate
1—60	0.1%
61—120	0.2%
121—180	0.3%
181—240	0.4%
241 or over	0.5%

No penalty shall be less than ten dollars for each delinquent report or each insufficient report not made sufficient within thirty days as a request to do so. Interest, penalties, and costs shall be collected by the department in the same manner as provided by this chapter for contributions.

If the department finds that any employer has willfully failed to pay any contribution or part thereof when required by this chapter and the rules of the department, with intent to defraud the department, then such employer shall in addition to such contribution or part thereof, pay a contribution equal to fifty percent of the amount of such contribution or part thereof, as the case may be.

The department may cancel any interest or penalties if it is shown to the satisfaction of the department that the failure to pay a required contribution or to file a required report was not the result of negligence, fraud, or intentional disregard of the law or the rules of the department.

3. *Lien of contributions—collection.* Whenever any employer liable to pay contributions refuses or neglects to pay the same, the amount, including any interest, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to said employer. An assessment of the unpaid contributions, interest and penalty shall be applied as provided in section 96.7, subsection 4, paragraphs "*a*" and "*b*" and the lien shall attach as of the date the assessment is mailed or personally served upon the employer. However, the department may release any lien, when after diligent investigation and effort it determines that the amount due is not collectible.

In order to preserve the aforesaid lien against subsequent mortgagees, purchasers or judgment creditors, for value and without notice of the lien, on any property situated in a county, the department shall file with the recorder of the county, in which said property is located, a notice of said lien.

The county recorder of each county shall prepare and keep in his or her office a book to be known as "index of unemployment contribution liens", so ruled as to show in

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appropriate columns the following data, under the names of employers, arranged alphabetically:

a. The name of the employer.

b. The name "State of Iowa" as claimant.

c. Time notice of lien was received.

d. Date of notice.

e. Amount of lien then due.

f. When satisfied.

The recorder shall endorse on each notice of lien the day, hour, and minute when received and shall forthwith index said notice in said index book and shall forthwith record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof.

The department shall pay a recording fee as provided in section 335.14, for the recording of such lien, or for the satisfaction thereof.

Upon the payment of contributions as to which the department has filed notice with a county recorder, the department shall forthwith file with said recorder a satisfaction of said contributions and the recorder shall enter said satisfaction on the notice on file in his or her office and indicate said fact on the index aforesaid.

The department shall, substantially as provided in sections 445.6 and 445.7, proceed to collect all contributions as soon as practicable after the same become delinquent, except that no property of the employer shall be exempt from the payment of said contributions.

If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due may be collected by civil action in the name of the department and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workers' compensation law of this state.

It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the department shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

The courts of this state shall recognize and enforce liabilities for unemployment contributions, penalties, interest and benefit overpayments imposed by other states which extend a like comity to this state. The department may sue in the courts of any other jurisdiction which extends such comity to collect unemployment contributions, penalties, interest and benefit overpayments due this state. The officials of other states which, by statute or otherwise, extend a like comity to this state may sue in the district court to collect for such contributions, penalties, interest and benefit overpayments. In any such case the director of the department of this state, as agent for and on behalf of any other state, may institute and conduct such suit for such other state. Venue of such proceedings shall be the same as for actions to collect delinquent contributions, penalties, interest and benefit overpayments due under this chapter. A certificate by the secretary of any such state attesting the authority of such official to collect the contributions, penalties, interest and benefit overpayments, is conclusive evidence of such authority. The requesting state shall pay the court costs.

If a political subdivision or a political subdivision instrumentality becomes delinquent in the payment of contributions, any payments owed as a government employer, penalty, interest and costs for more than two calendar quarters, the amount of such delinquency shall be deducted from any further moneys due the employer by the state. Such deduction shall be made by the state comptroller upon certification of the amount due. A copy of the certification will be mailed to the employer.

Referred to in section 96.16(4)

4. *Priorities under legal dissolutions or distributions.* In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages preferred as provided by statute. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in section 64 "*a*" of that Act (11 U.S.C., section 104 "*b*", as amended).

5. *Refunds, compromises and settlements.* In any case in which the department finds that an employer has paid contributions or interest thereon, which have been erroneously paid, and who has filed an application for adjustment thereof, the department shall make such adjustment, compromise, settlement, and make such refund of erroneous payments as it finds just and equitable in the premises. Refunds so made shall be charged to the fund to which the erroneous collections have been credited, and shall be paid to the claimant without interest. Any claim for such refund shall be made within three years from the date of payment. For like cause, adjustments, compromises or refunds may be made by the department on its own initiative. In any case in which the department finds that the contribution that has been assessed against an employer is of doubtful collectibility or may not be collected in full, the department may institute a proceeding in the district court in the county in which the enterprise against which such tax is levied is located, requesting authority to compromise such contribution. Notice of the filing of such application shall be given to the interested parties as the court may prescribe. The court upon such hearing shall have power to authorize the department to compromise and settle its claim for such contribution and shall fix the amount to be received by the department in full settlement of such claim and shall authorize the release of the department's lien for such contribution.

Referred to in section 96.19(7)

6. *Nonresident employing units.* Any employing unit which is a nonresident of the state of Iowa and for which services are performed in insured work within the state of Iowa and any resident employer for which such services are performed and who thereafter removes himself or herself from the state of Iowa by having such services performed within the state of Iowa shall be deemed:

a. To agree that such employing unit shall be subject to the jurisdiction of the district court of the state of Iowa over all civil actions and proceedings against such employing unit for all purposes of this chapter, and

b. To appoint the secretary of state of this state as its lawful attorney upon whom may be served all original notices of suit and other legal processes pertaining to such actions and proceedings, and

c. To agree that any original notice of suit or any other legal process so served upon such nonresident employing unit shall be of the same legal force and validity as if personally served on it in this state.

