



January 25, 2011

# HOUSE BILL No. 1450

DIGEST OF HB 1450 (Updated January 25, 2011 12:30 pm - DI 96)

**Citations Affected:** IC 22-4.

**Synopsis:** Unemployment insurance. Provides that an individual employed for any week on an on-call or as-needed basis and who receives remuneration for personal services or has available work from an on-call employer is not totally or partially unemployed for purposes of receiving an unemployment benefit. Provides that an individual is not eligible for an unemployment insurance benefit (benefit) for any week in which the individual is on a vacation week, if the individual receives remuneration from the employer for that week, or the individual does not receive remuneration from the employer for that week, because of a written contract with the employer or the employer's regular vacation policy and practice, and has a reasonable assurance of employment with the employer after the vacation period ends. Removes the cap on wage credits. Establishes the weekly unemployment insurance benefit amount as 47% of the individual's prior average weekly wage. Establishes the maximum weekly benefit amount at \$390. Removes from the definition of "deductible income": (1) for a week in which a payment is actually received by an individual, payments made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure; and (2) the part of a payment made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure if that part is attributable to a week, and the week: (A) occurs after an individual receives the payment; and (B) was used under the terms of a written agreement to compute the payment.

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**Effective:** December 31, 2010 (retroactive); July 1, 2011.

**Leonard**

January 20, 2011, read first time and referred to Committee on Employment, Labor and Pensions.  
 January 25, 2011, amended, reported — Do Pass.

HB 1450—LS 7559/DI 102+



Digest Continued

Includes in the definition of "deductible income": (1) compensation made under a valid negotiated contract or agreement in connection with a layoff or plant closure, without regard to how the compensation is characterized by the contract or agreement; and (2) a supplemental unemployment insurance benefit made under a valid negotiated contract or agreement. Provides for an annual employer surcharge that, for 2011, is equal to 13% of the contribution rate paid by the employer, if the state is required to pay interest on advances made to the state from the federal unemployment account in the federal unemployment trust fund. For a calendar year after 2011, requires the department of workforce development (department) to determine the surcharge percentage for the year by January 31 based on factors that include: (1) the interest rate charged the state for the year; and (2) the state's outstanding loan balance to the federal unemployment account on January 1. Allows the department to use the employer surcharge to repay interest on federal advances. Exempts new employers from payment of the unemployment insurance surcharge. Establishes the unemployment insurance solvency fund for the part of the employer surcharge used to repay interest on federal advances. Provides that, for calendar years 2011 through 2020, Schedule E applies in determining and assigning each employer's contribution rate. Makes changes to the method used to determine an employer's contribution rate when the employer fails to properly file all required contribution and wage reports and to pay all contributions, penalties, and interest due and owing by the employer or the employer's predecessors. Provides that unemployment benefits may not be paid to an individual employed by a Head Start or an Early Head Start program for a week during a period between two successive academic years or terms if the individual performs the employment in the first academic year or term and there is a reasonable assurance that the individual will be employed in the second academic year or term. Provides that, in 2012, an individual may elect to have state income tax and local income tax withheld from unemployment compensation received by the individual. Provides that a distribution from a pension, retirement, or annuity plan is not deductible from an individual's unemployment benefit if the individual uses the distribution to satisfy a severe financial hardship resulting from an unforeseeable emergency that is the result of events beyond the individual's control. Makes conforming amendments.

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January 25, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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## HOUSE BILL No. 1450

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A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 22-4-3-3 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2011]: **Sec. 3. An individual is not totally unemployed,  
4 part-totally unemployed, or partially unemployed for any week in  
5 which the individual:**  
6 **(1) is regularly and customarily employed on an on call or as  
7 needed basis; and**  
8 **(2) has:**  
9 **(A) remuneration for personal services payable to the  
10 individual; or**  
11 **(B) work available from the individual's on-call or as  
12 needed employer.**  
13 SECTION 2. IC 22-4-3-4 IS ADDED TO THE INDIANA CODE  
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
15 1, 2011]: **Sec. 4. (a) An individual is not totally unemployed,**

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1 part-totally unemployed, or partially unemployed for any week in  
2 which the department finds that the individual is:

- 3 (1) on a vacation week; and
- 4 (2) receiving, or has received, remuneration from the  
5 employer for that week.

6 (b) Subsection (a) does not apply to an individual whose  
7 employer fails to comply with a department rule or policy  
8 regarding the filing of a notice, report, information, or claim in  
9 connection with an individual, group, or mass separation arising  
10 from the vacation period.

11 SECTION 3. IC 22-4-3-5 IS ADDED TO THE INDIANA CODE  
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 2011]: Sec. 5. (a) An individual is not totally unemployed,  
14 part-totally unemployed, or partially unemployed for any week in  
15 which the department finds the individual:

- 16 (1) is on a vacation week; and
- 17 (2) has not received remuneration from the employer for that  
18 week, because of:
  - 19 (A) a written contract between the employer and the  
20 employees; or
  - 21 (B) the employer's regular vacation policy and practice.

22 (b) Subsection (a) applies only if the department finds that the  
23 individual has a reasonable assurance that the individual will have  
24 employment available with the employer after the vacation period  
25 ends.

26 (c) Subsection (a) does not apply to an individual whose  
27 employer fails to comply with a department rule or policy  
28 regarding the filing of a notice, report, information, or claim in  
29 connection with an individual, group, or mass separation arising  
30 from the vacation period.

31 SECTION 4. IC 22-4-4-3 IS AMENDED TO READ AS FOLLOWS  
32 [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) For calendar quarters  
33 beginning on and after April 1, 1979, and before April 1, 1984, "wage  
34 credits" means remuneration paid for employment by an employer to  
35 an individual. Wage credits may not exceed three thousand six hundred  
36 sixty-six dollars (\$3,666) and may not include payments specified in  
37 section 2(b) of this chapter.

38 (b) For calendar quarters beginning on and after April 1, 1984, and  
39 before April 1, 1985, "wage credits" means remuneration paid for  
40 employment by an employer to an individual. Wage credits may not  
41 exceed three thousand nine hundred twenty-six dollars (\$3,926) and  
42 may not include payments specified in section 2(b) of this chapter.

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1 (c) For calendar quarters beginning on and after April 1, 1985, and  
 2 before January 1, 1991, "wage credits" means remuneration paid for  
 3 employment by an employer to an individual. Wage credits may not  
 4 exceed four thousand one hundred eighty-six dollars (\$4,186) and may  
 5 not include payments specified in section 2(b) of this chapter.

6 (d) For calendar quarters beginning on and after January 1, 1991,  
 7 and before July 1, 1995, "wage credits" means remuneration paid for  
 8 employment by an employer to an individual. Wage credits may not  
 9 exceed four thousand eight hundred ten dollars (\$4,810) and may not  
 10 include payments specified in section 2(b) of this chapter.

11 (e) For calendar quarters beginning on and after July 1, 1995, and  
 12 before July 1, 1997, "wage credits" means remuneration paid for  
 13 employment by an employer to an individual and remuneration  
 14 received as tips or gratuities in accordance with Sections 3102 and  
 15 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 16 exceed five thousand dollars (\$5,000) and may not include payments  
 17 specified in section 2(b) of this chapter.

18 (f) (a) For calendar quarters beginning on and after July 1, 1997,  
 19 and before July 1, 1998, "wage credits" means remuneration paid for  
 20 employment by an employer to an individual and remuneration  
 21 received as tips or gratuities in accordance with Sections 3102 and  
 22 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 23 exceed five thousand four hundred dollars (\$5,400) and may not  
 24 include payments specified in section 2(b) of this chapter.

