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COMMERCE, REGULATION & LABOR

HOUSE FILE 818

BY T. TAYLOR

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to eligibility requirements for qualification for
 2 unemployment compensation benefits.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 818

1 Section 1. Section 96.3, subsection 3, Code 2005, is
2 amended to read as follows:

3 3. PARTIAL UNEMPLOYMENT. An individual who is partially
4 or temporarily unemployed in any week as defined in section
5 96.19, subsection 38, paragraph "b" or "c", and who meets the
6 conditions of eligibility for benefits shall be paid with
7 respect to that week an amount equal to the individual's
8 weekly benefit amount less fifty percent of that part of wages
9 payable to the individual with respect to that week in excess
10 of one-fourth of the individual's weekly benefit amount. The
11 benefits shall be rounded to the lower multiple of one dollar.
12 Benefits for an individual who is partially employed shall not
13 exceed an amount equal to the individual's average weekly wage
14 for insured work paid to the individual during that quarter of
15 the individual's base period in which the individual's wages
16 were highest.

17 Sec. 2. Section 96.3, subsection 4, Code 2005, is amended
18 to read as follows:

19 4. DETERMINATION OF BENEFITS. ~~With-respect-to-benefit~~
20 ~~years-beginning-on-or-after-July-17-1983,-an~~ An eligible
21 individual's weekly benefit amount for a week of total
22 unemployment shall be an amount equal to ~~the-following~~
23 ~~fractions~~ one-twentieth of the individual's total wages in
24 insured work paid during that quarter of the individual's base
25 period in which such total wages were highest; the director
26 shall determine annually a maximum weekly benefit amount equal
27 to ~~the-following-percentages,-to-vary-with-the-number-of~~
28 ~~dependents,~~ sixty-six and two-thirds percent of the statewide
29 average weekly wage paid to employees in insured work which
30 shall be effective the first day of the first full week in
31 July.

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

1	fraction-of-high	the-statewide
2	quarter-wages:	average
3		weekly-wage:
4 0	1/23	53%
5 1	1/22	55%
6 2	1/21	57%
7 3	1/20	60%
8 4-or-more	1/19	65%

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

23 Sec. 3. Section 96.4, subsection 4, Code 2005, is amended
 24 to read as follows:

25 4. The individual has been paid wages for insured work
 26 during the individual's base period in an amount at least one
 27 and one-quarter times the wages paid to the individual during
 28 that quarter of the individual's base period in which the
 29 individual's wages were highest, provided that the individual
 30 has been paid wages for insured work totaling at least three
 31 and five-tenths percent of the statewide average annual wage
 32 for insured work, computed for the preceding calendar year if
 33 the individual's benefit year begins on or after the first
 34 full week in July and computed for the second preceding
 35 calendar year if the individual's benefit year begins before

1 the first full week in July, in that calendar quarter in the
2 individual's base period in which the individual's wages were
3 highest, and the individual has been paid wages for insured
4 work totaling at least one-half of the amount of wages
5 required under this subsection in the calendar quarter of the
6 base period in which the individual's wages were highest, in a
7 calendar quarter in the individual's base period other than
8 the calendar quarter in which the individual's wages were
9 highest. The calendar quarter wage requirements shall be
10 rounded to the nearest multiple of ten dollars.

11 If the individual does not have sufficient wages in the
12 base period to qualify for benefits pursuant to this section,
13 then the extended base period shall be applied if such
14 extended base period qualifies the individual for benefits
15 under this section.

16 If the individual has drawn benefits in any benefit year,
17 the individual must during or subsequent to that year, work in
18 and be paid wages for insured work totaling at least two
19 ~~hundred-fifty-dollars~~ the statewide average weekly wage, as a
20 condition to receive benefits in the next benefit year.

21 Sec. 4. Section 96.5, subsection 1, Code 2005, is amended
22 by adding the following new paragraph:

23 NEW PARAGRAPH. b. The individual left employment during
24 the first thirty calendar days of employment.

25 Sec. 5. Section 96.5, subsection 1, paragraph j,
26 unnumbered paragraph 1, Code 2005, is amended to read as
27 follows:

28 The individual is a temporary employee of a temporary
29 employment firm who notifies the temporary employment firm of
30 completion of an employment assignment and who seeks
31 reassignment. Failure of the individual to notify the
32 temporary employment firm of completion of an employment
33 assignment within three working days of the completion of each
34 employment assignment under a contract of hire shall ~~be deemed~~
35 ~~a-voluntary-quit~~ deem the individual not able and available

1 for work unless the individual was not advised in writing of
2 the duty to notify the temporary employment firm upon
3 completion of an employment assignment or the individual had
4 good cause for not contacting the temporary employment firm
5 within three working days and notified the firm at the first
6 reasonable opportunity thereafter.