7. *Original notice—form.* The original notice of suit filed with the secretary of state shall be in form and substance the same as now provided in suits against residents of this state, except that that part of said notice pertaining to the return day shall be in substantially the following form, to wit:

"And unless you appear thereto and defend in the district court of Iowa in and for ..... county at the courthouse in ....., Iowa before noon of the sixtieth day following the filing of this notice with the secretary of state of this state, you will be adjudged in default, your default entered of record, and judgment rendered against you for the relief prayed in plaintiff's petition."

8. *Manner of service.* Plaintiff in any such action shall cause the original notice of suit to be served as follows:

a. By filing a copy of said original notice of suit with said secretary of state, together with a fee of two dollars, and

b. By mailing to the defendant, and to each of the defendants if more than one, within ten days after said filing with the secretary of state, by restricted certified mail addressed to the defendant at his or her last known residence or place of abode, a notification of the said filing with the secretary of state.

9. *Notification to nonresident—form.* The notification, provided for in subsection 7, shall be in substantially the following form, to wit:

"To ..... (Here insert the name of each defendant and his or her residence or last known place of abode as definitely as known.)

"You will take notice that an original notice of suit against you, a copy of which is hereto attached, was duly served upon you at Des Moines, Iowa, by filing a copy of said notice on the ..... day of ....., 19..., with the secretary of state of the state of Iowa.

"Dated at ....., Iowa, this ..... day of .....

....., 19...

.....
Plaintiff.

By .....
Attorney for Plaintiff."

10. *Optional notification.* In lieu of mailing said notification to the defendant in a foreign state, plaintiff may cause said notification to be personally served in the foreign state on the defendant by any adult person not a party to the suit, by delivering said notification to the defendant or by offering to make such delivery in case defendant refuses to accept delivery.

11. *Proof of service.* Proof of the filing of a copy of said original notice of suit with the secretary of state, and proof of the mailing or personal delivery of said notification to said nonresident shall be made by affidavit of the party doing said acts. All affidavits of service shall be endorsed upon or attached to the originals of the papers to which they relate. All proofs of service, including the restricted certified mail return receipt, shall be forthwith filed with the clerk of the district court.

12. *Actual service within this state.* The foregoing provisions relative to service of original notice of suit on nonresidents shall not be deemed to prevent actual personal service in this state upon the nonresident in the time, manner, form, and under the conditions provided for service on residents.

13. *Venue of actions.* Actions against nonresidents as contemplated by this law may be brought in Polk county, or in the county in which such services were performed.

14. *Continuances.* The court in which such action is pending shall grant such continuances to a nonresident defendant as may be necessary to afford him reasonable opportunity to defend said action.

15. *Duty of secretary of state.* The secretary of state shall keep a record of all notices of suit filed with him or her, shall not permit said filed notices to be taken from his or her office except on an order of court, and shall, on request, and without fee, furnish any defendant with a certified copy of the notice in which he or she is defendant.

16. *Injunction upon nonpayment.* Any employer or employing unit refusing or failing to make and file required reports or to pay any contributions, interest or penalty under the provisions of this chapter, after ten days' written notice sent by the department to the employer's or employing unit's last known address by certified mail, may be enjoined from operating any business in the state while in violation of this chapter upon the complaint of the Iowa department of job service in the district court of a county in which the employer or employing unit has or had a place of business within the

state, and any temporary injunction enjoining the continuance of such business may be granted without notice and without a bond being required from the Iowa department of job service. Such injunction may enjoin any employer or employing unit from operating a business unit until the delinquent contributions, interest or penalties shall have been made and filed or paid; or the employer shall have furnished a good and sufficient bond conditioned upon the payment of such delinquencies in such an amount and containing such terms as may be determined by the court; or the employer has entered into a plan for the liquidation of such delinquencies as the court may approve, provided that such injunction may be reinstated upon the employer's failure to comply with the terms of said plan. (C39, section *1551.20*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.14; 66GA, ch 92, sections 22-25, 35, ch 1068, sections 23, 40, ch 1084, section 43)

Referred to in sections 96.7(4a), 96.7(9, 10), 96.9(2), 96.13(3), 96.16(4), 96.19(7, g, (2))

PROTECTION OF RIGHTS AND BENEFITS

96.15 Waiver—fees—assignments.

1. *Waiver of rights void.* Any agreement by an individual to waive, release, or commute his or her rights to benefits or any other rights under this chapter shall be void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this chapter from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from the employer, or require or accept any waiver of any right hereunder by any individual in his or her employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be guilty of a serious misdemeanor.

2. *Limitation of fees.* No individual claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the department or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the department, or an appeal tribunal or a court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such services more than an amount approved by the department. Any person who violates any provisions of this subsection shall, for each such offense, be guilty of a serious misdemeanor.

3. *No assignment of benefits—exemptions.* Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this chapter shall be void, and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts. Any waiver of any exemption provided for in this subsection shall be void. (C39, section *1551.21*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.15; 66GA, ch 92, section 35, ch. 1068, section 40)

96.16 Offenses.

1. *Penalties.* Whoever 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 or for any other person, shall be guilty of a fraudulent practice. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

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 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.

3. *Unlawful acts.* Any person who shall willfully violate any provisions of this chapter or any rule thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be guilty of a simple misdemeanor, and each day such violation continues shall be deemed to be a separate offense.

4. *Misrepresentation.* Any person who, by reason of any error, or by reason of the nondisclosure or misrepresentation by him or her or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) 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 case, or while he or she was disqualified from receiving benefits, shall, in the discretion of the department, either be liable to have such sum deducted from any future benefits payable to him or her 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. (39, section *1551.22*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.16; 66GA, ch 92, section 35, ch 1068, section 40)

REPRESENTATION IN COURT

96.17 Counsel.

1. *Legal services.* In any civil action to enforce the provisions of this chapter, the department and the state may be represented by any qualified attorney who is a regular salaried employee of the department and is des-

ignated by it for this purpose or, at the department's request, by the attorney general. In case the governor designates special counsel to defend on behalf of the state, the validity of this chapter, the expenses and compensation of such special counsel employed by the department in connection with such proceeding may be charged to the unemployment compensation administration fund.