25 (g) (b) For calendar quarters beginning on and after July 1, 1998,  
 26 and before July 1, 1999, "wage credits" means remuneration paid for  
 27 employment by an employer to an individual and remuneration  
 28 received as tips or gratuities in accordance with Sections 3102 and  
 29 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 30 exceed five thousand six hundred dollars (\$5,600) and may not include  
 31 payments that are excluded from the definition of wages under section  
 32 2(b) of this chapter.

33 (h) (c) For calendar quarters beginning on and after July 1, 1999,  
 34 and before July 1, 2000, "wage credits" means remuneration paid for  
 35 employment by an employer to an individual and remuneration  
 36 received as tips or gratuities in accordance with Sections 3102 and  
 37 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 38 exceed five thousand eight hundred dollars (\$5,800) and may not  
 39 include payments that are excluded from the definition of wages under  
 40 section 2(b) of this chapter.

41 (i) (d) For calendar quarters beginning on and after July 1, 2000,  
 42 and before July 1, 2001, "wage credits" means remuneration paid for

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1 employment by an employer to an individual and remuneration  
 2 received as tips or gratuities in accordance with Sections 3102 and  
 3 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 4 exceed six thousand seven hundred dollars (\$6,700) and may not  
 5 include payments that are excluded from the definition of wages under  
 6 section 2(b) of this chapter.

7 ~~(j)~~ (e) For calendar quarters beginning on and after July 1, 2001, and  
 8 before July 1, 2002, "wage credits" means remuneration paid for  
 9 employment by an employer to an individual and remuneration  
 10 received as tips or gratuities in accordance with Sections 3102 and  
 11 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 12 exceed seven thousand three hundred dollars (\$7,300) and may not  
 13 include payments that are excluded from the definition of wages under  
 14 section 2(b) of this chapter.

15 ~~(k)~~ (f) For calendar quarters beginning on and after July 1, 2002,  
 16 and before July 1, 2003, "wage credits" means remuneration paid for  
 17 employment by an employer to an individual and remuneration  
 18 received as tips or gratuities in accordance with Sections 3102 and  
 19 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 20 exceed seven thousand nine hundred dollars (\$7,900) and may not  
 21 include payments that are excluded from the definition of wages under  
 22 section 2(b) of this chapter.

23 ~~(l)~~ (g) For calendar quarters beginning on and after July 1, 2003,  
 24 and before July 1, 2004, "wage credits" means remuneration paid for  
 25 employment by an employer to an individual and remuneration  
 26 received as tips or gratuities in accordance with Sections 3102 and  
 27 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 28 exceed eight thousand two hundred sixteen dollars (\$8,216) and may  
 29 not include payments that are excluded from the definition of wages  
 30 under section 2(b) of this chapter.

31 ~~(m)~~ (h) For calendar quarters beginning on and after July 1, 2004,  
 32 and before July 1, 2005, "wage credits" means remuneration paid for  
 33 employment by an employer to an individual and remuneration  
 34 received as tips or gratuities in accordance with Sections 3102 and  
 35 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 36 exceed eight thousand seven hundred thirty-three dollars (\$8,733) and  
 37 may not include payments that are excluded from the definition of  
 38 wages under section 2(b) of this chapter.

39 ~~(n)~~ (i) For calendar quarters beginning on and after July 1, 2005,  
 40 **and before July 1, 2012**, "wage credits" means remuneration paid for  
 41 employment by an employer to an individual and remuneration  
 42 received as tips or gratuities in accordance with Sections 3102 and

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1 3301 et seq. of the Internal Revenue Code. Wage credits may not  
2 exceed nine thousand two hundred fifty dollars (\$9,250) and may not  
3 include payments that are excluded from the definition of wages under  
4 section 2(b) of this chapter.

5 **(j) For calendar quarters beginning on and after July 1, 2012,**  
6 **"wage credits" means remuneration paid for employment by an**  
7 **employer to an individual and remuneration received as tips or**  
8 **gratuities in accordance with Sections 3102 and 3301 et seq. of the**  
9 **Internal Revenue Code. Wage credits may not include payments**  
10 **that are excluded from the definition of wages under section 2(b)**  
11 **of this chapter.**

12 SECTION 5. IC 22-4-5-1, AS AMENDED BY P.L.110-2010,  
13 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2011]: Sec. 1. (a) "Deductible income" wherever used in this  
15 article, means income deductible from the weekly benefit amount of an  
16 individual in any week, and shall include, but shall not be limited to,  
17 **any of the following:**

- 18 (1) Remuneration for services from employing units, whether or  
19 not such remuneration is subject to contribution under this article,  
20 except as provided in subsection (c).
- 21 (2) Dismissal pay.
- 22 (3) Vacation pay.
- 23 (4) Pay for idle time.
- 24 (5) Holiday pay.
- 25 (6) Sick pay.
- 26 (7) Traveling expenses granted to an individual by an employing  
27 unit and not fully accounted for by such individual.
- 28 (8) Net earnings from self-employment.
- 29 (9) Payments in lieu of compensation for services.
- 30 (10) Awards by the national labor relations board of additional  
31 pay, back pay, or for loss of employment, or any such payments  
32 made under an agreement entered into by an employer, a union,  
33 and the National Labor Relations Board.
- 34 (11) Payments made to an individual by an employing unit  
35 pursuant to the terms of the Fair Labor Standards Act (Federal  
36 Wage and Hour Law, 29 U.S.C. 201 et seq.).
- 37 (12) **This subdivision applies to initial claims for**  
38 **unemployment filed for a week that begins after March 14,**  
39 **2008, and before October 1, 2011.** For a week in which a  
40 payment is actually received by an individual, payments made by  
41 an employer to an individual who accepts an offer from the  
42 employer in connection with a layoff or a plant closure. ⌘

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1 (13) **This subdivision applies to initial claims for**  
2 **unemployment filed for a week that begins after March 14,**  
3 **2008, and before October 1, 2011.** Except as provided in  
4 subsection (c)(2), the part of a payment made by an employer to  
5 an individual who accepts an offer from the employer in  
6 connection with a layoff or a plant closure if that part is  
7 attributable to a week and the week:

- 8 (A) occurs after an individual receives the payment; and  
9 (B) was used under the terms of a written agreement to  
10 compute the payment.

11 (b) Deductible income shall not include the first three dollars (\$3),  
12 or twenty percent (20%) of the claimant's weekly benefit amount  
13 rounded to the next lowest dollar, whichever is the larger, of  
14 remuneration paid or payable to an individual with respect to any week  
15 by other than the individual's base period employer or employers.

16 (c) For the purpose of deductible income only, remuneration for  
17 services from employing units does not include:

- 18 (1) bonuses, gifts, or prizes awarded to an employee by an  
19 employing unit; or  
20 (2) **for initial claims for unemployment filed for a week that**  
21 **begins after March 14, 2008, and before October 1, 2011,**  
22 compensation made under a valid negotiated contract or  
23 agreement in connection with a layoff or plant closure, without  
24 regard to how the compensation is characterized by the contract  
25 or agreement.

26 (d) Deductible income does not include a supplemental  
27 unemployment insurance benefit made under a valid negotiated  
28 contract or agreement.

29 (e) Deductible income does not include any payments made to an  
30 individual by a court system under a summons for jury service.