7 Sec. 6. Section 96.5, subsection 3, paragraph b, Code
8 2005, is amended by adding the following new subparagraph:

9 NEW SUBPARAGRAPH. (4) If the individual devotes time and
10 effort to becoming self-employed or to establish a business
11 and is approved by the department for entrepreneur status
12 pursuant to rules adopted by the department.

13 Sec. 7. Section 96.5, subsection 5, paragraph a, Code
14 2005, is amended to read as follows:

15 a. Wages in lieu of notice, separation allowance,
16 ~~severance-pay~~, or dismissal pay.

17 Sec. 8. Section 96.5, subsection 7, Code 2005, is amended
18 to read as follows:

19 7. SEVERANCE PAY OR VACATION PAY.

20 a. When an employer makes a payment or becomes obligated
21 to make a payment to an individual for severance pay, vacation
22 pay, or for vacation pay allowance, or as pay in lieu of
23 vacation, such payment or amount shall be deemed "wages" as
24 defined in section 96.19, subsection 41, and shall be applied
25 as provided in paragraph "c" hereof.

26 b. When, in connection with a separation or layoff of an
27 individual, the individual's employer makes a payment or
28 payments to the individual, or becomes obligated to make a
29 payment to the individual as, or in the nature of, severance
30 pay, vacation pay, or vacation pay allowance, or as pay in
31 lieu of vacation, and within ~~ten~~ fourteen calendar days after
32 notification of the filing of the individual's claim,
33 designates by notice in writing to the department the period
34 to which the payment shall be allocated; provided, that if
35 such designated period is extended by the employer, the

1 individual may again similarly designate an extended period,
2 by giving notice in writing to the department not later than
3 the beginning of the extension of the period, with the same
4 effect as if the period of extension were included in the
5 original designation. The amount of a payment or obligation
6 to make payment, is deemed "wages" as defined in section
7 96.19, subsection 41, and shall be applied as provided in
8 paragraph "c" of this subsection 7.

9 c. Of the wages described in paragraph "a" (whether or not
10 the employer has designated the period therein described), or
11 of the wages described in paragraph "b", if the period therein
12 described has been designated by the employer as therein
13 provided, a sum equal to the wages of such individual for a
14 normal workday shall be attributed to, or deemed to be payable
15 to the individual with respect to, the first and each
16 subsequent workday in such period until such amount so paid or
17 owing is exhausted. Any individual receiving or entitled to
18 receive wages as provided herein shall be ineligible for
19 benefits for any week in which the sums, so designated or
20 attributed to such normal workdays, equal or exceed the
21 individual's weekly benefit amount. If the amount so
22 designated or attributed as wages is less than the weekly
23 benefit amount of such individual, the individual's benefits
24 shall be reduced by such amount.

25 d. Notwithstanding contrary provisions in paragraphs "a",
26 "b", and "c", if an individual is separated from employment
27 and is scheduled to receive severance or vacation payments
28 during the period of unemployment attributable to the employer
29 and if the employer does not designate the severance or
30 vacation period pursuant to paragraph "b", then payments made
31 by the employer to the individual or an obligation to make a
32 payment by the employer to the individual for severance pay,
33 vacation pay, vacation pay allowance or pay in lieu of
34 vacation shall not be deemed wages as defined in section
35 96.19, subsection 41, for any period in excess of one week for

1 severance pay and one week for vacation pay and such payments
2 or the value of such obligations shall not be deducted for any
3 period in excess of one week for severance pay and one week
4 for vacation pay from the unemployment benefits the individual
5 is otherwise entitled to receive under this chapter. However,
6 if the employer designates more than one week as the severance
7 period or more than one week as the vacation period pursuant
8 to paragraph "b", the severance pay, the vacation pay,
9 vacation pay allowance, or pay in lieu of vacation shall be
10 considered wages and shall be deducted from benefits.

