

HOUSE BILL No. 1512

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-30; IC 22-4.

Synopsis: Unemployment insurance. Repeals the changes made to the unemployment insurance law by HEA 1379-2009 (P.L.175-2009) and SEA 23-2010 (P.L.110-2010).

Effective: Upon passage; January 1, 2011 (retroactive).

Friend

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

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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. 1512



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 22-4-2-32, AS AMENDED BY P.L.175-2009,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 32. "Payment in lieu of contributions" means
4 the required reimbursements by employers of benefits paid attributable
5 to services performed for such employers which are liable to make
6 these payments as provided in IC 22-4-10-1. These payments shall
7 equal the full amount of regular benefits and the part of benefits not
8 reimbursed by the federal government under the Federal-State
9 Extended Unemployment Compensation Act of 1970 **fifty percent**
10 **(50%) of the extended benefits** paid that are attributable to services
11 in the employ of such liable employers.

12 SECTION 2. IC 22-4-2-34, AS AMENDED BY P.L.175-2009,
13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 34. (a) With respect to benefits for weeks of
15 unemployment beginning after August 13, 1981, "extended benefit
16 period" means a period which begins with the third week after a week
17 for which there is a state "on" indicator and ends with the later of the



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following:

- (1) The third week after the first week for which there is a state "off" indicator.
- (2) The thirteenth consecutive week of such period.

(b) However, no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(c) There is a state "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (not seasonally adjusted) under this article:

- (1) equaled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding two (2) calendar years; and
- (2) equaled or exceeded five percent (5%).

However, the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if it did not contain subdivision (1) if the insured unemployment rate is at least six percent (6%). Any week for which there would otherwise be a state "on" indicator shall continue to be such a week and may not be determined to be a week for which there is a state "off" indicator.

(d) In addition to the test for a state "on" indicator under subsection (c), there is a state "on" indicator for this state for a week if:

- (1) the average rate of total unemployment in Indiana, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three (3) months for which data for all states are published before the close of the week, equals or exceeds six and five-tenths percent (6.5%); and
- (2) the average rate of total unemployment in Indiana, seasonally adjusted, as determined by the United States Secretary of Labor, for the three (3) month period referred to in subdivision (1) equals or exceeds one hundred ten percent (110%) of the average for either or both of the corresponding three (3) month periods ending in the two (2) preceding calendar years.

There is a state "off" indicator for a week if either of the requirements in subdivisions (1) and (2) are not satisfied. However, any week for which there would otherwise be a state "on" indicator under this section continues to be subject to the "on" indicator and shall not be considered a week for which there is a state "off" indicator. This subsection expires

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1 on the later of December 5, 2009, or the week ending four (4) weeks
2 before the last week for which federal sharing is authorized by Section
3 2005(a) of Division B, Title H (the federal Assistance to Unemployed
4 Workers and Struggling Families Act) of the federal American
5 Recovery and Reinvestment Act of 2009 (P.L. 111-5).

6 (c) (d) There is a state "off" indicator for this state for a week if the
7 commissioner determines, in accordance with the regulations of the
8 United States Secretary of Labor, that for the period consisting of such
9 week and the immediately preceding twelve (12) weeks, the
10 requirements of subsection (c) have not been met. **rate of insured
11 unemployment (not seasonally adjusted) under this article:**

- 12 (1) was less than one hundred twenty percent (120%) of the
- 13 average of such rates for the corresponding 13-week period
- 14 ending in each of the preceding two (2) calendar years; or
- 15 (2) with respect to benefits for weeks of unemployment
- 16 beginning after September 25, 1982, was less than five percent
- 17 (5%).

18 (f) (e) With respect to benefits for weeks of unemployment
19 beginning after August 13, 1981, "rate of insured unemployment," for
20 purposes of subsection (c); **subsections (c) and (f)**, means the
21 percentage derived by dividing:

- 22 (1) the average weekly number of individuals filing claims for
- 23 regular compensation in this state for weeks of unemployment
- 24 with respect to the most recent 13 consecutive week period (as
- 25 determined by the board on the basis of this state's reports to the
- 26 United States Secretary of Labor); by
- 27 (2) the average monthly employment covered under this article
- 28 for the first four (4) of the most recent six (6) completed calendar
- 29 quarters ending before the end of such 13-week period.

30 (g) (f) "Regular benefits" means benefits payable to an individual
31 under this article or under the law of any other state (including benefits
32 payable to federal civilian employees and to ex-servicemen pursuant to
33 5 U.S.C. 8501 through 8525) other than extended benefits. "Additional
34 benefits" means benefits other than extended benefits and which are
35 totally financed by a state payable to exhaustees by reason of
36 conditions of high unemployment or by reason of other special factors
37 under the provisions of any state law. If extended compensation is
38 payable to an individual by this state and additional compensation is
39 payable to the individual for the same week by any state, the individual
40 may elect which of the two (2) types of compensation to claim.

41 (h) (g) "Extended benefits" means benefits (including benefits
42 payable to federal civilian employees and to ex-servicemen pursuant to

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1 5 U.S.C. 8501 through 8525) payable to an individual under the
 2 provisions of this article for weeks of unemployment in the individual's
 3 "eligibility period". Pursuant to Section 3304 of the Internal Revenue
 4 Code extended benefits are not payable to interstate claimants filing
 5 claims in an agent state which is not in an extended benefit period,
 6 against the liable state of Indiana when the state of Indiana is in an
 7 extended benefit period. This prohibition does not apply to the first two
 8 (2) weeks claimed that would, but for this prohibition, otherwise be
 9 payable. However, only one (1) such two (2) week period will be
 10 granted on an extended claim. Notwithstanding any other provisions of
 11 this chapter, with respect to benefits for weeks of unemployment
 12 beginning after October 31, 1981, if the benefit year of any individual
 13 ends within an extended benefit period, the remaining balance of
 14 extended benefits that the individual would, but for this clause, be
 15 entitled to receive in that extended benefit period, with respect to
 16 weeks of unemployment beginning after the end of the benefit year,
 17 shall be reduced (but not below zero) by the product of the number of
 18 weeks for which the individual received any amounts as trade
 19 readjustment allowances within that benefit year, multiplied by the
 20 individual's weekly benefit amount for extended benefits.

21 (i) (h) "Eligibility period" of an individual means the period
 22 consisting of the weeks in the individual's benefit period which begin
 23 in an extended benefit period and, if the individual's benefit period
 24 ends within such extended benefit period, any weeks thereafter which
 25 begin in such extended benefit period. For any weeks of unemployment
 26 beginning after February 17, 2009, and before January 1, 2010, an
 27 individual's eligibility period (as described in Section 203(c) of the
 28 Federal-State Unemployment Compensation Act of 1970) is, for
 29 purposes of any determination of eligibility for extended compensation
 30 under state law, considered to include any week that begins:

31 (1) after the date as of which the individual exhausts all rights to
 32 emergency unemployment compensation; and

33 (2) during an extended benefit period that began on or before the
 34 date described in subdivision (1):

35 (j) (i) "Exhaustee" means an individual who, with respect to any
 36 week of unemployment in the individual's eligibility period:

37 (1) has received, prior to such week, all of the regular benefits
 38 including dependent's allowances that were available to the
 39 individual under this article or under the law of any other state
 40 (including benefits payable to federal civilian employees and
 41 ex-servicemen under 5 U.S.C. 8501 through 8525) in the
 42 individual's current benefit period that includes such week.