31 SECTION 6. IC 22-4-10-3, AS AMENDED BY P.L.110-2010,  
32 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 DECEMBER 31, 2010 (RETROACTIVE)]: Sec. 3. (a) This subsection  
34 applies before January 1, 2011. Except as provided in section 1(b)  
35 through 1(e) of this chapter, each employer shall pay contributions  
36 equal to five and six-tenths percent (5.6%) of wages, except as  
37 otherwise provided in IC 22-4-11-2, IC 22-4-11-3, IC 22-4-11.5, and  
38 IC 22-4-37-3.

39 (b) This subsection applies after December 31, 2010. Except as  
40 provided in section 1(b) through 1(e) of this chapter **and IC 22-4-37-3,**  
41 each employer shall pay contributions equal to ~~twelve percent (12%)~~  
42 ~~of wages, except as otherwise provided in the amount determined or~~

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1 estimated by the department under section 6 of this chapter,  
2 IC 22-4-11-2, IC 22-4-11-3.5, and IC 22-4-11.5. and ~~IC 22-4-37-3.~~

3 SECTION 7. IC 22-4-10-4.5 IS ADDED TO THE INDIANA CODE  
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
5 DECEMBER 31, 2010 (RETROACTIVE)]: **Sec. 4.5. (a) This section**  
6 **applies to a calendar year that begins after December 31, 2010, to**  
7 **an employer:**

8 (1) that is subject to this article for wages paid during the  
9 calendar year;

10 (2) whose contribution rate for the calendar year was  
11 determined under this chapter, IC 22-4-11, IC 22-4-11.5, or  
12 IC 22-4-37-3; and

13 (3) that:

14 (A) has been subject to this article during the preceding  
15 thirty-six (36) consecutive calendar months; and

16 (B) has had a payroll in each of the three (3) preceding  
17 twelve (12) month periods;

18 if, during the calendar year, the state is required to pay interest on  
19 the advances made to the state from the federal unemployment  
20 account in the federal unemployment trust fund under 42 U.S.C.  
21 1321.

22 (b) In addition to the contributions determined under this  
23 chapter, IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3 for calendar  
24 year 2011, each employer shall pay an unemployment insurance  
25 surcharge that is equal to thirteen percent (13%) of the employer's  
26 contribution determined under this chapter, IC 22-4-11,  
27 IC 22-4-11.5, or IC 22-4-37-3 for the calendar year.

28 (c) For a calendar year that begins after December 31, 2011, in  
29 which employers are required to pay the unemployment insurance  
30 surcharge described in subsection (b), the department shall  
31 determine, not later than January 31, the surcharge percentage for  
32 that year based on factors that include:

33 (1) the interest rate charged the state for the year determined  
34 under 42 U.S.C. 1322(b); and

35 (2) the state's outstanding loan balance to the federal  
36 unemployment account on January 1 of the year.

37 (d) The unemployment insurance surcharge described in  
38 subsection (b) is payable to the department quarterly at the same  
39 time as employer contributions are paid under section 1 of this  
40 chapter. Failure to pay the unemployment insurance surcharge as  
41 specified in this section is considered a delinquency under  
42 IC 22-4-11-2.

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**(e) The department:**

**(1) may use amounts received under this section to pay interest on the advances made to the state from the federal unemployment account in the federal unemployment trust fund under 42 U.S.C. 1321; and**

**(2) shall deposit any amounts received under this section and not used for the purposes described in subdivision (1) in the unemployment insurance benefit fund established under IC 22-4-26.**

**(f) Amounts paid under this section and used as provided in subsection (e)(1) do not affect and may not be charged to the experience account of any employer. Amounts paid under this section and used as provided in subsection (e)(2) must be credited to each employer's experience account in proportion to the amount the employer paid under this section during the preceding four (4) calendar quarters.**

SECTION 8. IC 22-4-10-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2010 (RETROACTIVE)]: **Sec. 4.6. (a) The unemployment insurance solvency fund is established for the purpose of paying interest on the advances made to the state from the federal unemployment account in the federal unemployment trust fund under 42 U.S.C. 1321. The fund shall be administered by the department.**

**(b) Money received by the department from the unemployment insurance surcharge that the department elects to use for the purposes described in section 4.5(e)(1) of this chapter shall be deposited in the fund for the purposes of the fund.**

**(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited at least quarterly in the fund.**

**(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

SECTION 9. IC 22-4-11-2, AS AMENDED BY P.L.110-2010, SECTION 26, AND AS AMENDED BY P.L.1-2010, SECTION 86, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2010 (RETROACTIVE)]: **Sec. 2. (a) Except as provided in IC 22-4-10-6 and IC 22-4-11.5, the department shall for each year determine the contribution rate applicable to each employer.**

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1 (b) The balance shall include contributions with respect to the  
2 period ending on the computation date and actually paid on or before  
3 July 31 immediately following the computation date and benefits  
4 actually paid on or before the computation date and shall also include  
5 any voluntary payments made in accordance with IC 22-4-10-5 or  
6 ~~IC 22-4-10-5.5(1)~~ **IC 22-4-10-5.5** (repealed):

7 (1) for each calendar year, an employer's rate shall be determined  
8 in accordance with the rate schedules in section 3.3 or 3.5 of this  
9 chapter; and

10 (2) for each calendar year, an employer's rate shall be two and  
11 seven-tenths percent (2.7%) before January 1, ~~2010~~, 2011, and  
12 two and five-tenths percent (2.5%) after December 31, ~~2009~~,  
13 2010, except as otherwise provided in IC 22-4-37-3, unless: ~~and~~  
14 ~~until~~:

15 (A) the employer has been subject to this article throughout  
16 the thirty-six (36) consecutive calendar months immediately  
17 preceding the computation date; ~~and~~

18 (B) there has been some annual payroll in each of the three (3)  
19 twelve (12) month periods immediately preceding the  
20 computation date; ~~and~~

21 **(C) the employer has properly filed all required**  
22 **contribution and wage reports, and all contributions,**  
23 **penalties, and interest due and owing by the employer or**  
24 **the employer's predecessors have been paid.**

25 (c) This subsection applies before January 1, ~~2010~~, 2011. In addition  
26 to the conditions and requirements set forth and provided in subsection  
27 (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five  
28 and six-tenths percent (5.6%) unless all required contribution and wage  
29 reports have been filed within thirty-one (31) days following the  
30 computation date and all contributions, penalties, and interest due and  
31 owing by the employer or the employer's predecessors for periods prior  
32 to and including the computation date have been paid:

33 (1) within thirty-one (31) days following the computation date; or  
34 (2) within ten (10) days after the department has given the  
35 employer a written notice by registered mail to the employer's last  
36 known address of:

37 (A) the delinquency; or

38 (B) failure to file the reports;

39 whichever is the later date.

40 The board or the board's designee may waive the imposition of rates  
41 under this subsection if the board finds the employer's failure to meet  
42 the deadlines was for excusable cause. The department shall give

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1 written notice to the employer before this additional condition or  
2 requirement shall apply.