11 e. If an employer pays or is obligated to pay a bonus to
12 an individual at the same time the employer pays or is
13 obligated to pay vacation pay, a vacation pay allowance, or
14 pay in lieu of vacation, the bonus shall not be deemed wages
15 for purposes of determining benefit eligibility and amount,
16 and the bonus shall not be deducted from unemployment benefits
17 the individual is otherwise entitled to receive under this
18 chapter.

19 Sec. 9. Section 96.5, Code 2005, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 11. SELF-EMPLOYMENT. If the individual
22 devotes an amount of time and effort to becoming self-employed
23 or to establish a business preventing the individual from
24 being available for work unless the individual is approved by
25 the department for entrepreneur status pursuant to rules
26 adopted by the department. Benefits paid to a self-employed
27 individual with entrepreneur status shall be charged to the
28 unemployment compensation fund.

29 Sec. 10. Section 96.6, subsection 2, Code 2005, is amended
30 to read as follows:

31 2. INITIAL DETERMINATION. A representative designated by
32 the director shall promptly notify all interested parties to
33 the claim of its filing, and the parties have ten days from
34 the date of mailing the notice of the filing of the claim by
35 ordinary mail to the last known address to protest payment of

1 benefits to the claimant. The representative shall promptly
2 examine the claim and any protest, take the initiative to
3 ascertain relevant information concerning the claim, and, on
4 the basis of the facts found by the representative, shall
5 determine whether or not the claim is valid, the week with
6 respect to which benefits shall commence, the weekly benefit
7 amount payable and its maximum duration, and whether any
8 disqualification shall be imposed. The claimant has the
9 burden of proving that the claimant meets the basic
10 eligibility conditions of section 96.4. The employer has the
11 burden of proving that the claimant is disqualified for
12 benefits pursuant to section 96.5, except as provided by this
13 subsection. The claimant has the initial burden to produce
14 evidence showing that the claimant is not disqualified for
15 benefits in cases involving section 96.5, subsection 10, and
16 has the burden of proving that a voluntary quit pursuant to
17 section 96.5, subsection 1, was for good cause attributable to
18 the employer and that the claimant is not disqualified for
19 benefits in cases involving section 96.5, subsection 1,
20 paragraphs "a" through "h". Unless the claimant or other
21 interested party, after notification or within ~~ten~~ fourteen
22 calendar days after notification was mailed to the claimant's
23 last known address, files an appeal from the decision, the
24 decision is final and benefits shall be paid or denied in
25 accordance with the decision. However, if a denial causes a
26 benefit overpayment as determined in a separate decision, and
27 a claimant files an appeal from the overpayment decision
28 within fourteen calendar days after notification was mailed to
29 the claimant's last known address, the appeal of the
30 overpayment decision shall also be considered an appeal of the
31 denial decision causing the benefit overpayment. If an
32 administrative law judge affirms a decision of the
33 representative, or the appeal board affirms a decision of the
34 administrative law judge allowing benefits, the benefits shall
35 be paid regardless of any appeal which is thereafter taken,

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

5 Sec. 11. Section 96.6, subsection 3, unnumbered paragraph
6 1, Code 2005, is amended to read as follows:

7 Unless the appeal is withdrawn, an administrative law
8 judge, after affording the parties reasonable opportunity for
9 fair hearing, shall affirm or modify the findings of fact and
10 decision of the representative. The hearing shall be
11 conducted pursuant to the provisions of chapter 17A relating
12 to hearings for contested cases. Before the hearing is
13 scheduled, the parties shall be afforded the opportunity to
14 choose either a telephone hearing or an in-person hearing. A
15 request for an in-person hearing shall be approved unless the
16 in-person hearing would be impractical because of the distance
17 between the parties to the hearing. A telephone or in-person
18 hearing shall not be scheduled before the seventh calendar day
19 after the parties receive notice of the hearing. Reasonable
20 requests for the postponement of a hearing shall be granted.
21 The parties shall be duly notified of the administrative law
22 judge's decision, together with the administrative law judge's
23 reasons for the decision, which is the final decision of the
24 department, unless within ~~fifteen~~ fourteen days after the date
25 of notification or mailing of the decision, further appeal is
26 initiated pursuant to this section.