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1 However, for the purposes of this subsection, an individual shall
 2 be deemed to have received all of the regular benefits that were
 3 available to the individual although as a result of a pending appeal
 4 with respect to wages that were not considered in the original
 5 monetary determination in the individual's benefit period or
 6 although a nonmonetary decision denying benefits is pending, the
 7 individual may subsequently be determined to be entitled to
 8 added regular benefits;

9 (2) may be entitled to regular benefits with respect to future
 10 weeks of unemployment but such benefits are not payable with
 11 respect to such week of unemployment by reason of seasonal
 12 limitations in any state unemployment insurance law; or

13 (3) having had the individual's benefit period expire prior to such
 14 week, has no, or insufficient, wages on the basis of which the
 15 individual could establish a new benefit period that would include
 16 such week;

17 and has no right to unemployment benefits or allowances, as the case
 18 may be, under the Railroad Unemployment Insurance Act, the Trade
 19 Act of 1974, the Automotive Products Trade Act of 1965 and such
 20 other federal laws as are specified in regulations issued by the United
 21 States Secretary of Labor, and has not received and is not seeking
 22 unemployment benefits under the unemployment compensation law of
 23 Canada; but if the individual is seeking such benefits and the
 24 appropriate agency finally determines that the individual is not entitled
 25 to benefits under such law, the individual is considered an exhaustee.

26 ~~(k)~~ (j) "State law" means the unemployment insurance law of any
 27 state, approved by the United States Secretary of Labor under Section
 28 3304 of the Internal Revenue Code.

29 SECTION 3. IC 22-4-4-2, AS AMENDED BY P.L.110-2010,
 30 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JANUARY 1, 2011 (RETROACTIVE)]: Sec. 2. (a) Except as
 32 otherwise provided in this section, "wages" means all remuneration as
 33 defined in section 1 of this chapter paid to an individual by an
 34 employer, remuneration received as tips or gratuities in accordance
 35 with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and
 36 includes all remuneration considered as wages under Sections 3301
 37 and 3102 et seq. of the Internal Revenue Code. However, the term shall
 38 not include any amounts paid as compensation for services specifically
 39 excluded by IC 22-4-8-3 or IC 22-4-8-3.5 from the definition of
 40 employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall
 41 include, but not be limited to, any payments made by an employer to an
 42 employee or former employee, under order of the National Labor

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1 Relations Board, or a successor thereto, or agency named to perform
2 the duties thereof, as additional pay, back pay, or for loss of
3 employment, or any such payments made in accordance with an
4 agreement made and entered into by an employer, a union, and the
5 National Labor Relations Board.

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

7 (1) That part of remuneration which, after remuneration equal to
8 ~~(A)~~ seven thousand dollars (\$7,000), has been paid in a
9 calendar year to an individual by an employer or the
10 employer's predecessor with respect to employment during any
11 calendar year that begins after December 31, 1982, ~~and before~~
12 ~~January 1, 2011; or~~

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

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

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

- 34 (A) retirement;
- 35 (B) sickness or accident disability;
- 36 (C) medical or hospitalization expenses in connection with
37 sickness or accident disability; or
- 38 (D) death.

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

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1 (4) The amount of any payment on account of sickness or accident
 2 disability, or medical or hospitalization expenses in connection
 3 with sickness or accident disability made by an employer to, or on
 4 behalf of, an individual performing services for it and after the
 5 expiration of six (6) calendar months following the last calendar
 6 month in which the individual performed services for such
 7 employer.

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

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

16 (B) under or to an annuity plan which, at the time of such
 17 payments, meets the requirements of Section 401(a)(3),
 18 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue
 19 Code.

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

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

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

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

38 (1) remuneration for services from employing units, whether or
 39 not such remuneration is subject to contribution under this article,
 40 except as provided in subsection (c);

41 (2) dismissal pay;

42 (3) vacation pay;

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- 1 (4) pay for idle time;
- 2 (5) holiday pay;
- 3 (6) sick pay;
- 4 (7) traveling expenses granted to an individual by an employing
- 5 unit and not fully accounted for by such individual;
- 6 (8) net earnings from self-employment;
- 7 (9) payments in lieu of compensation for services;
- 8 (10) awards by the national labor relations board of additional
- 9 pay, back pay, or for loss of employment, or any such payments
- 10 made under an agreement entered into by an employer, a union,
- 11 and the National Labor Relations Board;
- 12 (11) payments made to an individual by an employing unit
- 13 pursuant to the terms of the Fair Labor Standards Act (Federal
- 14 Wage and Hour Law, 29 U.S.C. 201 et seq.);
- 15 (12) for a week in which a payment is actually received by an
- 16 individual, payments made by an employer to an individual who
- 17 accepts an offer from the employer in connection with a layoff or
- 18 a plant closure; or
- 19 (13) except as provided in subsection (c)(2), the part of a payment
- 20 made by an employer to an individual who accepts an offer from
- 21 the employer in connection with a layoff or a plant closure if that
- 22 part is attributable to a week and the week:
 - 23 (A) occurs after an individual receives the payment; and
 - 24 (B) was used under the terms of a written agreement to
 - 25 compute the payment.
- 26 (b) Deductible income shall not include the first three dollars (\$3),
- 27 or twenty percent (20%) of the claimant's weekly benefit amount
- 28 rounded to the next lowest dollar, whichever is the larger, of
- 29 remuneration paid or payable to an individual with respect to any week
- 30 by other than the individual's base period employer or employers.
- 31 (c) For the purpose of deductible income only, remuneration for
- 32 services from employing units does not include:
 - 33 (1) bonuses, gifts, or prizes awarded to an employee by an
 - 34 employing unit; or
 - 35 (2) compensation made under a valid negotiated contract or
 - 36 agreement in connection with a layoff or plant closure, without
 - 37 regard to how the compensation is characterized by the contract
 - 38 or agreement.
- 39 (d) Deductible income does not include a supplemental
- 40 unemployment insurance benefit made under a valid negotiated
- 41 contract or agreement.
- 42 (e) Deductible income does not include any payments made to an

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1 ~~individual by a court system under a summons for jury service.~~
 2 SECTION 5. IC 22-4-6-1, AS AMENDED BY P.L.175-2009,
 3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 UPON PASSAGE]: Sec. 1. (a) "Employing unit" means any individual
 5 or type of organization, including any partnership, ~~limited liability~~
 6 ~~partnership~~, association, trust, joint venture, estate, ~~limited liability~~
 7 ~~company~~, joint stock company, insurance company, corporation,
 8 whether domestic or foreign, or the receiver, trustee in bankruptcy,
 9 trustee, or successor to any of the foregoing, or the legal representative
 10 of a deceased person, which at any time has had one (1) or more
 11 individuals performing services for it within this state for remuneration
 12 or under any contract of hire, written or oral, expressed or implied.
 13 Where any such individual performing services hires a helper to assist
 14 in performing such services, each such helper shall be deemed to be
 15 performing services for such employing unit for all purposes of this
 16 article, whether such helper was hired or paid directly by the employing
 17 unit or by the individual, provided the employing unit has actual or
 18 constructive knowledge of the services.

19 (b) All such individuals performing services within this state for any
 20 employing unit which maintains two (2) or more separate
 21 establishments within this state shall be deemed to be employed by a
 22 single employing unit for all purposes of this article.

