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# HOUSE BILL No. 1489

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Unemployment contribution rates. Delays from January 1, 2011, to January 1, 2012, changes in the taxable wage base and employer contribution rates for the unemployment compensation system.

**Effective:** January 1, 2011 (retroactive).

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January 20, 2011, read first time and referred to Committee on Employment, Labor and Pensions.

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Introduced

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. 1489



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 22-4-4-2, AS AMENDED BY P.L.110-2010,  
 2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JANUARY 1, 2011 (RETROACTIVE)]: Sec. 2. (a) Except as  
 4 otherwise provided in this section, "wages" means all remuneration as  
 5 defined in section 1 of this chapter paid to an individual by an  
 6 employer, remuneration received as tips or gratuities in accordance  
 7 with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and  
 8 includes all remuneration considered as wages under Sections 3301  
 9 and 3102 et seq. of the Internal Revenue Code. However, the term shall  
 10 not include any amounts paid as compensation for services specifically  
 11 excluded by IC 22-4-8-3 or IC 22-4-8-3.5 from the definition of  
 12 employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall  
 13 include, but not be limited to, any payments made by an employer to an  
 14 employee or former employee, under order of the National Labor  
 15 Relations Board, or a successor thereto, or agency named to perform  
 16 the duties thereof, as additional pay, back pay, or for loss of  
 17 employment, or any such payments made in accordance with an



1 agreement made and entered into by an employer, a union, and the  
2 National Labor Relations Board.

3 (b) The term "wages" shall not include the following:

4 (1) That part of remuneration which, after remuneration equal to:

5 (A) seven thousand dollars (\$7,000), has been paid in a  
6 calendar year to an individual by an employer or the  
7 employer's predecessor with respect to employment during any  
8 calendar year that begins after December 31, 1982, and before  
9 January 1, ~~2011~~; **2012**; or

10 (B) nine thousand five hundred dollars (\$9,500), has been paid  
11 in a calendar year to an individual by an employer or the  
12 employer's predecessor for employment during a calendar year  
13 that begins after December 31, ~~2010~~; **2011**;

14 unless that part of the remuneration is subject to a tax under a  
15 federal law imposing a tax against which credit may be taken for  
16 contributions required to be paid into a state unemployment fund.  
17 For the purposes of this subdivision, the term "employment" shall  
18 include service constituting employment under any employment  
19 security law of any state or of the federal government. However,  
20 nothing in this subdivision shall be taken as an approval or  
21 disapproval of any related federal legislation.

22 (2) The amount of any payment (including any amount paid by an  
23 employer for insurance or annuities or into a fund to provide for  
24 any such payment) made to, or on behalf of, an individual or any  
25 of the individual's dependents under a plan or system established  
26 by an employer which makes provision generally for individuals  
27 performing service for it (or for such individuals generally and  
28 their dependents) or for a class or classes of such individuals (or  
29 for a class or classes of such individuals and their dependents) on  
30 account of:

- 31 (A) retirement;
- 32 (B) sickness or accident disability;
- 33 (C) medical or hospitalization expenses in connection with  
34 sickness or accident disability; or
- 35 (D) death.

36 (3) The amount of any payment made by an employer to an  
37 individual performing service for it (including any amount paid  
38 by an employer for insurance or annuities or into a fund to  
39 provide for any such payment) on account of retirement.

40 (4) The amount of any payment on account of sickness or accident  
41 disability, or medical or hospitalization expenses in connection  
42 with sickness or accident disability made by an employer to, or on

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1           behalf of, an individual performing services for it and after the  
2           expiration of six (6) calendar months following the last calendar  
3           month in which the individual performed services for such  
4           employer.

5           (5) The amount of any payment made by an employer to, or on  
6           behalf of, an individual performing services for it or to the  
7           individual's beneficiary:

8                 (A) from or to a trust exempt from tax under Section 401(a) of  
9                 the Internal Revenue Code at the time of such payment unless  
10                such payment is made to an individual performing services for  
11                the trust as remuneration for such services and not as a  
12                beneficiary of the trust; or

13               (B) under or to an annuity plan which, at the time of such  
14                payments, meets the requirements of Section 401(a)(3),  
15                401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue  
16                Code.

17           (6) Remuneration paid in any medium other than cash to an  
18           individual for service not in the course of the employer's trade or  
19           business.

20           (7) The amount of any payment (other than vacation or sick pay)  
21           made to an individual after the month in which the individual  
22           attains the age of sixty-five (65) if the individual did not perform  
23           services for the employer in the period for which such payment is  
24           made.

25           (8) The payment by an employer (without deduction from the  
26           remuneration of the employee) of the tax imposed upon an  
27           employee under Sections 3101 et seq. of the Internal Revenue  
28           Code (Federal Insurance Contributions Act).