2. *County attorney.* All criminal actions for violations of any provision of this chapter, or of any rules issued by the department pursuant thereto, shall be prosecuted by the prosecuting attorney of any county in which the employer has a place of business or the violator resides, or, at the request of the department, shall be prosecuted by the attorney general.

3. *Indemnification.* Any member of the department or any employee of the department shall be indemnified for any damages and legal expenses incurred as a result of the good faith performance of their official duties, for any claim for civil damages not specifically covered by the Iowa Tort Claims Act.* Any payment described herein shall be paid from the special employment security contingency fund in section 96.13, subsection 3. (C39, section *1551.23*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.17; 66GA, ch 92, section 26, ch 1068, section 40)

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96.18 Nonliability of state.

Benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter and to the extent that moneys are available therefor to the credit of the unemployment compensation fund, and neither the state nor the department shall be liable for any amount in excess of such sums. (C39, section *1551.24*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.18; 66GA, ch 1068, section 40)

DEFINITIONS

96.19 Scope.

As used in this chapter, unless the context clearly requires otherwise:

1. "*Annual payroll.*" The term "annual payroll" as used in subsection 3 "*d*" of section 96.7 means the total amount of taxable wages paid by an employer for insured work during the period of four consecutive calendar quarters ending on June thirtieth of each year, and the term "average annual payroll" as used in said subsection means the average of the "annual payrolls" of an employer for the last three periods of four consecutive calendar quarters immediately preceding the computation date. Except that for an employer who qualifies on any computation date for a computed rate on the basis of less than twelve consecutive calendar quarters of chargeability immediately preceding the computation date, the term average annual payroll shall be the average of the annual payrolls for the last two periods of four consecutive calendar quarters immediately preceding the computation date.

2. "*Benefits*" means the money payments payable to an individual, as provided in this chapter, with respect to his or her unemployment.

3. "*Contributions*" means the money payments to the state unemployment compensation fund required by this chapter.

4. "*Employing unit*" means any individual or type of organization, including this state and its political subdivisions, state agencies, boards, commissions, and instrumentalities thereof, any partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Whenever any employing unit contracts with or has under it any contractor or subcontractor for any work which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of subsection 6 or section 96.8, subsection 3, the employing unit shall for all the purposes of this chapter be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such work; except that each such contractor or subcontractor who is an employer by reason of subsection 6 or section 96.8, subsection 3, shall alone be liable for the contributions measured by wages payable to individuals in his or her employ, and except that any employing unit who shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of subsection 6 or section 96.8, subsection 3, may recover the same from such contractor or subcontractor, except as any contractor or subcontractor who would in the absence of the foregoing provisions be liable to pay said contributions, accepts exclusive liability for said contributions under an agreement with such employer made pursuant to general rules of the commission. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of such work, and provided, further, that such employment was for a total of not less than eight hours in any one calendar week.

5. "*Employer*" means:

a. For purposes of this chapter with respect to any calendar year after December 31, 1971, any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand five hundred dollars or more, excluding wages paid for domestic service, or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had

96.19

in employment at least one individual irrespective of whether the same individual was in employment in each such day. An employing unit treated as a domestic service employer shall not be treated as an employer with respect to wages paid for service other than domestic service unless such employing unit is treated as an employer under this paragraph or as an agricultural labor employer.

b. Any employing unit (whether or not an employing unit at the time of acquisition) which acquired the organization, trade, or business, or substantially all of the assets thereof, of another employing unit which at the time of such acquisition was an employer subject to this chapter, or which acquired a part of the organization, trade, or business of another employing unit which at the time of such acquisition was an employer subject to this chapter. Provided, that such other employing unit would have been an employer under paragraph "*a*" of this subsection, if such part had constituted its entire organization, trade, or business.

c. Any employing unit which acquired the organization, trade, or business, or substantially all the assets of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph "*a*" of this subsection.

d. Any employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, would be an employer under paragraph "*a*" of this subsection.

e. Any employing unit which, having become an employer under paragraph "*a*", "*b*", "*c*", "*d*", "*f*", "*g*", "*h*" or "*i*" has not, under section 96.8, ceased to be an employer subject to this chapter.

f. For the effective period of its election pursuant to section 96.8, subsection 3, any other employing unit which has elected to become fully subject to this chapter.

g. Any employing unit not an employer by reason of any other paragraph of this subsection for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of this chapter for full tax credit against the tax imposed by the federal Unemployment Tax Act (26 U.S.C. 3301-3308), is required, pursuant to such Act, to be an "employer" under this chapter. Provided, however, that if an employer subject to contributions solely because of the terms of this subsection shall establish proper proof to the satisfaction of the department that his or her employees have been and will be duly covered and insured under the unemployment compensation law of another jurisdiction such employer shall not be deemed an employer and such services shall not be deemed employment under this chapter.

h. After December 31, 1971, this state or a state instrumentality and after December 31, 1977, a government entity unless specifically excluded from the definition of employment.

i. Any employing unit for which service in employment, as defined in subsection 6, paragraph "*a*", subparagraph (5), is performed after December 31, 1971.

j. For purposes of paragraphs "*a*" and "*i*", employment shall include service which would constitute employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into in accordance with subsection 6, paragraph "*d*", by the department and an agency charged with the administration of any other state or federal unemployment compensation law.

k. For purposes of paragraphs "*a*" and "*i*", if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week.