23 SECTION 6. IC 22-4-6-3, AS AMENDED BY P.L.175-2009,
 24 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 3. (a) If two (2) or more related ~~entities~~;
 26 ~~including partnerships, limited liability partnerships, associations,~~
 27 ~~trusts, joint ventures, estates, joint stock companies, limited liability~~
 28 ~~companies, insurance companies, or corporations or a combination of~~
 29 ~~these entities~~, concurrently employ the same individual and
 30 compensate that individual through a common paymaster that is one (1)
 31 of the ~~entities, corporations~~, those ~~entities corporations~~ shall be
 32 considered to be one (1) employing unit.

33 (b) For purposes of this section, ~~entities corporations~~ shall be
 34 considered related ~~entities corporations~~ if they satisfy any one (1) of
 35 the following tests at any time during the calendar quarter:

36 (1) The corporations are members of a "controlled group of
 37 corporations", as defined in Section 1563 of the Internal Revenue
 38 Code (generally parent-subsidiary or brother-sister controlled
 39 groups), or would be members if Section 1563(a)(4) and 1563(b)
 40 of the Internal Revenue Code did not apply and if the phrase
 41 "more than fifty percent (50%)" were substituted for the phrase
 42 "at least eighty percent (80%)" wherever it appears in Section

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1 1563(a) of the Internal Revenue Code.

2 (2) In the case of **an entity a corporation** that does not issue

3 stock, either fifty percent (50%) or more of the members of one

4 (1) ~~entity's corporation's~~ board of directors (or other governing

5 body) are members of the other ~~entity's corporation's~~ board of

6 directors (or other governing body), or the holders of fifty percent

7 (50%) or more of the voting power to select these members are

8 concurrently the holders of fifty percent (50%) or more of that

9 power with respect to the other ~~entity: corporation~~.

10 (3) Fifty percent (50%) or more of one (1) ~~entity's corporation's~~

11 officers are concurrently officers of the other ~~entity: corporation~~.

12 (4) Thirty percent (30%) or more of one (1) ~~entity's corporation's~~

13 employees are concurrently employees of the other ~~entity:~~

14 **corporation**.

15 (5) The entities are part of an affiliated group, as defined in

16 Section 1504 of the Internal Revenue Code, except that the

17 ownership percentage in Section 1504(a)(2) of the Internal

18 Revenue Code shall be determined using fifty percent (50%)

19 instead of eighty percent (80%):

20 **Entities Corporations** shall be considered related ~~entities~~

21 **corporations** for an entire calendar quarter if they satisfy the

22 requirements of this subsection at any time during the calendar quarter.

23 (c) For purposes of this section, "concurrent employment" means the

24 contemporaneous existence of an employment relationship between an

25 individual and two (2) or more ~~entities: corporations~~.

26 SECTION 7. IC 22-4-8-2, AS AMENDED BY P.L.175-2009,

27 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

28 UPON PASSAGE]: Sec. 2. The term "employment" shall include:

29 (a) An individual's entire service performed within or both within

30 and without Indiana if the service is localized in Indiana.

31 (b) An individual's entire service performed within or both within

32 and without Indiana if the service is not localized in any state, but some

33 of the service is performed in Indiana and:

34 (1) the base of operations, or, if there is no base of operations,

35 then the place from which such service is directed or controlled

36 is in Indiana;

37 (2) the base of operations or place from which such service is

38 directed or controlled is not in any state in which some part of the

39 service is performed but the individual's residence is in Indiana;

40 or

41 (3) such service is not covered under the unemployment

42 compensation law of any other state or Canada, and the place

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1 from which the service is directed or controlled is in Indiana.

2 (c) Services not covered under subsections (a) and (b) and
3 performed entirely without Indiana, with respect to no part of which
4 contributions are required and paid under an unemployment
5 compensation law of any other state or of the United States, shall be
6 deemed to be employment subject to this article if the department
7 approves the election of the individual performing such services and
8 the employing unit for which such services are performed, that the
9 entire services of such individual shall be deemed to be employment
10 subject to this article.

11 (d) Services covered by an election duly approved by the
12 department, in accordance with an agreement pursuant to IC 22-4-22-1
13 through IC 22-4-22-5, shall be deemed to be employment during the
14 effective period of such election.

15 (e) Service shall be deemed to be localized within a state if:

- 16 (1) the service is performed entirely within such state; or
17 (2) the service is performed both within and without such state,
18 but the service performed without such state is incidental to the
19 individual's service within the state, such as is temporary or
20 transitory in nature or consists of isolated transactions.

21 (f) Periods of vacation with pay or leave with pay, other than
22 military leave granted or given to an individual by an employer.

23 (g) Notwithstanding any other provisions of this article, the term
24 employment shall also include all services performed by an officer or
25 member of the crew of an American vessel or American aircraft, on or
26 in connection with such vessel or such aircraft, provided that the
27 operating office, from which the operations of such vessel operating on
28 navigable waters within or the operations of such aircraft within, or the
29 operation of such vessel or aircraft within and without the United States
30 are ordinarily and regularly supervised, managed, directed, and
31 controlled, is within this state.

32 (h) Services performed for an employer which is subject to
33 contribution solely by reason of liability for any federal tax against
34 which credit may be taken for contributions paid into a state
35 unemployment compensation fund.

36 (i) The following:

- 37 (1) Service performed after December 31, 1971, by an individual
38 in the employ of this state or any of its instrumentalities (or in the
39 employ of this state and one (1) or more other states or their
40 instrumentalities) for a hospital or eligible postsecondary
41 educational institution located in Indiana.

- 42 (2) Service performed after December 31, 1977, by an individual

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1 in the employ of this state or a political subdivision of the state or
 2 any instrumentality of the state or a political subdivision, or any
 3 instrumentality which is wholly owned by the state and one (1) or
 4 more other states or political subdivisions, if the service is
 5 excluded from "employment" as defined in Section 3306(c)(7) of
 6 the Federal Unemployment Tax Act (26 U.S.C. 3306(c)(7)).
 7 However, service performed after December 31, 1977, as the
 8 following is excluded:

9 (A) An elected official.

10 (B) A member of a legislative body or of the judiciary of a
 11 state or political subdivision.

12 (C) A member of the state national guard or air national guard.

13 (D) An employee serving on a temporary basis in the case of
 14 fire, snow, storm, earthquake, flood, or similar emergency.

15 (E) An individual in a position which, under the laws of the
 16 state, is designated as:

17 (i) a major nontenured policymaking or advisory position; or

18 (ii) a policymaking or advisory position the performance of
 19 the duties of which ordinarily does not require more than
 20 eight (8) hours per week.

21 (3) Service performed after March 31, 1981, by an individual
 22 whose service is part of an unemployment work relief or work
 23 training program assisted or financed in whole by any federal
 24 agency or an agency of this state or a political subdivision of this
 25 state, by an individual receiving such work relief or work training
 26 is excluded.

27 (j) Service performed after December 31, 1971, by an individual in
 28 the employ of a religious, charitable, educational, or other organization,
 29 but only if the following conditions are met:

30 (1) The service is excluded from "employment" as defined in the
 31 Federal Unemployment Tax Act solely by reason of Section
 32 3306(c)(8) of that act (26 U.S.C. 3306(c)(8)).