3 (d) This subsection applies after December 31, ~~2009~~ 2010. In  
4 addition to the conditions and requirements set forth and provided in  
5 subsection (b)(2)(A), ~~and (b)(2)(B)~~, **and (b)(2)(C)**, an employer's rate  
6 ~~shall not be less than twelve percent (12%)~~ is equal to the sum of the  
7 employer's contribution rate determined **or estimated by the**  
8 **department** under this article plus two percent (2%) unless all  
9 required contributions and wage reports have been filed within  
10 thirty-one (31) days following the computation date and all  
11 contributions, penalties, and interest due and owing by the employer or  
12 the employer's predecessor for periods before and including the  
13 computation date have been paid:

- 14 (1) within thirty-one (31) days following the computation date; or
- 15 (2) within ten (10) days after the department has given the
- 16 employer a written notice by registered mail to the employer's last
- 17 known address of:
  - 18 (A) the delinquency; or
  - 19 (B) failure to file the reports;

20 whichever is the later date. The board or the board's designee may  
21 waive the imposition of rates under this subsection if the board finds  
22 the employer's failure to meet the deadlines was for excusable cause.  
23 The department shall give written notice to the employer before this  
24 additional condition or requirement shall apply. **An employer's rate**  
25 **under this subsection may not exceed twelve percent (12%).**

26 (e) However, if the employer is the state or a political subdivision  
27 of the state or any instrumentality of a state or a political subdivision,  
28 or any instrumentality which is wholly owned by the state and one (1)  
29 or more other states or political subdivisions, the employer may  
30 contribute at a rate of:

- 31 (1) one percent (1%), before January 1, ~~2010~~ 2011; or
- 32 (2) one and six-tenths percent (1.6%), after December 31, ~~2009~~
- 33 2010;

34 until it has been subject to this article throughout the thirty-six (36)  
35 consecutive calendar months immediately preceding the computation  
36 date.

37 (f) On the computation date every employer who had taxable wages  
38 in the previous calendar year shall have the employer's experience  
39 account charged with the amount determined under the following  
40 formula:

- 41 STEP ONE: Divide:
  - 42 (A) the employer's taxable wages for the preceding calendar

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1                   year; by  
 2                   (B) the total taxable wages for the preceding calendar year.  
 3                   STEP TWO: Multiply the quotient determined under STEP ONE  
 4                   by the total amount of benefits charged to the fund under section  
 5                   1 of this chapter.

6                   (g) One (1) percentage point of the rate imposed under subsection  
 7 (c) or (d), or the amount of the employer's payment that is attributable  
 8 to the increase in the contribution rate, whichever is less, shall be  
 9 imposed as a penalty that is due and shall be deposited upon collection  
 10 into the special employment and training services fund established  
 11 under IC 22-4-25-1. The remainder of the contributions paid by an  
 12 employer pursuant to the maximum rate shall be:

- 13                   (1) considered a contribution for the purposes of this article; and
- 14                   (2) deposited in the unemployment insurance benefit fund
- 15                   established under IC 22-4-26.

16                   SECTION 10. IC 22-4-11-3, AS AMENDED BY P.L.110-2010,  
 17 SECTION 27, AND AS AMENDED BY P.L.1-2010, SECTION 87, IS  
 18 CORRECTED AND AMENDED TO READ AS FOLLOWS  
 19 [EFFECTIVE DECEMBER 31, 2010 (RETROACTIVE)]: Sec. 3. (a)  
 20 The applicable schedule of rates for calendar years before January 1,  
 21 ~~2010~~, 2011, shall be determined by the ratio resulting when the balance  
 22 in the fund as of the determination date is divided by the total payroll  
 23 of all subject employers for the immediately preceding calendar year.  
 24 Schedule A, B, C, or D, appearing on the line opposite the fund ratio  
 25 in the schedule below, shall be applicable in determining and assigning  
 26 each employer's contribution rate for the calendar year immediately  
 27 following the determination date. For the purposes of this subsection,  
 28 "total payroll" means total remuneration reported by all contributing  
 29 employers as required by this article and does not include the total  
 30 payroll of any employer who elected to become liable for payments in  
 31 lieu of contributions (as defined in IC 22-4-2-32). For the purposes of  
 32 this subsection, "subject employers" means those employers who are  
 33 subject to contribution.

34                   FUND RATIO SCHEDULE

35                   When the Fund Ratio Is:

36			Applicable
37	As Much As	But Less Than	Schedule
38		1.0%	A
39	1.0%	1.5%	B
40	1.5%	2.25%	C
41	2.25%		D

42                   (b) Except as provided in subsection (c), the applicable schedule of

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1 rates for calendar years after December 31, ~~2009~~, 2010, shall be  
 2 determined by the ratio resulting when the balance in the fund as of the  
 3 determination date is divided by the total payroll of all subject  
 4 employers for the immediately preceding calendar year. Schedules A  
 5 through I appearing on the line opposite the fund ratio in the schedule  
 6 below are applicable in determining and assigning each employer's  
 7 contribution rate for the calendar year immediately following the  
 8 determination date. For purposes of this subsection, "total payroll"  
 9 means total remuneration reported by all contributing employers as  
 10 required by this article and does not include the total payroll of any  
 11 employer who elected to become liable for payments in lieu of  
 12 contributions (as defined in IC 22-4-2-32). For purposes of this  
 13 subsection, "subject employers" means those employers who are  
 14 subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

	As Much As	But Less Than	Applicable Schedule
		0.2%	A
	0.2%	0.4%	B
	0.4%	0.6%	C
	0.6%	0.8%	D
	0.8%	1.0%	E
	1.0%	1.2%	F
	1.2%	1.4%	G
	1.4%	1.6%	H
	1.6%		I

28 (c) For calendar year ~~2010 2011~~ only, years 2011 through 2020,  
 29 Schedule ~~B~~ E applies in determining and assigning each employer's  
 30 contribution rate.

31 (d) Any adjustment in the amount charged to any employer's  
 32 experience account made subsequent to the assignment of rates of  
 33 contributions for any calendar year shall not operate to alter the amount  
 34 charged to the experience accounts of any other base-period employers.

35 SECTION 11. IC 22-4-12-2 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) With respect to  
 37 initial claims filed for any week beginning on and after July 6, 1980,  
 38 and before July 7, 1985; each eligible individual who is totally  
 39 unemployed (as defined in IC 22-4-3-1) in any week in the individual's  
 40 benefit period shall be paid for the week, if properly claimed; benefits  
 41 at the rate of four and three-tenths percent (4.3%) of the individual's  
 42 wage credits in the calendar quarter during the individual's base period

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1 in which the wage credits were highest. However, the weekly benefit  
2 amount may not exceed:

- 3 (1) eighty-four dollars (\$84) if the eligible and qualified
- 4 individual has no dependents;
- 5 (2) ninety-nine dollars (\$99) if the eligible and qualified
- 6 individual has one (1) dependent;
- 7 (3) one hundred thirteen dollars (\$113) if the eligible and
- 8 qualified individual has two (2) dependents;
- 9 (4) one hundred twenty-eight dollars (\$128) if the eligible and
- 10 qualified individual has three (3) dependents; or
- 11 (5) one hundred forty-one dollars (\$141) if the eligible and
- 12 qualified individual has four (4) or more dependents.

13 With respect to initial claims filed for any week beginning on and  
14 after July 7, 1985, and before July 6, 1986, each eligible individual who  
15 is totally unemployed (as defined in IC 22-4-3-1) in any week in the  
16 individual's benefit period shall be paid for the week, if properly  
17 claimed, benefits at the rate of four and three-tenths percent (4.3%) of  
18 the individual's wage credits in the calendar quarter during the  
19 individual's base period in which the wage credits were highest.  
20 However, the weekly benefit amount may not exceed:

- 21 (1) ninety dollars (\$90) if the eligible and qualified individual has
- 22 no dependents;
- 23 (2) one hundred six dollars (\$106) if the eligible and qualified
- 24 individual has one (1) dependent;
- 25 (3) one hundred twenty-one dollars (\$121) if the eligible and
- 26 qualified individual has two (2) dependents;
- 27 (4) one hundred thirty-seven dollars (\$137) if the eligible and
- 28 qualified individual has three (3) dependents; or
- 29 (5) one hundred fifty-one dollars (\$151) if the eligible and
- 30 qualified individual has four (4) or more dependents.