Referred to in sections 96.7(3, 8, 9), 96.8(2)

l. An employing unit employing agricultural labor after December 31, 1977, if the employing unit:

(1) Paid during any calendar quarter in the calendar year or the preceding calendar year wages of twenty thousand dollars or more for agricultural labor, or

(2) Employed on each of some twenty days during the calendar year or during the preceding calendar year, each day being in a different calendar week, at least ten individuals in employment in agricultural labor for some portion of the day.

m. An employing unit employing after December 31, 1977, domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, and with respect to any calendar year, any employing unit who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of one thousand dollars or more for such service.

6. "*Employment*".

a. Except as otherwise provided in this subsection "employment" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Employment also means any service performed prior to January 1, 1978, which was employment as defined in this subsection prior to such date and, subject to the other provisions of this subsection, service performed after December 31, 1977, by:

(1) Any officer of a corporation. Provided that the term "employment" shall not include such officer if the officer is a majority stockholder and the officer shall not be considered an employee of the corporation unless such services are subject to a tax to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or such services are required to be covered under this chapter of the Code, as a condition to receipt of a full tax credit against the tax imposed by the federal Unemployment Tax Act (26 U.S.C. 3301-3309), or

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(2) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee, or

(3) Any individual other than an individual who is an employee under subparagraphs (1) or (2) who performs services for remuneration for any person as an agent driver or commission driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry cleaning services for his or her principal; as a traveling or city salesman, other than as an agent driver or commission driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

Provided, that for purposes of paragraph "*a*", subparagraph (3), the term "employment" shall include services performed after December 31, 1971, only if:

(a) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

(b) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

(c) The services are not in the nature of single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(4) Service performed after December 31, 1971, by an individual in the employ of this state or any of its wholly owned instrumentalities and after December 31, 1977, service performed by an individual in the employ of a government entity unless specifically excluded from the definition of employment for a government entity.

(5) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational or other organization, but only if the service is excluded from "employment" as defined in the federal Unemployment Tax Act (26 U.S.C. 3301-3309) solely by reason of section 3306 (*c*) (8) of that Act.

(6) For the purposes of subparagraphs (4) and (5), the term "employment" does not apply to service performed:

(a) In the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order.

(c) In the employ of a nonpublic school which is not an institution of higher education prior to January 1, 1978.

(d) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work.

(e) As part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

(f) Prior to January 1, 1978 for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(g) In the employ of a governmental entity, if such service is performed by an individual in the exercise of his or her duties as an elected official; as a member of a legislative body, or a member of the judiciary, of a state or political subdivision; as a member of the state national guard or air national guard; as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or in a position which, pursuant to the state law, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position which ordinarily does not require duties of more than eight hours per week.

(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 two hundred fourteen (c) (214 (c)) and one hundred one (a) fifteen (II) (101 (a) (15) (II)) of the Immigration and nationality Act.

(b) For the purposes of this subparagraph, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other employing unit shall be treated as an employee of such crew leader if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and if such individual is not otherwise in employment as defined in this subsection.

For the purposes of this subparagraph, in the case of any individual who is furnished by a crew leader to

perform agricultural labor for any other employing unit and who is not treated as an employee of such crew leader as described above, such other employing unit and not the crew leader shall be treated as the employer of such individual; and such other employing unit shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader either on his or her behalf or on behalf of such other employing unit for the agricultural labor performed for such other employing unit.

For the purposes of this subsection, the term "crew leader" means an employing unit which furnishes individuals to perform agricultural labor for any other employing unit; pays, either on the crew leader's behalf or on behalf of such other employing unit, the individuals so furnished by the crew leader for the agricultural labor performed by them, and has not entered into a written agreement with such other employing unit under which such individual is designated as an employee of such other employing unit.

(8) A person performing after December 31, 1977 domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if performed for an employing unit who paid cash remuneration of one thousand dollars or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year.

b. The term "employment" shall include an individual's entire service, performed within or both within and without this state if:

(1) The service is localized in this state, or

(2) The service is not localized in any state but some of the service is performed in this state and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, as in this state; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state, or

(3) The service is performed outside the United States, except in Canada, after December 31, 1971, by a citizen of the United States in the employ of an American employer, other than service which is deemed "employment" under the provisions of subparagraphs (1) and (2) or the parallel provisions of another state law, or service performed after December thirty-first of the year in which the United States secretary of labor approved the first time the unemployment compensation law submitted by the Virgin Islands, if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States but the employer is an individual who is a resident of this state, or the employer is a corporation which is organized under the laws of this state, or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) None of the criteria of subdivisions (a) and (b) of this subparagraph is met, but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service under the law of this state.

(d) An "American employer", for purposes of this subparagraph, means a person who is an individual who is a resident of the United States or a partnership if two-thirds or more of the partners are residents of the United States, or a trust, if all of the trustees are residents of the United States, or a corporation organized under the laws of the United States or of any state.

(4) Notwithstanding the provisions of subparagraphs (1), (2), and (3), all service performed after December 31, 1971, by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office from which the operations of such vessel operating on navigable waters within and without the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state, and

(5) Notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which, as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act (26 U.S.C. 3301-3308), is required to be covered under this chapter.

c. Services performed within this state but not covered under paragraph "*b*" of this subsection shall be deemed to be employment subject to this chapter if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

d. Services not covered under paragraph "*b*" of this subsection, and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter if the individual performing such services is a resident of this state and the department approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter.

e. Service shall be deemed to be localized within a state if:

(1) The service is performed entirely within such state, or

(2) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

f. Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the department that such individual has been and will con-

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tinue to be free from control or direction over the performance of such services, both under his contract of service and in fact.

g. The term "employment" shall not include:

(1) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States; provided, however, that the general language just used shall not include any such instrumentality of the United States after Congress has, by appropriate legal action, expressly permitted the several states to require such instrumentalities to make payments into an employment fund under a state unemployment compensation law; and all such instrumentalities so released from the constitutional immunity to make the contributions, imposed by this chapter shall, thereafter, become subject to all the provisions of said chapter, and such provisions shall then be applicable to such instrumentalities and to all services performed for such instrumentalities in the same manner, to the same extent and on the same terms as are applicable to all other employers, employing units, individuals and services. Should the social security board, acting under section 1603 of the federal internal revenue code, fail to certify the state of Iowa for any particular calendar year, then the payments required of such instrumentalities with respect to such year shall be refunded by the department from the fund in the same manner and within the same period as is provided for in section 96.14, subsection 5, which section provides for the refunding of contributions erroneously collected.