27 Sec. 12. Section 96.7, subsection 2, paragraph a,
28 subparagraph (2), unnumbered paragraph 3, Code 2005, is
29 amended to read as follows:

30 An employer's account shall not be charged with benefits
31 paid to an individual who left the work of the employer
32 voluntarily without good cause attributable to the employer,
33 or to an individual who was discharged for misconduct in
34 connection with the individual's employment, or to an
35 individual who was discharged for unsatisfactory work or work

1 attitude during the first thirty calendar days of employment,
2 or to an individual who failed without good cause, either to
3 apply for available, suitable work or to accept suitable work
4 with that employer, but shall be charged to the unemployment
5 compensation fund. This paragraph applies to both
6 contributory and reimbursable employers, notwithstanding
7 section 96.8, subsection 5.

8 Sec. 13. Section 96.19, Code 2005, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 20A. "Extended base period" means the
11 period beginning with the first day of the six completed
12 calendar quarters immediately preceding the first day of an
13 individual's benefit year and ending with the last day of the
14 next to last completed calendar quarter immediately preceding
15 the date on which the individual filed a claim provided that
16 the first completed calendar quarter has not been previously
17 used for a claim in which benefits were paid unless the
18 benefits were overpaid and refunded prior to the date the
19 individual filed the claim for benefits under the extended
20 base period.

21 Sec. 14. Section 96.19, subsection 38, paragraph b, Code
22 2005, is amended to read as follows:

23 b. An individual shall be deemed partially unemployed in
24 any week in which, while employed at the individual's then
25 regular job, the individual works less than the regular full-
26 time week and in which the individual earns less than the
27 individual's average weekly benefit-amount-plus-fifteen
28 dollars wage for insured work paid to the individual during
29 that quarter of the individual's base period in which the
30 individual's wages were highest.

31 An individual shall be deemed partially unemployed in any
32 week in which the individual, having been separated from the
33 individual's regular job, works less than forty hours and
34 earns at odd jobs less than the individual's average weekly
35 benefit-amount-plus-fifteen-dollars wage for insured work paid

1 to the individual during that quarter of the individual's base
2 period in which the individual's wages were highest.

3 EXPLANATION

4 This bill relates to the eligibility requirements for
5 qualification for receipt of unemployment compensation
6 benefits. The bill provides that individuals who are
7 partially or temporarily employed because of a reduction of
8 hours at the individual's regular job or because the
9 individual is working odd jobs may still qualify for
10 unemployment benefits in an amount reduced by one-half of the
11 wages earned from partial employment which exceed one-fourth
12 of the individual's weekly benefit amount. However, the
13 partially or temporarily employed individual's weekly benefit
14 amount shall not exceed the amount of the individual's average
15 weekly wage paid during the highest quarter of the
16 individual's base period.

17 The bill provides that the amount of an individual's weekly
18 benefit amount shall equal one-twentieth of the individual's
19 total wages in the highest quarter of the individual's base
20 period. The bill provides that the maximum weekly benefit
21 amount shall equal 66 and two-thirds percent of the statewide
22 average weekly wage paid to employees in insured work and
23 eliminates the calculation of the maximum weekly benefit
24 amount according to the number of dependents of an individual
25 and as a percentage of the statewide average weekly wage.

26 The bill eliminates the requirement that to qualify for
27 unemployment benefits an individual must have been paid wages
28 during the individual's base period in an amount at least one
29 and one-quarter times the wages paid to the individual during
30 the highest quarter of the individual's base period. The bill
31 provides that if an individual's base period wages are
32 insufficient to be eligible for benefits, an extended base
33 period may be applied if it qualifies the individual for
34 benefits. "Extended base period" is defined as beginning the
35 first day of the six completed quarters immediately preceding

1 the first day of the individual's benefit year and ending the
2 last day of the next to last completed quarter immediately
3 preceding the date when the individual filed a claim for
4 benefits.

5 The bill provides that if an individual has received
6 benefits in any benefit year, the individual must be paid
7 wages in an amount at least equaling the statewide average
8 weekly wage before becoming eligible for benefits in the next
9 benefit year.

10 The bill provides that an individual shall not be
11 disqualified from benefits if the individual left employment
12 during the first 30 days of employment. The bill provides
13 that temporary employees who fail to notify the temporary
14 employment firm of completion of each employment assignment
15 shall be considered not able and available for work to qualify
16 for benefits.

17 The bill specifically provides law that self-employed
18 persons are disqualified for benefits if the amount of time
19 devoted to self-employment or to establishing a business
20 prevents the individual from being available for work.
21 However, a self-employed individual may not be disqualified
22 for being unavailable if the department of workforce
23 development approves the individual for entrepreneur status
24 pursuant to rules adopted by the department. Benefits paid to
25 a self-employed individual who has entrepreneur status shall
26 be charged to the unemployment compensation fund and not to
27 the employer's account. A self-employed individual who has
28 entrepreneur status shall not be denied benefits for failing
29 to search for or refusing to accept new work.

