

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.

HOUSE ENROLLED ACT No. 1450

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

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

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

- (1) **is regularly and customarily employed on an on call or as needed basis; and**
- (2) **has:**
 - (A) **remuneration for personal services payable to the individual; or**
 - (B) **work available from the individual's on-call or as needed employer.**

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**

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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.

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

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

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

(d) For calendar quarters beginning on and after January 1, 1991, and before July 1, 1995, "wage credits" means remuneration paid for

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employment by an employer to an individual. Wage credits may not exceed four thousand eight hundred ten dollars (\$4,810) and may not include payments specified in section 2(b) of this chapter.

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

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

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

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

(i) (d) For calendar quarters beginning on and after July 1, 2000, and before July 1, 2001, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed six thousand seven hundred dollars (\$6,700) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(j) (e) For calendar quarters beginning on and after July 1, 2001, and

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before July 1, 2002, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand three hundred dollars (\$7,300) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

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

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

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

~~(n)~~ **(i)** For calendar quarters beginning on and after July 1, 2005, **and before July 1, 2012**, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed nine thousand two hundred fifty dollars (\$9,250) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(j) For calendar quarters beginning on and after July 1, 2012, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or

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gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

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

- (1) Remuneration for services from employing units, whether or not such remuneration is subject to contribution under this article, except as provided in subsection (c).
- (2) Dismissal pay.
- (3) Vacation pay.
- (4) Pay for idle time.
- (5) Holiday pay.
- (6) Sick pay.
- (7) Traveling expenses granted to an individual by an employing unit and not fully accounted for by such individual.
- (8) Net earnings from self-employment.
- (9) Payments in lieu of compensation for services.
- (10) Awards by the national labor relations board of additional pay, back pay, or for loss of employment, or any such payments made under an agreement entered into by an employer, a union, and the National Labor Relations Board.
- (11) Payments made to an individual by an employing unit pursuant to the terms of the Fair Labor Standards Act (Federal Wage and Hour Law, 29 U.S.C. 201 et seq.).
- (12) **This subdivision applies to initial claims for unemployment filed for a week that begins after March 14, 2008, and before October 1, 2011.** 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. ~~or~~
- (13) **This subdivision applies to initial claims for unemployment filed for a week that begins after March 14, 2008, and before October 1, 2011.** Except as provided in subsection (c)(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:

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

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

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

- (1) bonuses, gifts, or prizes awarded to an employee by an employing unit; or
- (2) **for initial claims for unemployment filed for a week that begins after March 14, 2008, and before October 1, 2011,** 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.

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

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

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.~~

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

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

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

if, during the calendar year, the state is required 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.

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

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

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

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

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

(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

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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.**

(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

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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
- (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*

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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 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

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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.

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

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

(b) Except as provided in subsection (c), the applicable schedule of rates for calendar years after December 31, ~~2009~~, 2010, shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedules A through I appearing on the line opposite the fund ratio in the schedule below are applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the

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determination date. For purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For purposes of this subsection, "subject employers" means those employers who are 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

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

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

SECTION 11. IC 22-4-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) ~~With respect to initial claims filed for any week beginning on and after July 6, 1980; and before July 7, 1985; each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed; benefits at the rate of four and three-tenths percent (4.3%) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest. However, the weekly benefit amount may not exceed:~~

- (1) ~~eighty-four dollars (\$84) if the eligible and qualified individual has no dependents;~~
- (2) ~~ninety-nine dollars (\$99) if the eligible and qualified individual has one (1) dependent;~~
- (3) ~~one hundred thirteen dollars (\$113) if the eligible and~~

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- qualified individual has two (2) dependents;
- (4) one hundred twenty-eight dollars (\$128) if the eligible and qualified individual has three (3) dependents; or
- (5) one hundred forty-one dollars (\$141) if the eligible and qualified individual has four (4) or more dependents.

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

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

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

- (1) ninety-six dollars (\$96) if the eligible and qualified individual has no dependents;
- (2) one hundred thirteen dollars (\$113) if the eligible and qualified individual has one (1) dependent;
- (3) one hundred twenty-nine dollars (\$129) if the eligible and qualified individual has two (2) dependents;
- (4) one hundred forty-seven dollars (\$147) if the eligible and qualified individual has three (3) dependents; or
- (5) one hundred sixty-one dollars (\$161) if the eligible and qualified individual has four (4) or more dependents.