(2) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; provided, that the department is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in section 96.11, subsection 2 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this chapter.

Referred to in sections 96.3(1), 96.4(5)

(3) *Agricultural labor.* For purposes of this chapter, the term "agricultural labor" means any service performed prior to January 1, 1972, which was agricultural labor as defined in this subparagraph prior to such date, provided that after December 31, 1977, this subparagraph shall not exclude from employment agricultural labor specifically included as agricultural labor under the definition of employment in this subsection, but shall otherwise include remunerated service performed after December 31, 1971:

(a) On a farm in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(b) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(c) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, Sec. 3, 12 U.S.C. 1141j), or in connection with ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(d) (i) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one half of the commodity with respect to which such service is performed;

(ii) In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in (i) of subdivision (d) of this subparagraph, but only if such operators produced more than one half of the commodity with respect to which such service is performed;

(iii) The provisions of (i) and (ii) of subdivision (d) of this subparagraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(e) On a farm operated for profit if such service is not in the course of the employer's trade or business.

(f) The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(4) Domestic service in a private home prior to January 1, 1978, and after December 31, 1977, domestic service in a private home not covered as domestic service under the definition of employment.

(5) Service performed by an individual in the employ of his or her son, daughter, or spouse, and service performed by a child under the age of eighteen in the employ of his or her father or mother.

(6) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university or by the spouse of such

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student, if such spouse is advised, at the time such spouse commences to perform such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and such employment will not be covered by any program of unemployment insurance.

Service performed by an individual under the age of twenty-two years who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

Service performed in the employ of a hospital if such service is performed by a patient of the hospital.

7. "*Employment office*" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices.

8. "*Fund*" means the unemployment compensation fund established by this chapter, to which all contributions required and from which all benefits provided under this chapter shall be paid.

9. "*Total and partial unemployment*".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to him or her and during which he or she performs no services.

b. An individual shall be deemed partially unemployed in any week in which, while employed at his or her then regular job, he or she works less than the regular full-time week and in which he or she earns less than his or her weekly benefit amount plus fifteen dollars.

An individual shall be deemed partially unemployed in any week in which he or she, having been separated from his or her regular job, earns at odd jobs less than his or her weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the commission, not to exceed four consecutive weeks, he or she is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from his or her regular job or trade in which he or she worked full-time and in which he or she will again work full-time, if his or her employment, although temporarily suspended, has not been terminated.

Referred to in sections 96.3(3), 96.4(i, 3)

10. "*State*" includes, in addition to the states of the United States, the District of Columbia, Canada, Puerto Rico, and the Virgin Islands.

11. "*Unemployment compensation administration fund*" means the unemployment compensation administration fund established by this chapter, from which administration expenses under this chapter shall be paid.

12. "*Wages*" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash, shall be estimated and determined in accordance with rules prescribed by the department. Wages payable to an individual for insured work performed prior to January 1, 1941, shall, for the purposes of sections 96.3, 96.4, and this section, be deemed to be wages paid within the calendar quarter with respect to which such wages were payable.

The term wages shall not include:

a. The amount of any payment, including any amount paid by an employer for insurance or annuities or into a fund to provide for such payment, made to or on behalf of an employee or any of his or her dependents under a plan or system established by an employer which makes provisions for his or her employees generally, or for his or her employees generally and their dependents, or for a class, or classes of his or her employees, or for a class or classes of his or her employees and their dependents, on account of retirement, sickness, accident disability, medical or hospitalization expense in connection with sickness or accident disability or death.

b. Any payment paid to an employee, including any amount paid by any employer for insurance or annuities or into a fund to provide for any such payment, on account of retirement.

c. Any payment on account of sickness or accident disability, or medical or hospitalization expense in connection with sickness or accident disability made by an employer to, or on behalf of, an employee after the expiration of six-calendar months following the last calendar month in which the employee worked for such employer.

Referred to in section 96.5(7)

d. Remuneration for agricultural labor paid in any medium other than cash.

13. "*Week*" means such period or periods of seven consecutive calendar days ending at midnight, or as the department may by regulations prescribe.

14. "*Weekly benefit amount*". An individual's "weekly benefit amount" means the amount of benefits he or she would be entitled to receive for one week of total unemployment. An individual's weekly benefit amount, as determined for the first week of his or her benefit year, shall constitute his or her weekly benefit amount throughout such benefit year.

15. "*Benefit year*". The term "benefit year" means a period of one year beginning with the day with respect to which an individual filed a valid claim for benefits. Any claim for benefits made in accordance with section 96.6, subsection 1, shall be deemed to be a valid claim for the purposes of this subsection if the individual has been

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paid wages for insured work required under the provisions of this chapter.

Referred to in section 96.22

16. "*Base period*" means the period beginning with the first day of the five completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding the date on which he or she filed a valid claim.

Referred to in section 96.23

17. "*Calendar quarter*" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1937, or the equivalent thereof as the department may by regulation prescribe.