31 With respect to initial claims filed for any week beginning on and  
32 after July 6, 1986, and before July 7, 1991, each eligible individual who  
33 is totally unemployed (as defined in IC 22-4-3-1) in any week in the  
34 individual's benefit period shall be paid for the week, if properly  
35 claimed, benefits at the rate of four and three-tenths percent (4.3%) of  
36 the individual's wage credits in the calendar quarter during the  
37 individual's base period in which the wage credits were highest.  
38 However, the weekly benefit amount may not exceed:

- 39 (1) ninety-six dollars (\$96) if the eligible and qualified individual
- 40 has no dependents;
- 41 (2) one hundred thirteen dollars (\$113) if the eligible and
- 42 qualified individual has one (1) dependent;

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- 1           (3) one hundred twenty-nine dollars (\$129) if the eligible and
- 2           qualified individual has two (2) dependents;
- 3           (4) one hundred forty-seven dollars (\$147) if the eligible and
- 4           qualified individual has three (3) dependents; or
- 5           (5) one hundred sixty-one dollars (\$161) if the eligible and
- 6           qualified individual has four (4) or more dependents.

7           With respect to initial claims filed for any week beginning on and  
 8           after July 7, 1991, benefits shall be paid in accordance with subsections  
 9           (d) through (k):

10          For the purpose of this subsection and subsections (e) through (g),  
 11          the term "dependent" means lawful husband or wife; natural child;  
 12          adopted child; stepchild; if such stepchild is not receiving aid to  
 13          dependent children under the welfare program; or child placed in the  
 14          claimant's home for adoption by an authorized placement agency or a  
 15          court of law; provided such child is under eighteen (18) years of age  
 16          and that such dependent claimed has received more than one-half (1/2)  
 17          the cost of support from the claimant during ninety (90) days (or for  
 18          duration of relationship, if less) immediately preceding the claimant's  
 19          benefit year beginning date; but only if such dependent who is the  
 20          lawful husband or wife is unemployed and currently ineligible for  
 21          Indiana benefits because of insufficient base period wages. The number  
 22          and status of dependents shall be determined as of the beginning of the  
 23          claimant's benefit period and shall not be changed during that benefit  
 24          period.

25          With respect to initial claims filed for any week beginning on and  
 26          after July 6, 1980; the term "dependent" shall include a person with a  
 27          disability over eighteen (18) years of age who is a child of the claimant  
 28          and who receives more than one-half (1/2) the cost of his support from  
 29          the claimant during the ninety (90) day period immediately preceding  
 30          the claimant's benefit year beginning date. "Child" includes a natural  
 31          child; an adopted child; a stepchild of claimant; if the stepchild is not  
 32          receiving aid to dependent children under the welfare program; or a  
 33          child placed in the claimant's home for adoption by an authorized  
 34          placement agency or a court of law. The term "disabled" means an  
 35          individual who by reason of physical or mental defect or infirmity;  
 36          whether congenital or acquired by accident, injury, or disease; is totally  
 37          or partially prevented from achieving the fullest attainable physical;  
 38          social; economic; mental; and vocational participation in the normal  
 39          process of living.

40          For the purpose of this subsection; the term "dependent" includes a  
 41          child for whom claimant is the court appointed legal guardian.

42          On and after July 6, 1980; and before July 7, 1991; if the weekly

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1 benefit amount is less than forty dollars (\$40); the board, through the  
2 commissioner; shall pay benefits at the rate of forty dollars (\$40) per  
3 week. On and after July 7, 1991; if the weekly benefit amount is less  
4 than fifty dollars (\$50); the board; through the commissioner; shall pay  
5 benefits at the rate of fifty dollars (\$50) per week. If such weekly  
6 benefit amount is not a multiple of one dollar (\$1); it shall be computed  
7 to the next lower multiple of one dollar (\$1).

8 (b) Each eligible individual who is partially or part-totally  
9 unemployed in any week shall be paid with respect to such week a  
10 benefit in an amount equal to his weekly benefit amount; less his  
11 deductible income; if any; for such week. If such partial benefit is not  
12 a multiple of one dollar (\$1); it shall be computed to the next lower  
13 multiple of one dollar (\$1). Except for an individual who is totally  
14 unemployed; an individual who is not partially or part-totally  
15 unemployed is not eligible for any benefit. The board may prescribe  
16 rules governing the payment of such partial benefits; and may provide;  
17 with respect to individuals whose earnings cannot reasonably be  
18 computed on a weekly basis; that such benefits may be computed and  
19 paid on other than a weekly basis. However; such rules shall secure  
20 results reasonably equivalent to those provided in the analogous  
21 provisions of this section.

22 (c) The weekly extended benefit amount payable to an individual for  
23 a week of total unemployment in the individual's eligibility period shall  
24 be an amount equal to the weekly benefit amount payable to the  
25 individual during the individual's applicable benefit period; prior to any  
26 reduction of such weekly benefit amount.

27 (d) With respect to initial claims filed for any week beginning on  
28 and after July 7, 1991; and before July 1, 1995; each eligible individual  
29 who is totally unemployed (as defined in IC 22-4-3-1) in any week in  
30 the individual's benefit period shall be paid for the week; if properly  
31 claimed; benefits at the rate of:

- 32 (1) five percent (5%) of the first one thousand dollars (\$1,000) of
- 33 the individual's wage credits in the calendar quarter during the
- 34 individual's base period in which the wage credits were highest;
- 35 and
- 36 (2) four percent (4%) of the individual's remaining wage credits
- 37 in the calendar quarter during the individual's base period in
- 38 which the wage credits were highest.

39 However; the weekly benefit amount may not exceed the amount  
40 specified in subsections (e) through (i).

41 (e) With respect to initial claims filed for any week beginning on  
42 and after July 7, 1991; and before July 5, 1992; the weekly benefit

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1 amount may not exceed:

2 (1) one hundred sixteen dollars (\$116) if the eligible and qualified

3 individual has no dependents;

4 (2) one hundred thirty-four dollars (\$134) if the eligible and

5 qualified individual has one (1) dependent;

6 (3) one hundred fifty-three dollars (\$153) if the eligible and

7 qualified individual has two (2) dependents; or

8 (4) one hundred seventy-one dollars (\$171) if the eligible and

9 qualified individual has three (3) or more dependents.

10 (f) With respect to initial claims filed for any week beginning on

11 and after July 5, 1992, and before July 4, 1993, the weekly benefit

12 amount may not exceed:

13 (1) one hundred forty dollars (\$140) if the eligible and qualified

14 individual has no dependents;

15 (2) one hundred sixty dollars (\$160) if the eligible and qualified

16 individual has one (1) dependent; or

17 (3) one hundred eighty-one dollars (\$181) if the eligible and

18 qualified individual has two (2) or more dependents.

19 (g) With respect to initial claims filed for any week beginning on

20 and after July 4, 1993, and before July 3, 1994, the weekly benefit

21 amount may not exceed:

22 (1) one hundred seventy dollars (\$170) if the eligible and

23 qualified individual has no dependents; or

24 (2) one hundred ninety-two dollars (\$192) if the eligible and

25 qualified individual has one (1) or more dependents.