29           SECTION 2. IC 22-4-10-3, AS AMENDED BY P.L.110-2010,  
30           SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31           JANUARY 1, 2011 (RETROACTIVE)]: Sec. 3. (a) This subsection  
32           applies before January 1, ~~2011~~ **2012**. Except as provided in section  
33           1(b) through 1(e) of this chapter, each employer shall pay contributions  
34           equal to five and six-tenths percent (5.6%) of wages, except as  
35           otherwise provided in IC 22-4-11-2, IC 22-4-11-3, IC 22-4-11.5, and  
36           IC 22-4-37-3.

37                 (b) This subsection applies after December 31, ~~2010~~ **2011**. Except  
38                 as provided in section 1(b) through 1(e) of this chapter, each employer  
39                 shall pay contributions equal to twelve percent (12%) of wages, except  
40                 as otherwise provided in IC 22-4-11-2, IC 22-4-11-3.5, IC 22-4-11.5,  
41                 and IC 22-4-37-3.

42           SECTION 3. IC 22-4-11-2, AS AMENDED BY P.L.110-2010,

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1 SECTION 26, AND AS AMENDED BY P.L.1-2010, SECTION 86, IS  
 2 CORRECTED AND AMENDED TO READ AS FOLLOWS  
 3 [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 2. (a)  
 4 Except as provided in IC 22-4-11.5, the department shall for each year  
 5 determine the contribution rate applicable to each employer.

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

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

15 (2) for each calendar year, an employer's rate shall be two and  
 16 seven-tenths percent (2.7%) before January 1, ~~2010~~, **2012**, and  
 17 two and five-tenths percent (2.5%) after December 31, ~~2009~~;  
 18 **2011**, except as otherwise provided in IC 22-4-37-3, unless and  
 19 until:

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

23 (B) there has been some annual payroll in each of the three (3)  
 24 twelve (12) month periods immediately preceding the  
 25 computation date.

26 (c) This subsection applies before January 1, ~~2010~~, **2012**. In addition  
 27 to the conditions and requirements set forth and provided in subsection  
 28 (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five  
 29 and six-tenths percent (5.6%) unless all required contribution and wage  
 30 reports have been filed within thirty-one (31) days following the  
 31 computation date and all contributions, penalties, and interest due and  
 32 owing by the employer or the employer's predecessors for periods prior  
 33 to and including the computation date have been paid:

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

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

38 (A) the delinquency; or

39 (B) failure to file the reports;

40 whichever is the later date.

41 The board or the board's designee may waive the imposition of rates  
 42 under this subsection if the board finds the employer's failure to meet

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1 the deadlines was for excusable cause. The department shall give  
2 written notice to the employer before this additional condition or  
3 requirement shall apply.

4 (d) This subsection applies after December 31, ~~2009~~ **2011**. In  
5 addition to the conditions and requirements set forth and provided in  
6 subsection (b)(2)(A) and (b)(2)(B), an employer's rate ~~shall not be less~~  
7 ~~than twelve percent (12%)~~ *is equal to the sum of the employer's*  
8 *contribution rate determined under this article plus two percent (2%)*  
9 unless all required contributions and wage reports have been filed  
10 within 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.

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

- 30 (1) one percent (1%), before January 1, ~~2010~~ **2012**; or
- 31 (2) one and six-tenths percent (1.6%), after December 31, ~~2009~~
- 32 **2011;**

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

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

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

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

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

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

15 SECTION 4. IC 22-4-11-3, AS AMENDED BY P.L.110-2010,  
16 SECTION 27, AND AS AMENDED BY P.L.1-2010, SECTION 87, IS  
17 CORRECTED AND AMENDED TO READ AS FOLLOWS  
18 [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 3. (a) The  
19 applicable schedule of rates for calendar years before January 1, ~~2010~~  
20 **2012**, shall be determined by the ratio resulting when the balance in the  
21 fund as of the determination date is divided by the total payroll of all  
22 subject employers for the immediately preceding calendar year.  
23 Schedule A, B, C, or D, appearing on the line opposite the fund ratio  
24 in the schedule below, shall be applicable in determining and assigning  
25 each employer's contribution rate for the calendar year immediately  
26 following the determination date. For the purposes of this subsection,  
27 "total payroll" means total remuneration reported by all contributing  
28 employers as required by this article and does not include the total  
29 payroll of any employer who elected to become liable for payments in  
30 lieu of contributions (as defined in IC 22-4-2-32). For the purposes of  
31 this subsection, "subject employers" means those employers who are  
32 subject to contribution.