18. "*Customary self-employment*". An employee shall be deemed to be engaged in "his or her customary self-employment", as said words are used in section 96.5, during the periods in which he or she customarily devotes the major portion of his or her working time and efforts: (*a*) To his or her individual enterprises and interests; or (*b*) to her duties as housewife; or (*c*) to attending classes and preparing his or her studies for any school or college.

19. "*Insured work*" means employment for employers.

20. "*Taxable wages*". For the purposes of section 96.7, subsections 1 and 2 and for the period beginning January 1, 1972 and ending December 31, 1977, taxable wages shall not include that part of remuneration which, after remuneration equal to four thousand two hundred dollars has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund, except that for the calendar years 1976 and 1977 the remuneration figure shall be six thousand dollars.

For the purposes of this subsection, the term "employment" includes service constituting employment under any unemployment compensation law of another state provided such other state will consider service performed in Iowa in determining the contribution base.

For the calendar year beginning January 1, 1978, and each subsequent calendar year, taxable wages upon which an employer shall be required to contribute based upon remuneration which has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year shall be equal to the greater of:

a. Sixty-six and two-thirds percent of the statewide average annual wage paid to employees in insured work rounded to the next highest multiple of one hundred dollars based upon the calculation made during the previous calendar year used to determine the maximum weekly benefit amount, or

b. That portion of remuneration subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.

21. "*Computation date*". The computation date for contribution rates shall be July first of that calendar year preceding the calendar year with respect to which such rates are to be effective.

22. "*Hospital*" means an institution which has been licensed, certified, or approved by the Iowa department of health as a hospital.

23. "*Institution of higher education*" means an educational institution which admits as regular students individuals having a certificate of graduation from a high school, or the recognized equivalent of such certificate; is legally authorized in this state primarily to provide a program of education beyond high school; provides an educational program for which it awards a bachelor's or higher degree or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and is a public or other nonprofit institution.

24. "*United States*" for the purposes of this section includes the states, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands.

25. "*Extended benefit period*" means a period which:

a. Begins with the third week after which ever of the following weeks occurs first:

(1) A week for which there is a national "on" indicator, or

(2) A week for which there is a state "on" indicator, and

b. Ends with either of the following weeks, which ever occurs later:

(1) The third week after the first week for which there is both a national "off" indicator and a state "off" indicator, or

(2) The thirteenth consecutive week of such period.

Provided that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state, and

Provided further that no extended benefit period may become effective in this state prior to January 1, 1972.

26. There is a national "on" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of seasonally adjusted insured unemployment for all states equaled or exceeded four point five percent. The rate of insured unemployment, for the purposes of this subsection, shall be determined by the secretary of labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period.

27. There is a national "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of seasonally adjusted

insured unemployment for all states was less than four point five percent. The rate of insured unemployment, for the purposes of this subsection, shall be determined by the secretary of labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period.

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. Equaled or exceeded five percent; or

b. Equaled or exceeded four percent and equaled or exceeded one hundred twenty percent of the average of those rates for the corresponding thirteen-week period ending in each of the two preceding two calendar years.

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

a. Less than four percent; or

b. Less than five percent and less than one hundred twenty percent of the average of those 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.

30. "*Rate of insured unemployment*", for purposes of determining state "on" indicator and state "off" indicator, means the percentage derived by dividing the average weekly number of individuals filing claims in Iowa for weeks of unemployment with respect to the most recent thirteen consecutive week period, as determined by the department on the basis of its reports to the United States secretary of labor, by the average monthly insured employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

31. "*Regular benefits*" means benefits payable to an individual under this or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen or women pursuant to 5 U.S.C., chapter 85) other than extended benefits.

32. "*Extended benefits*" means benefits (including benefits payable to federal civilian employees and to ex-servicemen or women pursuant to 5 U.S.C., chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his or her eligibility period.

33. "*Eligibility period*" of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

34. "*Exhaustee*" means an individual who, with respect to any week of unemployment in his or her eligibility period has received, prior to such week, all of the regular benefits that were available to him or her under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen or women under 5 U.S.C., Chapter 85) in his or her current benefit year that includes such weeks. Provided that for the purposes of this subsection an individual shall be deemed to have received all of the regular benefits that were available to him or her, although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his or her benefit year he or she may subsequently be determined to be entitled to add regular benefits, or:

a. His or her benefit year having expired prior to such week, has no, or insufficient, wages and on the basis of which he or she could establish a new benefit year that would include such week, and

b. He or she has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States secretary of labor, and he or she has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law he or she is considered an exhaustee.

35. "*State law*" means the unemployment insurance law of any state, approved by the United States secretary of labor under 26 U.S.C. 3304. (C39, section *1551.25*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.19; 66GA, ch 92, sections 27-35, ch 93, section 3, ch 1068, sections 24-26, 40, 45)

Referred to in sections 96.3(1), 96.3(3), 96.4(1, 3), 96.4(5), 96.5(7), 96.7(3, 8, 9), 96.8(2), 96.22, 96.23

Amendment by 66GA, ch 1068, section 24, effective March 31, 1977

36. "*Domestic service*" includes service for an employing unit in the operation and maintenance of a private household, local college club or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise, or vocation.

37. "*Educational institution*" means one in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher. It is approved, licensed or issued a permit to operate as a school by the state department of public instruction or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school. The course of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

38. "*Government entity*" means a state, a state instrumentality, a political subdivision or a political subdivision instrumentality, or a combination of one or more of the preceding.