26 (h) With respect to initial claims filed for any week beginning on or

27 after July 3, 1994, and before July 1, 1995, the weekly benefit amount

28 may not exceed two hundred two dollars (\$202).

29 (i) With respect to initial claims filed for any week on or after July

30 1, 1995, the weekly benefit amount will equal the amount that results

31 from applying the percentages provided in subsections (j) through (k)

32 to the applicable maximum wage credits under IC 22-4-4-3.

33 (j) With respect to initial claims filed for any week beginning on and

34 after July 1, 1995, and before July 1, 1997, each eligible individual who

35 is totally unemployed (as defined in IC 22-4-3-1) in any week in the

36 individual's benefit period shall be paid for the week, if properly

37 claimed, benefits at the rate of:

38 (1) five percent (5%) of the first one thousand seven hundred fifty

39 dollars (\$1,750) of the individual's wage credits in the calendar

40 quarter during the individual's base period in which the wage

41 credits were highest; and

42 (2) four percent (4%) of the individual's remaining wage credits

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1 in the calendar quarter during the individual's base period in  
2 which the wage credits were highest.

3 However, the weekly benefit amount may not exceed the amount  
4 specified in subsection (i):

5 ~~(a)~~ (a) With respect to initial claims filed for any week beginning on  
6 and after July 1, 1997, **and before July 1, 2012**, each eligible  
7 individual who is totally unemployed (as defined in IC 22-4-3-1) in any  
8 week in the individual's benefit period shall be paid for the week, if  
9 properly claimed, benefits at the rate of:

10 (1) five percent (5%) of the first two thousand dollars (\$2,000) of  
11 the individual's wage credits in the calendar quarter during the  
12 individual's base period in which the wage credits were highest;  
13 and

14 (2) four percent (4%) of the individual's remaining wage credits  
15 in the calendar quarter during the individual's base period in  
16 which the wage credits were highest.

17 **(b) With respect to initial claims filed for any week beginning on  
18 and after July 1, 2012, each eligible individual who is totally  
19 unemployed (as defined in IC 22-4-3-1) in any week in the  
20 individual's benefit period shall be paid for the week, if properly  
21 claimed, an amount equal to forty-seven percent (47%) of the  
22 individual's prior average weekly wage, rounded (if not already a  
23 multiple of one dollar (\$1)) to the next lower dollar. However, the  
24 maximum weekly benefit amount may not exceed three hundred  
25 ninety dollars (\$390).**

26 **(c) For purposes of this section, "prior average weekly wage"**  
27 **means the result of:**

28 **(1) the individual's total wage credits during the individual's**  
29 **base period; divided by**

30 **(2) fifty-two (52).**

31 SECTION 12. IC 22-4-14-1, AS AMENDED BY P.L.138-2008,  
32 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2011]: Sec. 1. (a) Except as provided in IC 22-4-5-1 or  
34 subsection (b) or (c), an unemployed individual shall be eligible to  
35 receive benefits with respect to any week only if the individual has  
36 made a claim for benefits in accordance with IC 22-4-17.

37 (b) A person who:

38 (1) accepts a layoff under an inverse seniority clause of a validly  
39 negotiated contract; and

40 (2) otherwise meets the eligibility requirements established by  
41 this article;

42 is entitled to receive benefits in the same amounts, under the same

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1 terms, and subject to the same conditions as any other unemployed  
2 person.

3 (c) **This subsection applies to initial claims for unemployment**  
4 **filed for a week that begins after March 14, 2008, and before**  
5 **October 1, 2011.** This subsection does not apply to a person who elects  
6 to retire in connection with a layoff or plant closure and receive  
7 pension, retirement, or annuity payments. Except as provided in  
8 IC 22-4-5-1, a person who:

9 (1) accepts an offer of payment or other compensation offered by  
10 an employer to avert or lessen the effect of a layoff or plant  
11 closure; and

12 (2) otherwise meets the eligibility requirements established by  
13 this article;

14 is entitled to receive benefits in the same amounts, under the same  
15 terms, and subject to the same conditions as any other unemployed  
16 person.

17 SECTION 13. IC 22-4-14-7 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) Benefits based on  
19 service in employment defined in IC 22-4-8-2(i) and IC 22-4-8-2(j)  
20 shall be payable in the same amount, on the terms, and subject to the  
21 same conditions as compensation payable on the basis of other service  
22 subject to this article, unless otherwise specifically provided, subject  
23 to the following exceptions:

24 (1) With respect to service performed in an instructional,  
25 research, or principal administrative capacity for an educational  
26 institution, benefits may not be paid based on the service for any  
27 week of unemployment commencing during the period between  
28 two (2) successive academic years, or terms, or during the period  
29 between two (2) regular but not successive terms, or during a  
30 period of paid sabbatical leave provided for in the individual's  
31 contract, to any individual if the individual performs the services  
32 in the first of the academic years or terms and if there is a  
33 reasonable assurance that the individual will perform services in  
34 an instructional, research, or principal administrative capacity for  
35 any educational institution in the second of the academic years or  
36 terms.

37 (2) With respect to services performed in any capacity (other than  
38 those listed in subdivision (1) of this section) for an educational  
39 institution, benefits may not be paid based on the service of an  
40 individual for any week which commences during a period  
41 between two (2) successive academic years or terms if the  
42 individual performs the service in the first of the academic years

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or terms and there is reasonable assurance that the individual will perform the service in the second of the academic years or terms. However, with respect to weeks of unemployment beginning on or after January 1, 1984, if compensation is denied to any individual under this subdivision and the individual was not offered an opportunity to perform such services for the educational institution for the second of the academic years or terms, the individual is entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this subdivision.

(3) With respect to any services described in ~~subdivisions~~ **subdivision** (1) or (2), ~~of this section~~, compensation payable for these services shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if there is reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(4) With respect to any services described in subdivisions (1) and (2), benefits shall not be payable on the basis of services in any such capacities as specified in subdivisions (1), (2), and (3), to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this subdivision, the term "educational service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing such services to one (1) or more educational institutions.

**(5) For services to which 26 U.S.C. 3309(a)(1) applies, if the services are provided to or on behalf of an educational institution, compensation payable based on the services may be denied as specified in subdivisions (1), (2), (3), and (4).**

(b) For purposes of this section, benefits may not be denied during the period between academic years or terms to any individual having wage credits earned with other than an educational institution if the wage credits qualify the individual under section 5 of this chapter and the individual is otherwise eligible. In these cases, the claim shall be computed based on the wage credits earned with employers other than educational institutions reported for the individual during the base period, in accordance with IC 22-4-12-2 and IC 22-4-12-4. Benefits paid based on the computation shall be only for weeks of unemployment occurring between academic years or terms. For any

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1 weeks of unemployment claims other than between academic years or  
2 terms, the claims of these individuals shall be recomputed to include  
3 all base period wages.