33 (2) The organization had four (4) or more individuals in
 34 employment for some portion of a day in each of twenty (20)
 35 different weeks, whether or not such weeks were consecutive,
 36 within either the current or preceding calendar year, regardless of
 37 whether they were employed at the same moment of time.

38 (3) For the purposes of subdivisions (1) and (2), the term
 39 "employment" does not apply to service performed as follows:

40 (A) In the employ of:

41 (i) a church or convention or association of churches; or

42 (ii) an organization which is operated primarily for religious

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- 1 purposes and which is operated, supervised, controlled, or
- 2 principally supported by a church or convention or
- 3 association of churches.
- 4 (B) By a duly ordained, commissioned, or licensed minister of
- 5 a church in the exercise of ~~his~~ **the minister's** ministry or by a
- 6 member of a religious order in the exercise of duties required
- 7 by such order.
- 8 (C) Before January 1, 1978, in the employ of a school which
- 9 is not an eligible postsecondary educational institution.
- 10 (D) In a facility conducted for the purpose of carrying out a
- 11 program of rehabilitation for individuals whose earning
- 12 capacity is impaired by age or physical or mental deficiency or
- 13 injury or providing remunerative work for individuals who
- 14 because of their impaired physical or mental capacity cannot
- 15 be readily absorbed in the competitive labor market by an
- 16 individual receiving such rehabilitation or remunerative work.
- 17 (E) As part of an unemployment work relief or work training
- 18 program assisted or financed in whole or in part by any federal
- 19 agency or an agency of a state or political subdivision thereof,
- 20 by an individual receiving such work relief or work training.
- 21 (k) The service of an individual who is a citizen of the United
- 22 States, performed outside the United States (except in Canada), after
- 23 December 31, 1971, in the employ of an American employer (other
- 24 than service which is deemed "employment" under the provisions of
- 25 subsection (a), (b), or (e) or the parallel provisions of another state's
- 26 law), if the following apply:
- 27 (1) The employer's principal place of business in the United States
- 28 is located in this state.
- 29 (2) The employer has no place of business in the United States,
- 30 but the employer is:
- 31 (A) an individual who is a resident of this state;
- 32 (B) a corporation which is organized under the laws of this
- 33 state; **or**
- 34 (C) a partnership ~~limited liability partnership~~; or a trust and the
- 35 number of the partners or trustees who are residents of this
- 36 state is greater than the number who are residents of any one
- 37 (1) other state. ~~or~~
- 38 ~~(D) an association; a joint venture; an estate; a limited liability~~
- 39 ~~company; a joint stock company; or an insurance company~~
- 40 ~~(referred to as an "entity" in this clause); and either:~~
- 41 ~~(i) the entity is organized under the laws of this state; or~~
- 42 ~~(ii) the number of owners; members; or beneficiaries who~~

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1 are residents of this state is greater than the number who are
2 residents of any one (1) other state:

3 (3) None of the criteria of subdivisions (1) and (2) is met but the
4 employer has elected coverage in this state or, the employer
5 having failed to elect coverage in any state, the individual has
6 filed a claim for benefits, based on such service, under the law of
7 this state.

8 (4) An "American employer," for purposes of this subsection,
9 means:

- 10 (A) an individual who is a resident of the United States;
- 11 (B) a partnership, ~~or limited liability partnership~~; if two-thirds
- 12 (2/3) or more of the partners are residents of the United States;
- 13 (C) a trust, if all of the trustees are residents of the United
- 14 States; or
- 15 (D) a corporation ~~an association~~; a joint venture; an estate; a
- 16 limited liability company; a joint stock company; or an
- 17 insurance company organized or established under the laws of
- 18 the United States or of any state.

19 (l) The term "employment" also includes the following:

20 (1) Service performed after December 31, 1977, by an individual
21 in agricultural labor (as defined in section 3(c) of this chapter)
22 when the service is performed for an employing unit which:

- 23 (A) during any calendar quarter in either the current or
- 24 preceding calendar year paid cash remuneration of twenty
- 25 thousand dollars (\$20,000) or more to individuals employed in
- 26 agricultural labor; or
- 27 (B) for some portion of a day in each of twenty (20) different
- 28 calendar weeks, whether or not the weeks were consecutive, in
- 29 either the current or the preceding calendar year, employed in
- 30 agricultural labor ten (10) or more individuals, regardless of
- 31 whether they were employed at the same time.

32 (2) For the purposes of this subsection, any individual who is a
33 member of a crew furnished by a crew leader to perform service
34 in agricultural labor for any other person shall be treated as an
35 employee of the crew leader:

- 36 (A) if the crew leader holds a valid certificate of registration
- 37 under the Farm Labor Contractor Registration Act of 1963, or
- 38 substantially all the members of the crew operate or maintain
- 39 tractors, mechanized harvesting or crop dusting equipment, or
- 40 any other mechanized equipment, which is provided by the
- 41 crew leader; and
- 42 (B) if the individual is not an employee of another person

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within the meaning of section 1 of this chapter.
(3) For the purposes of subdivision (1), in the case of an individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under subdivision (2):
 (A) the other person and not the crew leader shall be treated as the employer of the individual; and
 (B) the other person shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the crew leader (either on the individual's own behalf or on behalf of the other person) for the service in agricultural labor performed for the other person.
(4) For the purposes of this subsection, the term "crew leader" means an individual who:
 (A) furnishes individuals to perform service in agricultural labor for any other person;
 (B) pays (either on the individual's own behalf or on behalf of the other person) the agricultural laborers furnished by the individual for the service in agricultural labor performed by them; and
 (C) has not entered into a written agreement with the other person under which the individual is designated as an employee of the other person.
(m) The term "employment" includes domestic service after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of one thousand dollars (\$1,000) or more after December 31, 1977, in the current calendar year or the preceding calendar year to individuals employed in the domestic service in any calendar quarter.
SECTION 8. IC 22-4-10-1, AS AMENDED BY P.L.175-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Contributions shall accrue and become payable from each employer for each calendar year in which it is subject to this article with respect to wages paid during such calendar year. Where the status of an employer is changed by cessation or disposition of business or appointment of a receiver, trustees, trustee in bankruptcy, or other fiduciary, contributions shall immediately become due and payable on the basis of wages paid or payable by such employer as of the date of the change of status. Such contributions shall be paid to the department in such manner as the department may

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1 prescribe, and shall not be deducted, in whole or in part, from the
 2 remuneration of individuals in an employer's employ. When
 3 contributions are determined in accordance with Schedule A as
 4 provided in IC 22-4-11-3, the department may prescribe rules to require
 5 an estimated advance payment of contributions in whole or in part, if
 6 in the judgment of the department such advance payments will avoid
 7 a debit balance in the fund during the calendar quarter to which the
 8 advance payment applies. An adjustment shall be made following the
 9 quarter in which an advance payment has been made to reflect the
 10 difference between the estimated contribution and the contribution
 11 actually payable. Advance payment of contributions shall not be
 12 required for more than one (1) calendar quarter in any calendar year.

13 (b) Any employer which is, or becomes, subject to this article by
 14 reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions as
 15 provided under this article unless it elects to become liable for
 16 "payments in lieu of contributions" (as defined in IC 22-4-2-32).

17 (c) Except as provided in subsection (e), the election to become
 18 liable for "payments in lieu of contributions" must be filed with the
 19 department on a form prescribed by the department not later than
 20 thirty-one (31) days following the date upon which such entity qualifies
 21 as an employer under this article, and shall be for a period of not less
 22 than two (2) calendar years.