RECIPROCITY

96.20 Reciprocal benefit arrangements.

1. The department is hereby authorized to enter into arrangements with the appropriate agencies of other states, or a contiguous country with which the United States has an agreement with respect to unemployment compensation or the federal government whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the department finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

2. The department may enter into arrangements with the appropriate agencies of other states, or a contiguous country with which the United States has an agreement with respect to unemployment compensation or of the federal government (*a*) whereby wages or services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government, shall be deemed to be wages for employment by employers for the purposes of section 96.3 and section 96.4, subsection 5; provided such other state agency or agency of the federal government has agreed to reimburse the fund for such portion of benefits paid under this chapter upon the basis of such wages or services as the department finds will be fair and reasonable as to all affected interests, and (*b*) whereby the department will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any such other states or of the federal government upon the basis of employment or wages for employment by employers, as the department finds will be fair and reasonable as to all affected interests. Reimbursements so payable shall be deemed to be benefits for the purposes of section 96.3, subsection 5, and section 96.9, but no reimbursement so payable shall be charged against any employer's account for the purposes of section 96.7, unless wages so transferred are sufficient to establish a valid claim in Iowa, and that such charges shall not exceed the amount that would have been charged on the basis of a valid claim. The department is hereby authorized to make to other state or federal agencies and receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements pursuant to this section. The department shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this Act with his or her wages and employment covered under the unemployment compensation laws of other states which are approved by the United States secretary of labor and consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for: Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and avoiding the duplication use of wages and employment by reason of such combining.

3. The department is hereby authorized to enter into agreements with the appropriate agencies of other states, or a contiguous country with which the United States has an agreement with respect to unemployment compensation or the federal government administering unemployment compensation laws to provide that contributions on wages for services performed by an individual in more than one state for the same employer may be paid to the appropriate agency of one state. (C39, section *1551.26*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.20; 66GA, ch 92, section 35, ch 1068, section 40)

Constitutionality, 46ExGA, ch 4, sections 22, 23; 47GA, ch 102, sections 22, 23; 50GA, ch 77, section 3; 51GA, ch 88, section 4

Omnibus repeal, 48GA, ch 64, section 3
Omnibus repeal, 48GA, ch 65, section 6
Omnibus repeal, 48GA, ch 67, section 7
Omnibus repeal, 48GA, ch 68, section 9
Omnibus repeal, 48GA, ch 69, section 8
Omnibus repeal, 49GA, ch 98, section 8
Omnibus repeal, 49GA, ch 99, section 2
Omnibus repeal, 49GA, ch 100, section 2
Omnibus repeal, 49GA, ch 101, section 12
Omnibus repeal, 49GA, ch 103, section 3
Omnibus repeal, 49GA, ch 104, section 2
Omnibus repeal, 49GA, ch 105, section 2
Omnibus repeal, 50GA, ch 70, section 2
Omnibus repeal, 50GA, ch 75, section 2
Omnibus repeal, 50GA, ch 77, section 2
Omnibus repeal, 50GA, ch 78, section 2
Omnibus repeal, 51GA, ch 88, section 5
Omnibus repeal, 51GA, ch 90, section 3
Omnibus repeal, 52GA, ch 74, section 9
Omnibus repeal, 53GA, ch 63, section 2

Saving clause, 46ExGA, ch 4, section 21; 47GA, ch 102, section 21; 49GA, ch 104, section 2

96.21 Termination.

If at any time Title IX of the Social Security Act, as amended, shall be amended or repealed by Congress or held unconstitutional by the supreme court of the United States, with the result that no portion of the contributions required under this chapter may be credited against the tax imposed by said Title IX, in any such event the operation of the provisions of this chapter requiring the payment of contributions and benefits shall immediately cease, the department shall thereupon requisition from the unemployment trust fund all moneys therein standing to its credit, and such moneys, together with any other moneys in the unemployment compensation fund shall be refunded, without interest and under regulations prescribed by the department, to each employer by whom contributions have been paid, proportionately to his or her pro rata share of the total contributions paid under this chapter. Any interest or earnings of the fund shall be available to the department to pay for the costs of making such refunds. When the department shall have executed the duties prescribed in this section and performed such other acts as are incidental to the termination of its duties under this chapter, the provisions of this chapter, in their entirety, shall cease to be operative. (C39, section *155.27*; C46, 50, 54, 58, 62, 66, 71, 73, 75, section 96.21; 66GA, ch 1068, section 40)

Omnibus repeal, 47GA, ch 102, section 25

ARMED FORCES

96.22 Servicemen or women not disqualified.

Notwithstanding any other provision of this chapter to the contrary, any individual in good faith leaving his employment after July 1, 1951, and prior to July 1, 1955, to join the armed forces of the United States, and who does so join, or who attempting to so join is rejected, shall not be disqualified under the provisions of subsection 1 of section 96.5 for voluntarily leaving his or her employment.

Any benefit year as defined in subsection 16 of section 96.19 of any individual shall be extended by any time spent after June 30, 1951, and prior to July 1, 1955, by such individual after the beginning of such benefit year in the armed forces of the United States. (C54, 58, 62, 66, 71, 73, 75, section 96.22; 66GA, ch 92, section 35)

96.23 Base period exclusion.

Any calendar quarter commencing after June 30, 1951, and ending prior to July 1, 1955, the greater portion of which is spent by such individual in the armed forces of the United States, shall not be considered as any portion of the base period provided for in subsection 17 of section 96.19 (C54, 58, 62, 66, 71, 73, 75, section 96.23)

96.24 Employer to be notified.

Whenever an employee is separated from employment for the purpose of joining the armed forces of the United States, the employee shall notify the employer in writing of the employee's acceptance and date of reporting for service and the employer shall, within fifteen days after said notice from the employee, notify the Iowa employment security commission of such separation and date of termination of wages on a form furnished by the department. (C54, 58, 62, 66, 71, 73, 75, section 96.24; 66GA, ch 92, section 35, ch 1068, section 40)