4 SECTION 14. IC 22-4-15-4 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) An individual  
6 shall be ineligible for waiting period or benefit rights for any week with  
7 respect to which the individual receives, is receiving, or has received  
8 payments equal to or exceeding ~~his~~ **the individual's** weekly benefit  
9 amount in the form of:

10 (1) deductible income as defined and applied in IC 22-4-5-1 and  
11 IC 22-4-5-2; or

12 (2) any pension, retirement or annuity payments, under any plan  
13 of an employer whereby the employer contributes a portion or all  
14 of the money. ~~This~~ **The following apply to a disqualification**  
15 **under this subdivision:**

16 (A) **The** disqualification shall apply only if some or all of the  
17 benefits otherwise payable:

18 (i) are chargeable to the experience or reimbursable account  
19 of such employer; or

20 (ii) would have been chargeable except for the application  
21 of this chapter. ~~For the purposes of this subdivision (2);~~

22 (B) **Notwithstanding clause (A), the disqualification does**  
23 **not apply to a distribution from a pension, retirement, or**  
24 **annuity plan of an employer when an individual uses the**  
25 **distribution to satisfy a severe financial hardship resulting**  
26 **from an unforeseeable emergency that is the result of**  
27 **events beyond the individual's control.**

28 (C) Federal old age, survivors, and disability insurance  
29 benefits are not considered payments under a plan of an  
30 employer whereby the employer maintains the plan or  
31 contributes a portion or all of the money to the extent required  
32 by federal law.

33 (b) If the payments described in subsection (a) are less than ~~his~~ **an**  
34 **individual's** weekly benefit amount an otherwise eligible individual  
35 shall not be ineligible and shall be entitled to receive for such week  
36 benefits reduced by the amount of such payments.

37 (c) This section does not preclude an individual from delaying a  
38 claim to pension, retirement, or annuity payments until the individual  
39 has received the benefits to which the individual would otherwise be  
40 eligible under this chapter. Weekly benefits received before the date  
41 the individual elects to retire shall not be reduced by any pension,  
42 retirement, or annuity payments received on or after the date the

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1 individual elects to retire.

2 SECTION 15. IC 22-4-17-2.5, AS AMENDED BY P.L.3-2008,  
3 SECTION 159, IS AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2011]: Sec. 2.5. (a) When an individual files an  
5 initial claim, the individual shall be advised of the following:

6 (1) Unemployment compensation is subject to federal, state, and  
7 local income taxes.

8 (2) Requirements exist concerning estimated tax payments.

9 (3) ~~After December 31, 1996,~~ The individual may elect to have  
10 income taxes withheld from the individual's payment of  
11 unemployment compensation. If an election is made, the  
12 department shall withhold federal income tax at the applicable  
13 rate provided in the Internal Revenue Code.

14 **(4) After December 31, 2011, the individual may elect to have**  
15 **state adjusted gross income tax imposed under IC 6-3 and**  
16 **local taxes imposed under IC 6-3.5 deducted and withheld**  
17 **from the individual's payment of unemployment**  
18 **compensation. If an election is made, the department shall**  
19 **withhold state adjusted gross income tax imposed under**  
20 **IC 6-3 and local taxes imposed under IC 6-3.5 at the**  
21 **applicable rate prescribed in withholding instructions issued**  
22 **by the department of state revenue.**

23 ~~(4)~~ (5) An individual is allowed to change an election made under  
24 this section.

25 (b) Money withheld from unemployment compensation under this  
26 section shall remain in the unemployment fund until transferred to the  
27 federal taxing authority **or the state (as appropriate)** for payment of  
28 income taxes.

29 (c) The commissioner shall follow all procedures of the United  
30 States Department of Labor, and the Internal Revenue Service, **and the**  
31 **department of state revenue** concerning the withholding of income  
32 taxes.

33 (d) Money shall be deducted and withheld in accordance with the  
34 priorities established in regulations developed by the commissioner.

35 SECTION 16. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1450, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, after "unemployed" insert ", **part-totally unemployed,**".

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 2. IC 22-4-3-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4. (a) An individual is not totally unemployed, part-totally unemployed, or partially unemployed for any week in which the department finds that the individual is:**

- (1) on a vacation week; and
- (2) receiving, or has received, remuneration from the employer for that week.

(b) Subsection (a) does not apply to an individual whose employer fails to comply with a department rule or policy regarding the filing of a notice, report, information, or claim in connection with an individual, group, or mass separation arising from the vacation period.

SECTION 3. IC 22-4-3-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 5. (a) An individual is not totally unemployed, part-totally unemployed, or partially unemployed for any week in which the department finds the individual:**

- (1) is on a vacation week; and
- (2) has not received remuneration from the employer for that week, because of:
  - (A) a written contract between the employer and the employees; or
  - (B) the employer's regular vacation policy and practice.

(b) Subsection (a) applies only if the department finds that the individual has a reasonable assurance that the individual will have employment available with the employer after the vacation period ends.

(c) Subsection (a) does not apply to an individual whose employer fails to comply with a department rule or policy regarding the filing of a notice, report, information, or claim in connection with an individual, group, or mass separation arising from the vacation period."

Page 4, line 6, delete "October 1, 2011," and insert "**July 1, 2012,**".



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Page 4, line 13, delete "October 1," and insert "**July 1, 2012**,".

Page 4, line 14, delete "2011,".

Page 5, line 34, delete "This subsection applies to initial claims for unemployment".

Page 5, delete line 35.

Page 5, line 36, delete "October 1, 2011.".

Page 5, run in lines 34 through 36.

Page 5, between lines 40 and 41, begin a new paragraph and insert:  
 "SECTION 6. IC 22-4-10-3, AS AMENDED BY P.L.110-2010, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2010 (RETROACTIVE)]: Sec. 3. (a) This subsection applies before January 1, 2011. Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to five and six-tenths percent (5.6%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3, IC 22-4-11.5, and IC 22-4-37-3.

(b) This subsection applies after December 31, 2010. Except as provided in section 1(b) through 1(e) of this chapter **and IC 22-4-37-3**, each employer shall pay contributions equal to ~~twelve percent (12%)~~ **of wages, except as otherwise provided in the amount determined or estimated by the department under section 6 of this chapter, IC 22-4-11-2, IC 22-4-11-3.5, and IC 22-4-11.5. and IC 22-4-37-3.**

Page 6, line 5, delete "and".

Page 6, line 8, after "IC 22-4-37-3;" insert "**and**

**(3) that:**

**(A) has been subject to this article during the preceding thirty-six (36) consecutive calendar months; and**

**(B) has had a payroll in each of the three (3) preceding twelve (12) month periods;"**

Page 6, line 14, after "chapter," insert "**IC 22-4-11**,".

Page 6, line 16, delete "rate".

Page 6, line 17, after "chapter," insert "**IC 22-4-11**,".

Page 6, line 23, delete ":" and insert "**factors that include:**".

Page 6, line 31, after "chapter." insert "**Failure to pay the unemployment insurance surcharge as specified in this section is considered a delinquency under IC 22-4-11-2.**".

Page 7, line 4, delete "." and insert "**during the preceding four (4) calendar quarters.**".

Page 7, line 20, after "deposited" insert "**at least quarterly**".

Page 7, between lines 22 and 23, begin a new paragraph and insert:  
 "SECTION 9. IC 22-4-11-2, AS AMENDED BY P.L.110-2010, SECTION 26, AND AS AMENDED BY P.L.1-2010, SECTION 86, IS

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CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2010 (RETROACTIVE)]: Sec. 2. (a) Except as provided in **IC 22-4-10-6 and IC 22-4-11.5**, the department shall for each year determine the contribution rate applicable to each employer.