23 (d) Any employer that makes an election in accordance with
 24 subsections (b) and (c) will continue to be liable for "payments in lieu
 25 of contributions" until it files with the department a written notice
 26 terminating its election. The notice filed by an employer to terminate
 27 its election must be filed not later than thirty (30) days prior to the
 28 beginning of the taxable year for which such termination shall first be
 29 effective.

30 (e) Any employer that qualifies to elect to become liable for
 31 "payments in lieu of contributions" and has been paying contributions
 32 under this article, may change to a reimbursable basis by filing with the
 33 department not later than thirty (30) days prior to the beginning of any
 34 taxable year a written notice of election to become liable for payments
 35 in lieu of contributions. Such election shall not be terminable by the
 36 organization for that **year** and the next year.

37 (f) Employers making "payments in lieu of contributions" under
 38 subsections (b) and (c) shall make reimbursement payments monthly.
 39 At the end of each calendar month the department shall bill each such
 40 employer (or group of employers) for an amount equal to the full
 41 amount of regular benefits plus the part of benefits not reimbursed by
 42 the federal government under the Federal-State Extended

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1 ~~Unemployment Compensation Act of 1970~~ **fifty percent (50%) of the**
 2 **amount of extended benefits** paid during such month that is
 3 attributable to services in the employ of such employers or group of
 4 employers. Governmental entities of this state and its political
 5 subdivisions electing to make "payments in lieu of contributions" shall
 6 be billed by the department at the end of each calendar month for an
 7 amount equal to the full amount of regular benefits plus the ~~part of~~
 8 ~~benefits not reimbursed by the federal government under the~~
 9 ~~Federal-State Extended Unemployment Compensation Act of 1970~~ **full**
 10 **amount of extended benefits** paid during the month that is attributable
 11 to service in the employ of the governmental entities.

12 (g) Payment of any bill rendered under subsection (f) shall be made
 13 not later than thirty (30) days after such bill was mailed to the last
 14 known address of the employer or was otherwise delivered to it, unless
 15 there has been an application for review and redetermination filed
 16 under subsection (i).

17 (h) Payments made by any employer under the provisions of
 18 subsections (f) through (j) shall not be deducted or deductible, in whole
 19 or in part, from the remuneration of individuals in the employ of the
 20 employer.

21 (i) The amount due specified in any bill from the department shall
 22 be conclusive on the employer unless, not later than fifteen (15) days
 23 after the bill was mailed to its last known address or otherwise
 24 delivered to it, the employer files an application for redetermination. If
 25 the employer so files, the employer shall have an opportunity to be
 26 heard, and such hearing shall be conducted by a liability administrative
 27 law judge pursuant to IC 22-4-32-1 through IC 22-4-32-15. After the
 28 hearing, the liability administrative law judge shall immediately notify
 29 the employer in writing of the finding, and the bill, if any, so made
 30 shall be final, in the absence of judicial review proceedings, fifteen
 31 (15) days after such notice is issued.

32 (j) Past due payments of amounts in lieu of contributions shall be
 33 subject to the same interest and penalties that, pursuant to IC 22-4-29,
 34 apply to past due contributions.

35 (k) Two (2) or more employers that have elected to become liable
 36 for "payments in lieu of contributions" in accordance with subsections
 37 (b) and (c) may file a joint application with the department for the
 38 establishment of a group account for the purpose of sharing the cost of
 39 benefits paid that are attributable to service in the employ of such
 40 employers. Such group account shall be established as provided in
 41 regulations prescribed by the commissioner.

42 SECTION 9. IC 22-4-10-3, AS AMENDED BY P.L.110-2010,

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1 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JANUARY 1, 2011 (RETROACTIVE)]: Sec. 3. ~~(a) This subsection
3 applies before January 1, 2011.~~ Except as provided in section 1(b)
4 through 1(e) of this chapter, each employer shall pay contributions
5 equal to five and six-tenths percent (5.6%) of wages, except as
6 otherwise provided in IC 22-4-11-2, IC 22-4-11-3, IC 22-4-11.5, and
7 IC 22-4-37-3.

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

13 SECTION 10. IC 22-4-11-1, AS AMENDED BY P.L.175-2009,
14 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 UPON PASSAGE]: Sec. 1. (a) For the purpose of charging employers'
16 experience or reimbursable accounts with regular benefits paid
17 subsequent to July 3, 1971, to any eligible individual but except as
18 provided in IC 22-4-22 and subsection (f), such benefits paid shall be
19 charged proportionately against the experience or reimbursable
20 accounts of the individual's employers in the individual's base period
21 (on the basis of total wage credits established in such base period)
22 against whose accounts the maximum charges specified in this section
23 shall not have been previously made. Such charges shall be made in the
24 inverse chronological order in which the wage credits of such
25 individuals were established. However, when an individual's claim has
26 been computed for the purpose of determining the individual's regular
27 benefit rights, maximum regular benefit amount, and the proportion of
28 such maximum amount to be charged to the experience or reimbursable
29 accounts of respective chargeable employers in the base period, the
30 experience or reimbursable account of any employer charged with
31 regular benefits paid shall not be credited or recredited with any
32 portion of such maximum amount because of any portion of such
33 individual's wage credits remaining uncharged at the expiration of the
34 individual's benefit period. The maximum so charged against the
35 account of any employer shall not exceed twenty-eight percent (28%)
36 of the total wage credits of such individual with each such employer
37 with which wage credits were established during such individual's base
38 period. Benefits paid under provisions of IC 22-4-22-3 in excess of the
39 amount that the claimant would have been monetarily eligible for under
40 other provisions of this article shall be paid from the fund and not
41 charged to the experience account of any employer. This exception
42 shall not apply to those employers electing to make payments in lieu of

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1 contributions who shall be charged for ~~the full amount of regular all~~
 2 ~~benefit payments and the part of benefits not reimbursed by the federal~~
 3 ~~government under the Federal-State Extended Unemployment~~
 4 ~~Compensation Act of 1970~~ that are attributable to service in their
 5 employ. Irrespective of the twenty-eight percent (28%) maximum
 6 limitation provided for in this section, ~~the part of any extended~~
 7 ~~benefits not reimbursed by the federal government under the~~
 8 ~~Federal-State Extended Unemployment Compensation Act of 1970~~
 9 paid to an eligible individual based on service with a governmental
 10 entity of this state or its political subdivisions shall be charged to the
 11 experience or reimbursable accounts of the employers, and ~~the part of~~
 12 **fifty percent (50%) of any extended** ~~benefits not reimbursed by the~~
 13 ~~federal government under the Federal-State Extended Unemployment~~
 14 ~~Compensation Act of 1970~~ paid to an eligible individual shall be
 15 charged to the experience or reimbursable accounts of the individual's
 16 employers in the individual's base period, other than governmental
 17 entities of this state or its political subdivisions, in the same proportion
 18 and sequence as are provided in this section for regular benefits paid.
 19 Additional benefits paid under IC 22-4-12-4(c) and benefits paid under
 20 IC 22-4-15-1(c)(8) shall:

21 (1) be paid from the fund; and

22 (2) not be charged to the experience account or the reimbursable
 23 account of any employer.