JOB SERVICE BUILDING

96.25 Office building.

The department of job service may, subject to the approval of the executive council of the state, acquire for and in the name of the state of Iowa by purchase, or by rental purchase agreement, such lands and buildings upon such terms and conditions as may entitle this state to grants or credits of funds under the Social Security Act or the Wagner-Peyser Act to be applied against the cost of such property, for the purpose of providing office space for the department of job service at such places as the commission finds necessary and suitable. (C62, 66, 71, 73, 75, section 96.25; 66GA, ch 1068, section 38)

Referred to in sections 96.26—96.28

96.26 Moneys received.

The department of job service is authorized to accept, receive, and receipt for all moneys received from the United States for the payments authorized by sections 96.25 to 96.28 for lands and buildings and to comply with any rules made under the Social Security Act or the Wagner-Peyser Act. (C62, 66, 71, 73, 75, section 96.26; 66GA, ch 1068, section 38)

Referred to in section 96.28

96.27 Approval of attorney general.

An agreement made for the purchase or other acquisition of the premises mentioned in section 96.25 of this section with funds granted or credited to this state for such purpose under the Social Security Act or the Wagner-Peyser Act shall be subject to the approval of the attorney general of the state of Iowa as to form and as to title thereto. (C62, 66, 71, 73, 75, section 96.27)

Referred to in sections 96.26, 96.28

96.28 Deposit of funds.

All moneys received from the United States for the payments authorized by sections 96.25 to 96.27 for lands and buildings shall be deposited in the employment security administration fund in the state treasury and are appropriated therefrom for the purposes of this chapter. (C62, 66, 71, 73, 75, section 96.28)

Referred to in section 96.26

EXTENDED BENEFITS

96.29 Extended benefits.

Except when the result would be inconsistent with the other provisions of this chapter, as provided in regulations of the department, the provisions of the law which apply to claims for or the payment of regular benefits shall apply to claims for, and the payment of extended benefits.

1. *Eligibility requirements for extended benefits.* An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the department finds that with respect to such week:

a. He or she is an "exhaustee" as defined in this chapter.

b. He or she has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

2. *Weekly extended benefit amount.* The weekly extended benefit amount payable to an individual for a week of total unemployment in his or her eligibility period shall be an amount equal to the weekly benefit amount payable to him or her during his or her applicable benefit year.

3. *Total extended benefit amount.* The total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the least of the following amounts.

a. Fifty percent of the total amount of regular benefits which were payable to him or her under this chapter in his or her applicable benefit year.

b. Thirteen times his or her weekly benefit amount which was payable to him or her under this chapter for a week of total unemployment in the applicable benefit year.

4. *Beginning and termination of extended benefit period.* Whenever an extended benefit period is to become effective in Iowa, or in all states, as a result of a state or a national "on" indicator, or an extended benefit

period is to be terminated in Iowa as a result of state and national "off" indicators, the department shall make an appropriate public announcement. Computations required by the provisions of this subsection shall be made by the department in accordance with regulations prescribed by the United States secretary of labor. (C73, 75, section 96.29; 66GA, ch 92, section 35, ch 1068, section 40)

Referred to in sections 96.7(3), 96.11(11)

96.30 Inclusion of wages paid prior to January 1, 1978, for newly covered employers.

1. With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid prior to January 1, 1978, for services which prior to January 1, 1978 were not defined as employment or covered pursuant to an election by a person to become an employer under this chapter at any time during the one-year period ending December 31, 1975. Such services include agricultural labor defined as employment after January 1, 1978, domestic service defined as employment after January 1, 1978 or are services performed by an employee of this state or a political subdivision or an instrumentality of a state or political subdivision or by an employee of a nonprofit educational institution which is not an institution of higher education except to the extent that assistance under Title two (II) of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such service.

2. Any nonprofit organization which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in this paragraph shall not be liable to make such payments with respect to the benefits paid to any individual whose base-period wages include wages for previously uncovered services as defined in this section to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to section one hundred twenty-one (121) of public law ninety-four dash five hundred sixty-six (94—566), 1976.

96.31 Tax for benefits.

Political subdivisions may levy a tax outside their general fund to pay the cost of unemployment benefits.

96.32 Fraud and overpayment personnel.

It is the declared intent of the general assembly of the state of Iowa that the department of job service shall employ employees as full-time claims specialists in the fraud and overpayment unit of the job insurance division of the department of job service to the extent that federal funds are available to the department of job service for the employment of such full-time personnel.

96.33 Evaluation of unemployment experience.

The department of job service is directed to study and compile data to evaluate the unemployment experience of political subdivisions and instrumentalities of political subdivisions. The department of job service shall submit to the Sixty-eighth General Assembly, 1979 Session, prior to February 1, 1979, a summary report of the unemployment experience of political subdivisions and political subdivision instrumentalities. The department of job service shall prepare contribution tables for government entities similar to the contribution tables for other employers which will rank government entity employers and assign the government entity employers into rate classes designed to raise sufficient revenue from government contributing employers to meet the costs of unemployment compensation benefit payments for government contributing employers.

96.34 Government employers reclassified.

Government entities, originally classified as government reimbursable employers under the provisions of this Act may elect to become government contributing employers for a minimum of two calendar years, however such election shall be communicated to the department of job service, upon forms provided by the department of job service, prior to November 1, 1977.

96.35 Status report.

The Iowa department of job service shall annually submit a status report on the unemployment compensation trust fund to the general assembly.

96.35 Trust fund report.

The Iowa department of job service shall annually submit a status report on the unemployment compensation trust fund to the general assembly.

67 G.A. Chapter 55, Section 8.

If the total trust funds available for payment of unemployment compensation benefits through April 1, 1978, is projected to fall below twenty million dollars, the director of the Iowa department of job service shall prepare and adopt such procedures for advance payment of a portion of the employer's unemployment contributions projected due for the first quarter of the calendar year beginning January 1, 1978.

This section shall be effective July 1, 1977.

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