33 FUND RATIO SCHEDULE

34 When the Fund Ratio Is:

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

41 (b) Except as provided in subsection (c), the applicable schedule of  
42 rates for calendar years after December 31, ~~2009~~, **2011**, shall be

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

14 FUND RATIO SCHEDULE

15 When the Fund Ratio Is:

16	As Much As	But Less Than	Applicable Schedule
17		0.2%	A
18	0.2%	0.4%	B
19	0.4%	0.6%	C
20	0.6%	0.8%	D
21	0.8%	1.0%	E
22	1.0%	1.2%	F
23	1.2%	1.4%	G
24	1.4%	1.6%	H
25	1.6%		I

27 (c) For calendar year ~~2010~~ **2012** only, Schedule B applies in  
 28 determining and assigning each employer's contribution rate.

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

33 SECTION 5. IC 22-4-11-3.3, AS AMENDED BY P.L.110-2010,  
 34 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JANUARY 1, 2011 (RETROACTIVE)]: Sec. 3.3. (a) For calendar  
 36 years after 2001 and before ~~2011~~, **2012**, if the conditions of section 2  
 37 of this chapter are met, the rate of contributions shall be determined  
 38 and assigned, with respect to each calendar year, to employers whose  
 39 accounts have a credit balance and who are eligible therefore according  
 40 to each employer's credit reserve ratio. Each employer shall be assigned  
 41 the contribution rate appearing in the applicable schedule A, B, C, D,  
 42 or E on the line opposite the employer's credit reserve ratio as set forth

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1 in the rate schedule below:

2 RATE SCHEDULE FOR ACCOUNTS  
3 WITH CREDIT BALANCES

4 When the Credit Reserve Ratio Is:

5	As	But	Rate Schedules				
6	Much	Less	(%)				
7	As	Than	A	B	C	D	E
8	3.00		1.10	0.10	0.10	0.10	0.15
9	2.80	3.00	1.30	0.30	0.10	0.10	0.15
10	2.60	2.80	1.50	0.50	0.10	0.10	0.15
11	2.40	2.60	1.70	0.70	0.30	0.10	0.20
12	2.20	2.40	1.90	0.90	0.50	0.10	0.20
13	2.00	2.20	2.10	1.10	0.70	0.30	0.40
14	1.80	2.00	2.30	1.30	0.90	0.50	0.60
15	1.60	1.80	2.50	1.50	1.10	0.70	0.80
16	1.40	1.60	2.70	1.70	1.30	0.90	1.00
17	1.20	1.40	2.90	1.90	1.50	1.10	1.20
18	1.00	1.20	3.10	2.10	1.70	1.30	1.40
19	0.80	1.00	3.30	2.30	1.90	1.50	1.60
20	0.60	0.80	3.50	2.50	2.10	1.70	1.80
21	0.40	0.60	3.70	2.70	2.30	1.90	2.00
22	0.20	0.40	3.90	2.90	2.50	2.10	2.20
23	0.00	0.20	4.10	3.10	2.70	2.30	2.40

24 (b) For calendar years after 2001 and before ~~2011~~, **2012**, if the  
25 conditions of section 2 of this chapter are met, the rate of contributions  
26 shall be determined and assigned, with respect to each calendar year,  
27 to employers whose accounts have a debit balance and who are eligible  
28 therefore according to each employer's debit reserve ratio. Each  
29 employer shall be assigned the contribution rate appearing in the  
30 applicable schedule A, B, C, D, or E on the line opposite the employer's  
31 debit reserve ratio as set forth in the rate schedule below:

32 RATE SCHEDULE FOR ACCOUNTS  
33 WITH DEBIT BALANCES

34 When the Debit Reserve Ratio Is:

35	As	But	Rate Schedules				
36	Much	Less	(%)				
37	As	Than	A	B	C	D	E
38		1.50	4.40	4.30	4.20	4.10	5.40
39	1.50	3.00	4.70	4.60	4.50	4.40	5.40
40	3.00	4.50	5.00	4.90	4.70	4.70	5.40
41	4.50	6.00	5.30	5.20	5.10	5.00	5.40
42	6.00		5.60	5.50	5.40	5.40	5.40



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1 SECTION 6. IC 22-4-11-3.5, AS AMENDED BY P.L.110-2010,  
 2 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JANUARY 1, 2011](RETROACTIVE): Sec. 3.5. (a) For calendar  
 4 years after ~~2010~~, **2011**, if the conditions of section 2 of this chapter are  
 5 met, the rate of contributions shall be determined and assigned, with  
 6 respect to each calendar year, to employers whose accounts have a  
 7 credit balance and who are therefore eligible according to each  
 8 employer's credit reserve ratio. Each employer shall be assigned the  
 9 contribution rate appearing in the applicable schedule A through I on  
 10 the line opposite the employer's credit reserve ratio as set forth in the  
 11 rate schedule below:

12 RATE SCHEDULE FOR ACCOUNTS  
 13 WITH CREDIT BALANCES

14 When the Credit Reserve Ratio Is:

15	As	But	Rate Schedules				
16	Much	Less	(%)				
17	As	Than	A	B	C	D	E
18	3.00		0.75	0.70	0.70	0.60	0.50
19	2.80	3.00	1.00	0.90	0.90	0.80	0.70
20	2.60	2.80	1.30	1.20	1.10	1.00	0.90
21	2.40	2.60	1.60	1.50	1.40	1.30	1.20
22	2.20	2.40	1.90	1.80	1.70	1.50	1.40
23	2.00	2.20	2.20	2.00	1.90	1.80	1.60
24	1.80	2.00	2.50	2.30	2.20	2.00	1.80
25	1.60	1.80	2.80	2.60	2.40	2.20	2.00
26	1.40	1.60	3.10	2.90	2.70	2.50	2.30
27	1.20	1.40	3.40	3.20	3.00	2.70	2.50
28	1.00	1.20	3.70	3.40	3.20	3.00	2.70
29	0.80	1.00	4.00	3.70	3.50	3.20	2.90
30	0.60	0.80	4.30	4.00	3.70	3.40	3.10
31	0.40	0.60	4.60	4.30	4.00	3.70	3.40
32	0.20	0.40	4.90	4.60	4.30	3.90	3.60
33	0.00	0.20	5.20	4.80	4.50	4.20	3.80

34 RATE SCHEDULE FOR ACCOUNTS  
 35 WITH CREDIT BALANCES

36 When the Credit Reserve Ratio Is:

37	As	But	Rate Schedules			
38	Much	Less	(%)			
39	As	Than	F	G	H	I
40	3.00		0.40	0.40	0.30	0.00
41	2.80	3.00	0.60	0.50	0.40	0.00
42	2.60	2.80	0.80	0.70	0.60	0.10

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1	2.40	2.60	1.10	1.00	0.90	0.10
2	2.20	2.40	1.30	1.20	1.00	0.10
3	2.00	2.20	1.40	1.20	1.00	0.10
4	1.80	2.00	1.60	1.40	1.20	0.10
5	1.60	1.80	1.80	1.60	1.40	0.20
6	1.40	1.60	2.10	1.90	1.70	0.20
7	1.20	1.40	2.20	2.00	1.70	0.20
8	1.00	1.20	2.40	2.10	1.80	0.20
9	0.80	1.00	2.60	2.30	2.00	0.20
10	0.60	0.80	2.80	2.50	2.20	0.20
11	0.40	0.60	3.10	2.80	2.40	0.30
12	0.20	0.40	3.20	2.80	2.40	0.30
13	0.00	0.20	3.40	3.00	2.60	0.30

(b) For calendar years after ~~2010~~, **2011**, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are therefore eligible according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

**RATE SCHEDULE FOR ACCOUNTS  
WITH DEBIT BALANCES**

When the Debit Reserve Ratio Is:

As Much	But Less Than	Rate Schedules (%)				
As	Than	A	B	C	D	E
0.00	1.50	6.75	6.30	5.90	5.40	4.90
1.50	3.00	7.00	6.50	6.10	5.60	5.10
3.00	4.50	7.25	6.70	6.30	5.80	5.30
4.50	6.00	7.50	7.00	6.50	6.00	5.50
6.00	8.00	7.75	7.20	6.70	6.20	5.70
8.00	10.00	8.25	7.70	7.20	6.60	6.00
10.00	12.00	8.75	8.10	7.60	7.00	6.40
12.00	14.00	9.25	8.60	8.00	7.40	6.80
14.00	16.00	9.75	9.10	8.50	7.80	7.10
16.00		10.20	9.50	8.90	8.20	7.40

**RATE SCHEDULE FOR ACCOUNTS  
WITH DEBIT BALANCES**

When the Debit Reserve Ratio Is:

As Much	But Less Than	Rate Schedules (%)	
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	As	Than	F	G	H	I
1						
2	0.00	1.50	4.40	3.90	3.40	0.40
3	1.50	3.00	4.60	4.10	3.60	0.40
4	3.00	4.50	4.80	4.30	3.80	0.40
5	4.50	6.00	4.90	4.40	3.80	0.40
6	6.00	8.00	5.10	4.50	3.90	0.40
7	8.00	10.00	5.40	4.80	4.20	0.50
8	10.00	12.00	5.80	5.20	4.50	0.50
9	12.00	14.00	6.10	5.40	4.70	0.50
10	14.00	16.00	6.40	5.70	5.00	0.50
11	16.00		6.70	6.00	5.40	5.40

12        **SECTION 7. An emergency is declared for this act.**

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