With respect to initial claims filed for any week beginning on and

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after July 7, 1991, benefits shall be paid in accordance with subsections (d) through (k):

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

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

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

On and after July 6, 1980; and before July 7, 1991; if the weekly benefit amount is less than forty dollars (\$40); the board; through the commissioner; shall pay benefits at the rate of forty dollars (\$40) per week. On and after July 7, 1991; if the weekly benefit amount is less than fifty dollars (\$50); the board; through the commissioner; shall pay benefits at the rate of fifty dollars (\$50) per week. If such weekly benefit amount is not a multiple of one dollar (\$1); it shall be computed to the next lower multiple of one dollar (\$1):

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

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

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

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

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

(e) With respect to initial claims filed for any week beginning on and after July 7, 1991, and before July 5, 1992, the weekly benefit amount may not exceed:

- (1) one hundred sixteen dollars (\$116) if the eligible and qualified individual has no dependents;
- (2) one hundred thirty-four dollars (\$134) if the eligible and qualified individual has one (1) dependent;
- (3) one hundred fifty-three dollars (\$153) if the eligible and qualified individual has two (2) dependents; or

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(4) one hundred seventy-one dollars (\$171) if the eligible and qualified individual has three (3) or more dependents.

(f) With respect to initial claims filed for any week beginning on and after July 5, 1992, and before July 4, 1993, the weekly benefit amount may not exceed:

(1) one hundred forty dollars (\$140) if the eligible and qualified individual has no dependents;

(2) one hundred sixty dollars (\$160) if the eligible and qualified individual has one (1) dependent; or

(3) one hundred eighty-one dollars (\$181) if the eligible and qualified individual has two (2) or more dependents.

(g) With respect to initial claims filed for any week beginning on and after July 4, 1993, and before July 3, 1994, the weekly benefit amount may not exceed:

(1) one hundred seventy dollars (\$170) if the eligible and qualified individual has no dependents; or

(2) one hundred ninety-two dollars (\$192) if the eligible and qualified individual has one (1) or more dependents.

(h) With respect to initial claims filed for any week beginning on or after July 3, 1994, and before July 1, 1995, the weekly benefit amount may not exceed two hundred two dollars (\$202).

(i) With respect to initial claims filed for any week on or after July 1, 1995, the weekly benefit amount will equal the amount that results from applying the percentages provided in subsections (j) through (k) to the applicable maximum wage credits under IC 22-4-4-3.

(j) With respect to initial claims filed for any week beginning on and after July 1, 1995, and before July 1, 1997, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of:

(1) five percent (5%) of the first one thousand seven hundred fifty dollars (\$1,750) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest; and

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

However, the weekly benefit amount may not exceed the amount specified in subsection (i).

(k) (a) With respect to initial claims filed for any week beginning on and after July 1, 1997, **and before July 1, 2012**, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any

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week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of:

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

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

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

- (1) the individual's total wage credits during the individual's base period; divided by**
- (2) fifty-two (52).**

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

(b) A person who:

- (1) accepts a layoff under an inverse seniority clause of a validly negotiated contract; and
- (2) otherwise meets the eligibility requirements established by this article;

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

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

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IC 22-4-5-1, a person who:

- (1) accepts an offer of payment or other compensation offered by an employer to avert or lessen the effect of a layoff or plant closure; and
- (2) otherwise meets the eligibility requirements established by this article;

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

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

- (1) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits may not be paid based on the service for any week of unemployment commencing during the period between two (2) successive academic years, or terms, or during the period between two (2) regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if the individual performs the services in the first of the academic years or terms and if there is a reasonable assurance that the individual will perform services in an instructional, research, or principal administrative capacity for any educational institution in the second of the academic years or terms.
- (2) With respect to services performed in any capacity (other than those listed in subdivision (1) of this section) for an educational institution, benefits may not be paid based on the service of an individual for any week which commences during a period between two (2) successive academic years or terms if the individual performs the service in the first of the academic years 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

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

SECTION 14. 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

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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 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 15. 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.

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(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 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.

SECTION 16. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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