24 (b) If the aggregate of wages paid to an individual by two (2) or
 25 more employers during the same calendar quarter exceeds the
 26 maximum wage credits (as defined in IC 22-4-4-3) then the experience
 27 or reimbursable account of each such employer shall be charged in the
 28 ratio which the amount of wage credits from such employer bears to the
 29 total amount of wage credits during the base period.

30 (c) When wage records show that an individual has been employed
 31 by two (2) or more employers during the same calendar quarter of the
 32 base period but do not indicate both that such employment was
 33 consecutive and the order of sequence thereof, then and in such cases
 34 it shall be deemed that the employer with whom the individual
 35 established a plurality of wage credits in such calendar quarter is the
 36 most recent employer in such quarter and its experience or
 37 reimbursable account shall be first charged with benefits paid to such
 38 individual. The experience or reimbursable account of the employer
 39 with whom the next highest amount of wage credits were established
 40 shall be charged secondly and the experience or reimbursable accounts
 41 of other employers during such quarters, if any, shall likewise be
 42 charged in order according to plurality of wage credits established by

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1 such individual.

2 (d) Except as provided in subsection (f), if an individual:

3 (1) voluntarily leaves an employer without good cause in
4 connection with the work; or

5 (2) is discharged from an employer for just cause;

6 wage credits earned with the employer from whom the employee has
7 separated under these conditions shall be used to compute the
8 claimant's eligibility for benefits, but charges based on such wage
9 credits shall be paid from the fund and not charged to the experience
10 account of any employer. However, this exception shall not apply to
11 those employers who elect to make payments in lieu of contributions,
12 who shall be charged for all benefit payments which are attributable to
13 service in their employ.

14 (e) Any nonprofit organization which elects to make payments in
15 lieu of contributions into the unemployment compensation fund as
16 provided in this article is not liable to make the payments with respect
17 to the benefits paid to any individual whose base period wages include
18 wages for previously uncovered services as defined in IC 22-4-4-4, nor
19 is the experience account of any other employer liable for charges for
20 benefits paid the individual to the extent that the unemployment
21 compensation fund is reimbursed for these benefits pursuant to Section
22 121 of P.L.94-566. Payments which otherwise would have been
23 chargeable to the reimbursable or contributing employers shall be
24 charged to the fund.

25 (f) If an individual:

26 (1) earns wages during the individual's base period through
27 employment with two (2) or more employers concurrently;

28 (2) is separated from work by one (1) of the employers for reasons
29 that would not result in disqualification under IC 22-4-15-1; and

30 (3) continues to work for one (1) or more of the other employers
31 after the end of the base period and continues to work during the
32 applicable benefit year on substantially the same basis as during
33 the base period;

34 wage credits earned with the base period employers shall be used to
35 compute the claimant's eligibility for benefits, but charges based on the
36 wage credits from the employer who continues to employ the individual
37 shall be charged to the experience or reimbursable account of the
38 separating employer.

39 (g) Subsection (f) does not affect the eligibility of a claimant who
40 otherwise qualifies for benefits nor the computation of benefits.

41 (h) Unemployment benefits paid shall not be charged to the
42 experience account of a base period employer when the claimant's

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1 unemployment from the employer was a direct result of the
2 condemnation of property by a municipal corporation (as defined in
3 IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an
4 act of nature, when at least fifty percent (50%) of the employer's
5 employees, including the claimant, became unemployed as a result.
6 This exception does not apply when the unemployment was an
7 intentional result of the employer or a person acting on behalf of the
8 employer.

9 SECTION 11. IC 22-4-11-2, AS AMENDED BY P.L.110-2010,
10 SECTION 26, AND AS AMENDED BY P.L.1-2010, SECTION 86, IS
11 CORRECTED AND AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 2. (a)
13 Except as provided in IC 22-4-11.5, the department shall for each year
14 determine the contribution rate applicable to each employer.

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

21 (1) for each calendar year, an employer's rate shall be determined
22 in accordance with the rate schedules in section ~~3 or 3.3 or 3.5~~ of
23 this chapter; and

24 (2) for each calendar year, an employer's rate shall be two and
25 seven-tenths percent (2.7%), ~~before January 1, 2010, 2011, and~~
26 ~~two and five-tenths percent (2.5%) after December 31, 2009,~~
27 ~~2010;~~ except as otherwise provided in IC 22-4-37-3, unless and
28 until:

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

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

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

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

- 5 (A) the delinquency; or
- 6 (B) failure to file the reports;
- 7 whichever is the later date.

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

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

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

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

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

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

- 39 (1) one percent (1%) before January 1, 2010; 2011; or
- 40 (2) one and six-tenths percent (1.6%), after December 31, 2009;
41 2010;

42 until it has been subject to this article throughout the thirty-six (36)

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1 consecutive calendar months immediately preceding the computation
2 date.

3 (f) (e) On the computation date every employer who had taxable
4 wages in the previous calendar year shall have the employer's
5 experience account charged with the amount determined under the
6 following formula:

7 STEP ONE: Divide:
8 (A) the employer's taxable wages for the preceding calendar
9 year; by
10 (B) the total taxable wages for the preceding calendar year.

11 STEP TWO: Multiply the quotient determined under STEP ONE
12 by the total amount of benefits charged to the fund under section
13 1 of this chapter.

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

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

24 SECTION 12. IC 22-4-11-3, AS AMENDED BY P.L.110-2010,
25 SECTION 27, AND AS AMENDED BY P.L.1-2010, SECTION 87, IS
26 CORRECTED AND AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 3. (a) The
28 applicable schedule of rates for ~~the calendar years before January 1,~~
29 ~~2010, 2011, year 1983 and thereafter~~ shall be determined by the ratio
30 resulting when the balance in the fund as of the determination date is
31 divided by the total payroll of all subject employers for the immediately
32 preceding calendar year. Schedule A, B, C, or D, appearing on the line
33 opposite the fund ratio in the schedule below, shall be applicable in
34 determining and assigning each employer's contribution rate for the
35 calendar year immediately following the determination date. For the
36 purposes of this subsection, "total payroll" means total remuneration
37 reported by all contributing employers as required by this article and
38 does not include the total payroll of any employer who elected to
39 become liable for payments in lieu of contributions (as defined in
40 IC 22-4-2-32). For the purposes of this subsection, "subject employers"
41 means those employers who are subject to contribution.

42 FUND RATIO SCHEDULE

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1 When the Fund Ratio Is:

2			Applicable
3	As Much As	But Less Than	Schedule
4		1.0%	A
5	1.0%	1.5%	B
6	1.5%	2.25%	C
7	2.25%		D

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

23 **FUND RATIO SCHEDULE**

24 When the Fund Ratio Is:

25			Applicable
26	As Much As	But Less Than	Schedule
27		0.2%	A
28	0.2%	0.4%	B
29	0.4%	0.6%	C
30	0.6%	0.8%	D
31	0.8%	1.0%	E
32	1.0%	1.2%	F
33	1.2%	1.4%	G
34	1.4%	1.6%	H
35	1.6%		I

36 (c) For calendar year 2010 2011 only, Schedule B applies in
 37 determining and assigning each employer's contribution rate.