30 The bill eliminates disqualification for benefits for any
31 week in which the individual receives severance pay and
32 provides for the treatment of receipt of severance pay in the
33 same manner as vacation pay.

34 The bill provides that an individual may file an appeal of
35 a denial of benefits within 14 days after receiving

1 notification of the denial decision. Under current law, the
2 individual must file an appeal within 10 days. If the
3 individual appeals a decision which causes benefit
4 overpayment, the appeal shall also be considered an appeal of
5 the decision denying benefits which caused the overpayment.

6 The bill provides that an employer's contribution account
7 shall not be charged with benefits paid to an individual who
8 was discharged for unsatisfactory work or work attitude during
9 the first 30 days of the individual's employment.

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1 Section 1. NEW SECTION. 249J.1 DEFINITIONS.

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

4 1. "Certified long-term care insurance policy" means a
5 long-term care insurance contract that is issued by an insurer
6 or other person who complies with section 249J.4.

7 2. "Long-term care facility" means a facility licensed
8 under chapter 135C or an assisted living program certified
9 under chapter 231C.

10 3. "Long-term care insurance" means long-term care
11 insurance as defined in section 514G.4 and regulated in
12 section 514G.7.

13 4. "Qualified long-term care services" means qualified
14 long-term care services as defined in section 7702B(c) of the
15 Internal Revenue Code.

16 Sec. 2. NEW SECTION. 249J.2 IOWA LONG-TERM CARE ASSET
17 DISREGARD INCENTIVE PROGRAM -- ESTABLISHMENT AND
18 ADMINISTRATION.

19 1. The Iowa long-term care asset disregard incentive
20 program is established to do all of the following:

21 a. Provide incentives for individuals to insure against
22 the costs of providing for their long-term care needs.

23 b. Provide a mechanism for individuals to qualify for
24 coverage of the costs of their long-term care needs under the
25 medical assistance program without first being required to
26 substantially exhaust all their resources.

27 c. Assist in developing methods for increasing access to
28 and the affordability of long-term care insurance.

29 d. Alleviate the financial burden on the state's medical
30 assistance program by encouraging the pursuit of private
31 initiatives.

32 2. The insurance division of the department of commerce
33 shall administer the program in cooperation with the division
34 responsible for medical services within the department of
35 human services. Each agency shall take appropriate action to

1 maintain the waiver granted by the centers for Medicare and
2 Medicaid services of the United States department of health
3 and human services under 42 U.S.C. § 1396 relating to
4 providing medical assistance under chapter 249A, in effect
5 prior to the effective date of this Act.

6 Sec. 3. NEW SECTION. 249J.3 ELIGIBILITY.

7 An individual who is the beneficiary of a certified long-
8 term care insurance policy approved by the insurance division
9 is eligible for assistance under the medical assistance
10 program using the asset disregard provisions pursuant to
11 section 249J.5.

12 Sec. 4. NEW SECTION. 249J.4 INSURER REQUIREMENTS.

13 1. An insurer or other person who wishes to issue a
14 certified long-term care insurance policy meeting the
15 requirements of this chapter shall, at a minimum, offer to
16 each policyholder or prospective policyholder a policy that
17 provides both of the following:

18 a. Facility coverage, including but not limited to long-
19 term care facility coverage.

20 b. Nonfacility coverage, including but not limited to home
21 and community-based care coverage.

22 2. An insurer or other person who complies with subsection
23 1 may also elect to offer a certified long-term care insurance
24 policy that provides only facility coverage.

25 Sec. 5. NEW SECTION. 249J.5 ASSET DISREGARD ADJUSTMENT.

26 1. As used in this section, "asset disregard" means a one
27 dollar increase in the amount of assets an individual who
28 purchases a certified long-term care insurance policy and
29 meets the requirements of section 249J.3 may retain under
30 section 249A.35 for each one dollar of benefit paid out under
31 the individual's certified long-term care insurance policy for
32 qualified long-term care services if the policy meets all of
33 the following criteria:

34 a. If purchased prior to January 1, 2005, provides
35 benefits in an amount equal to at least one hundred thirty