(b) The balance shall include contributions with respect to the period ending on the computation date and actually paid on or before July 31 immediately following the computation date and benefits actually paid on or before the computation date and shall also include any voluntary payments made in accordance with IC 22-4-10-5 or ~~IC 22-4-10-5.5(1)~~ **IC 22-4-10-5.5** (repealed):

(1) for each calendar year, an employer's rate shall be determined in accordance with the rate schedules in section 3.3 or 3.5 of this chapter; and

(2) for each calendar year, an employer's rate shall be two and seven-tenths percent (2.7%) before January 1, ~~2010~~, 2011, and two and five-tenths percent (2.5%) after December 31, ~~2009~~, 2010, except as otherwise provided in IC 22-4-37-3, unless: ~~and until:~~

(A) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date; ~~and~~

(B) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date; ~~and~~

**(C) the employer has properly filed all required contribution and wage reports, and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors have been paid.**

(c) This subsection applies before January 1, ~~2010~~, 2011. In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five and six-tenths percent (5.6%) unless all required contribution and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors for periods prior to and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

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(B) failure to file the reports;  
whichever is the later date.

The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply.

(d) This subsection applies after December 31, ~~2009~~ 2010. In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A), ~~and (b)(2)(B)~~, **and (b)(2)(C)**, an employer's rate *shall not be less than twelve percent (12%) is equal to the sum of the employer's contribution rate determined or estimated by the department under this article plus two percent (2%)* unless all required contributions and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessor for periods before and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or  
(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or  
(B) failure to file the reports;

whichever is the later date. The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply. **An employer's rate under this subsection may not exceed twelve percent (12%).**

(e) However, if the employer is the state or a political subdivision of the state or any instrumentality of a state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, the employer may contribute at a rate of:

(1) one percent (1%), before January 1, ~~2010~~ 2011; or  
(2) one and six-tenths percent (1.6%), after December 31, ~~2009~~ 2010;

until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

(f) On the computation date every employer who had taxable wages

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in the previous calendar year shall have the employer's experience account charged with the amount determined under the following formula:

STEP ONE: Divide:

(A) the employer's taxable wages for the preceding calendar year; by

(B) the total taxable wages for the preceding calendar year.

STEP TWO: Multiply the quotient determined under STEP ONE by the total amount of benefits charged to the fund under section 1 of this chapter.

(g) One (1) percentage point of the rate imposed under subsection (c) or (d), or the amount of the employer's payment that is attributable to the increase in the contribution rate, whichever is less, shall be imposed as a penalty that is due and shall be deposited upon collection into the special employment and training services fund established under IC 22-4-25-1. The remainder of the contributions paid by an employer pursuant to the maximum rate shall be:

- (1) considered a contribution for the purposes of this article; and
- (2) deposited in the unemployment insurance benefit fund established under IC 22-4-26."

Page 13, line 13, delete "October 1, 2011," and insert "**July 1, 2012,**".

Page 13, line 25, delete "October 1, 2011," and insert "**July 1, 2012,**".

Page 14, delete lines 31 through 35.

Page 14, line 36, reset in roman "(1)".

Page 14, line 36, delete "(2)".

Page 15, line 7, reset in roman "(2)".

Page 15, line 7, delete "(3)".

Page 15, line 8, reset in roman "(1 of this section)".

Page 15, line 8, delete "(2)".

Page 15, line 24, reset in roman "(3)".

Page 15, line 24, delete "(4)".

Page 15, line 24, after "subdivisions" insert "**subdivision**".

Page 15, line 24, reset in roman "(1)".

Page 15, line 25, delete "subdivision (2)".

Page 15, line 25, reset in roman "(2)".

Page 15, line 25, after "or (2)" insert ",".

Page 15, line 25, delete "(3)".

Page 15, line 31, reset in roman "(4)".

Page 15, line 31, delete "(5)".

Page 15, line 31, reset in roman "(1)".

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- Page 15, line 32, delete "(2)".
- Page 15, line 32, reset in roman "(2),".
- Page 15, line 32, delete "(3),".
- Page 15, line 33, reset in roman "(1),".
- Page 15, line 34 reset in roman "and".
- Page 15, line 34, delete "and (4)".

Page 15, between lines 40 and 41, begin a new line block indented and insert:

**"(5) For services to which 26 U.S.C. 3309(a)(1) applies, if the services are provided to or on behalf of an educational institution, compensation payable based on the services may be denied as specified in subdivisions (1), (2), (3), and (4)."**

Page 16, delete lines 12 through 42.

Page 17, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 11. IC 22-4-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) An individual shall be ineligible for waiting period or benefit rights for any week with respect to which the individual receives, is receiving, or has received payments equal to or exceeding ~~his~~ **the individual's** weekly benefit amount in the form of:

- (1) deductible income as defined and applied in IC 22-4-5-1 and IC 22-4-5-2; or
- (2) any pension, retirement or annuity payments, under any plan of an employer whereby the employer contributes a portion or all of the money. ~~This~~ **The following apply to a disqualification under this subdivision:**

**(A) The** disqualification shall apply only if some or all of the benefits otherwise payable:

- (i)** are chargeable to the experience or reimbursable account of such employer; or
- (ii)** would have been chargeable except for the application of this chapter. ~~For the purposes of this subdivision (2);~~

**(B) Notwithstanding clause (A), the disqualification does not apply to a distribution from a pension, retirement, or annuity plan of an employer when an individual uses the distribution to satisfy a severe financial hardship resulting from an unforeseeable emergency that is the result of events beyond the individual's control.**

**(C)** Federal old age, survivors, and disability insurance benefits are not considered payments under a plan of an employer whereby the employer maintains the plan or

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contributes a portion or all of the money to the extent required by federal law.

(b) If the payments described in subsection (a) are less than ~~his~~ **an individual's** weekly benefit amount an otherwise eligible individual shall not be ineligible and shall be entitled to receive for such week benefits reduced by the amount of such payments.

(c) This section does not preclude an individual from delaying a claim to pension, retirement, or annuity payments until the individual has received the benefits to which the individual would otherwise be eligible under this chapter. Weekly benefits received before the date the individual elects to retire shall not be reduced by any pension, retirement, or annuity payments received on or after the date the individual elects to retire.

SECTION 14. IC 22-4-17-2.5, AS AMENDED BY P.L.3-2008, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2.5. (a) When an individual files an initial claim, the individual shall be advised of the following:

(1) Unemployment compensation is subject to federal, state, and local income taxes.

(2) Requirements exist concerning estimated tax payments.

(3) ~~After December 31, 1996,~~ The individual may elect to have income taxes withheld from the individual's payment of unemployment compensation. If an election is made, the department shall withhold federal income tax at the applicable rate provided in the Internal Revenue Code.

**(4) After December 31, 2011, the individual may elect to have state adjusted gross income tax imposed under IC 6-3 and local taxes imposed under IC 6-3.5 deducted and withheld from the individual's payment of unemployment compensation. If an election is made, the department shall withhold state adjusted gross income tax imposed under IC 6-3 and local taxes imposed under IC 6-3.5 at the applicable rate prescribed in withholding instructions issued by the department of state revenue.**

~~(4)~~ (5) An individual is allowed to change an election made under this section.

(b) Money withheld from unemployment compensation under this section shall remain in the unemployment fund until transferred to the federal taxing authority **or the state (as appropriate)** for payment of income taxes.

(c) The commissioner shall follow all procedures of the United States Department of Labor, ~~and~~ the Internal Revenue Service, **and the**

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**department of state revenue** concerning the withholding of income taxes.

(d) Money shall be deducted and withheld in accordance with the priorities established in regulations developed by the commissioner.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1450 as introduced.)

GUTWEIN, Chair

Committee Vote: yeas 8, nays 5.

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