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

42 SECTION 13. IC 22-4-11-3.3, AS AMENDED BY P.L.110-2010,

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1 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JANUARY 1, 2011 (RETROACTIVE)]: Sec. 3.3. (a) For calendar
 3 years after 2001, ~~and before 2011~~, if the conditions of section 2 of this
 4 chapter are met, the rate of contributions shall be determined and
 5 assigned, with respect to each calendar year, to employers whose
 6 accounts have a credit balance and who are eligible therefore according
 7 to each employer's credit reserve ratio. Each employer shall be assigned
 8 the contribution rate appearing in the applicable schedule A, B, C, D,
 9 or E on the line opposite the employer's credit reserve ratio as set forth
 10 in the rate schedule below:

11 RATE SCHEDULE FOR ACCOUNTS
 12 WITH CREDIT BALANCES

13 When the Credit Reserve Ratio Is:

14	As	But	Rate Schedules				
15	Much	Less	(%)				
16	As	Than	A	B	C	D	E
17	3.00		1.10	0.10	0.10	0.10	0.15
18	2.80	3.00	1.30	0.30	0.10	0.10	0.15
19	2.60	2.80	1.50	0.50	0.10	0.10	0.15
20	2.40	2.60	1.70	0.70	0.30	0.10	0.20
21	2.20	2.40	1.90	0.90	0.50	0.10	0.20
22	2.00	2.20	2.10	1.10	0.70	0.30	0.40
23	1.80	2.00	2.30	1.30	0.90	0.50	0.60
24	1.60	1.80	2.50	1.50	1.10	0.70	0.80
25	1.40	1.60	2.70	1.70	1.30	0.90	1.00
26	1.20	1.40	2.90	1.90	1.50	1.10	1.20
27	1.00	1.20	3.10	2.10	1.70	1.30	1.40
28	0.80	1.00	3.30	2.30	1.90	1.50	1.60
29	0.60	0.80	3.50	2.50	2.10	1.70	1.80
30	0.40	0.60	3.70	2.70	2.30	1.90	2.00
31	0.20	0.40	3.90	2.90	2.50	2.10	2.20
32	0.00	0.20	4.10	3.10	2.70	2.30	2.40

33 (b) For calendar years after 2001, ~~and before 2011~~, if the conditions
 34 of section 2 of this chapter are met, the rate of contributions shall be
 35 determined and assigned, with respect to each calendar year, to
 36 employers whose accounts have a debit balance and who are eligible
 37 therefore according to each employer's debit reserve ratio. Each
 38 employer shall be assigned the contribution rate appearing in the
 39 applicable schedule A, B, C, D, or E on the line opposite the employer's
 40 debit reserve ratio as set forth in the rate schedule below:

41 RATE SCHEDULE FOR ACCOUNTS
 42 WITH DEBIT BALANCES

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1 appears in Section 1563(a) of the Internal Revenue Code.

2 (B) The predecessor employer and the employing unit are
3 entities that are part of an affiliated group, as defined in
4 Section 1504 of the Internal Revenue Code, except that the
5 ownership percentage in Section 1504(a)(2) of the Internal
6 Revenue Code shall be determined using fifty percent (50%)
7 instead of eighty percent (80%).

8 (C) A predecessor employer and an employing unit are entities
9 that do not issue stock, either fifty percent (50%) or more of
10 the members of one (1) entity's board of directors (or other
11 governing body) are members of the other entity's board of
12 directors (or other governing body); or the holders of fifty
13 percent (50%) or more of the voting power to select these
14 members are concurrently the holders of fifty percent (50%) or
15 more of that power with respect to the other entity.

16 (D) Fifty percent (50%) or more of one (1) entity's officers are
17 concurrently officers of the other entity.

18 (E) Thirty percent (30%) or more of one (1) entity's employees
19 are concurrently employees of the other entity.

20 (3) The length of time the employing unit or other person
21 continued the business enterprise of the acquired trade or
22 business.

23 (4) Whether a substantial number of new employees were hired
24 to perform duties unrelated to the business enterprise that the
25 trade or business conducted before the trade or business was
26 acquired.

27 (5) Whether the predecessor employer and the employing unit are
28 united by factors of control, operation, or use.

29 (6) Whether a new employing unit is being created solely to
30 obtain a lower contribution rate.

31 (c) Any written determination made by the department is conclusive
32 and binding on the employing unit or other person, unless the
33 employing unit or other person files a written protest with the
34 department setting forth all reasons for the protest. A protest under this
35 section must be filed not later than fifteen (15) days after the date the
36 department sends the initial determination to the employing unit or
37 other person. The protest shall be heard and determined under this
38 section and IC 22-4-32-1 through IC 22-4-32-15. The department and
39 the employing unit or other person shall be parties to the hearing before
40 the liability administrative law judge and are entitled to receive copies
41 of all pleadings and the decision.

42 SECTION 15. IC 22-4-12-4, AS AMENDED BY P.L.175-2009,

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1 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 UPON PASSAGE]: Sec. 4. (a) Benefits shall be computed upon the
 3 basis of wage credits of an individual in the individual's base period.
 4 Wage credits shall be reported by the employer and credited to the
 5 individual in the manner prescribed by the board. With respect to initial
 6 claims filed for any week beginning on and after July 7, 1991, the
 7 maximum total amount of benefits payable to any eligible individual
 8 during any benefit period shall not exceed twenty-six (26) times the
 9 individual's weekly benefit, or twenty-eight percent (28%) of the
 10 individual's wage credits with respect to the individual's base period,
 11 whichever is less. If such maximum total amount of benefits is not a
 12 multiple of one dollar (\$1), it shall be computed to the next lower
 13 multiple of one dollar (\$1).

14 (b) ~~Except as provided in subsection (d);~~ The total extended benefit
 15 amount payable to any eligible individual with respect to the
 16 individual's applicable benefit period shall be fifty percent (50%) of the
 17 total amount of regular benefits (including dependents' allowances)
 18 which were payable to the individual under this article in the applicable
 19 benefit year, or thirteen (13) times the weekly benefit amount
 20 (including dependents' allowances) which was payable to the individual
 21 under this article for a week of total unemployment in the applicable
 22 benefit year, whichever is the lesser amount.

23 (c) This subsection applies to individuals who file a disaster
 24 unemployment claim or a state unemployment insurance claim after
 25 June 1, 1990, and before June 2, 1991, or during another time specified
 26 in another state statute. An individual is entitled to thirteen (13) weeks
 27 of additional benefits, as originally determined, if:

28 (1) the individual has established:

29 (A) a disaster unemployment claim under the Stafford Disaster
 30 Relief and Emergency Assistance Act; or

31 (B) a state unemployment insurance claim as a direct result of
 32 a major disaster;

33 (2) all regular benefits and all disaster unemployment assistance
 34 benefits:

35 (A) have been exhausted by the individual; or

36 (B) are no longer payable to the individual due to the
 37 expiration of the disaster assistance period; and

38 (3) the individual remains unemployed as a direct result of the
 39 disaster.

40 (d) For purposes of this subsection, "high unemployment period"
 41 means a period during which an extended benefit period would be in
 42 effect if IC 22-4-2-34(d)(1) were applied by substituting "eight percent

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(8%)" for "six and five-tenths percent (6.5%)". Effective with respect to weeks beginning in a high unemployment period; the total extended benefit amount payable to an eligible individual with respect to the applicable benefit year is equal to the least of the following amounts:

(1) Eighty percent (80%) of the total amount of regular benefits that were payable to the eligible individual under this article in the applicable benefit year;

(2) Twenty (20) times the weekly benefit amount that was payable to the eligible individual under this article for a week of total unemployment in the applicable benefit year;

(3) Forty-six (46) times the weekly benefit amount that was payable to the eligible individual under this article for a week of total unemployment in the applicable benefit year; reduced by the regular unemployment compensation benefits paid (or deemed paid) during the benefit year.

This subsection expires on the later of December 5, 2009; or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title H (the federal Assistance to Unemployed Workers and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

SECTION 16. IC 22-4-13-1.1, AS AMENDED BY P.L.175-2009, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.1. (a) Notwithstanding any other provisions of this article, if an individual knowingly:

(1) fails to disclose amounts earned during any week in the individual's waiting period, benefit period, or extended benefit period; or

(2) fails to disclose or has falsified any fact;

that would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits, the individual forfeits any wage credits earned or any benefits or extended benefits that might otherwise be payable to the individual for the period in which the failure to disclose or falsification occurs.

(b) In addition to amounts forfeited under subsection (a), an individual is subject to the following civil penalties for each instance in which the individual knowingly fails to disclose or falsifies any fact that if accurately reported to the department would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits:

(1) For the first instance, an amount equal to twenty-five percent (25%) of the benefit overpayment.

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1 (2) For the second instance, an amount equal to fifty percent
2 (50%) of the benefit overpayment.

3 (3) For the third and each subsequent instance, an amount equal
4 to one hundred percent (100%) of the benefit overpayment.

5 (c) The department's determination under this section constitutes an
6 initial determination under ~~IC 22-4-17-2(f)~~ **IC 22-4-17-2(e)** and is
7 subject to a hearing and review under IC 22-4-17-3 through
8 IC 22-4-17-15.

9 (d) Interest and civil penalties collected under this chapter shall be
10 deposited in the special employment and training services fund
11 established under IC 22-4-25-1.

12 SECTION 17. IC 22-4-14-2, AS AMENDED BY P.L.175-2009,
13 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 2. (a) An unemployed individual is eligible to
15 receive benefits with respect to any week only if the individual has:

16 (1) registered for work at an employment office or branch thereof
17 or other agency designated by the commissioner within the time
18 limits that the department by rule adopts; and

19 (2) subsequently reported with the frequency and in the manner,
20 either in person or in writing, that the department by rule adopts.

21 (b) Failure to comply with subsection (a) shall be excused by the
22 commissioner or the commissioner's authorized representative upon a
23 showing of good cause therefor. The department shall **by rule** waive or
24 alter the requirements of this section as to such types of cases or
25 situations **with respect to which the department finds** that
26 compliance with such requirements would be oppressive or would be
27 inconsistent with the purposes of this article.

28 (c) The department shall provide job counseling or training to an
29 individual who remains unemployed for at least four (4) weeks. The
30 manner and duration of the counseling shall be determined by the
31 department.

32 (d) An individual who is receiving benefits as determined under
33 IC 22-4-15-1(c)(8) is entitled to complete the reporting, counseling, or
34 training that must be conducted in person at a one stop center selected
35 by the individual. The department shall advise an eligible individual
36 that this option is available.

37 ~~(e) The department may waive the requirements of subsection (a)~~
38 ~~for a week only when one (1) of the following applies to an individual~~
39 ~~for that week:~~

40 ~~(1) The individual is attending training or retraining approved by~~
41 ~~the department.~~

42 ~~(2) The individual is a job-attached worker with a specific recall~~

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- 1 date that is not more than sixty (60) days after the individual's
- 2 separation date:
- 3 (3) The individual is using:
- 4 (A) a hiring service;
- 5 (B) a referral service; or
- 6 (C) another job placement service as determined by the
- 7 department:
- 8 (4) Any other situation exists for which the department considers
- 9 requiring compliance by the individual with this section to be
- 10 inconsistent with the purposes of this article.

11 SECTION 18. IC 22-4-14-3, AS AMENDED BY P.L.110-2010,
 12 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 3. (a) An individual who is receiving benefits
 14 as determined under IC 22-4-15-1(c)(8) may restrict the individual's
 15 availability because of the individual's need to address the physical,
 16 psychological, or legal effects of being a victim of domestic or family
 17 violence (as defined in IC 31-9-2-42).

18 (b) An unemployed individual shall be eligible to receive benefits
 19 with respect to any week only if the individual:

- 20 (1) is physically and mentally able to work;
- 21 (2) is available for work;
- 22 (3) is found by the department to be making an effort to secure
- 23 full-time work; and
- 24 (4) participates in reemployment services, such as job search
- 25 assistance services, if the individual has been determined to be
- 26 likely to exhaust regular benefits and to need reemployment
- 27 services under a profiling system established by the department,
- 28 unless the department determines that:
- 29 (A) the individual has completed the reemployment services;
- 30 or
- 31 (B) failure by the individual to participate in or complete the
- 32 reemployment services is excused by the director under
- 33 IC 22-4-14-2(b).

34 The term "effort to secure full-time work" shall be defined by the
 35 department through rule which shall take into consideration whether
 36 such individual has a reasonable assurance of reemployment and, if so,
 37 the length of the prospective period of unemployment. However, if an
 38 otherwise eligible individual is unable to work or unavailable for work
 39 on any normal work day of the week the individual shall be eligible to
 40 receive benefits with respect to such week reduced by one-third (1/3)
 41 of the individual's weekly benefit amount for each day of such inability
 42 to work or unavailability for work.

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1 (c) For the purpose of this article, unavailability for work of an
2 individual exists in, but is not limited to, any case in which, with
3 respect to any week, it is found:

4 (1) that such individual is engaged by any unit, agency, or
5 instrumentality of the United States, in charge of public works or
6 assistance through public employment, or any unit, agency, or
7 instrumentality of this state, or any political subdivision thereof,
8 in charge of any public works or assistance through public
9 employment;

10 (2) that such individual is in full-time active military service of
11 the United States, or is enrolled in civilian service as a
12 conscientious objector to military service;

13 (3) that such individual is suspended for misconduct in
14 connection with the individual's work; or

15 (4) that such individual is in attendance at a regularly established
16 public or private school during the customary hours of the
17 individual's occupation or is in any vacation period intervening
18 between regular school terms during which the individual is a
19 student. However, this subdivision does not apply to any
20 individual who is attending a regularly established school, has
21 been regularly employed and upon becoming unemployed makes
22 an effort to secure full-time work and is available for suitable
23 full-time work with the individual's last employer, or is available
24 for any other full-time employment deemed suitable.

25 (d) Notwithstanding any other provisions in this section or
26 IC 22-4-15-2, no otherwise eligible individual shall be denied benefits
27 for any week because the individual is in training with the approval of
28 the department, nor shall such individual be denied benefits with
29 respect to any week in which the individual is in training with the
30 approval of the department by reason of the application of the
31 provisions of this section with respect to the availability for work or
32 active search for work or by reason of the application of the provisions
33 of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept,
34 suitable work. The department shall by rule prescribe the conditions
35 under which approval of such training will be granted.

36 (e) Notwithstanding subsection (b), (c), or (d), or IC 22-4-15-2, an
37 otherwise eligible individual shall not be denied benefits for any week
38 or determined not able, available, and actively seeking work, because
39 the individual is responding to a summons for jury service. The
40 individual shall:

41 (1) obtain from the court proof of the individual's jury service;
42 and

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1 (2) provide to the department, in the manner the department
2 prescribes by rule, proof of the individual's jury service:

3 SECTION 19. IC 22-4-14-5, AS AMENDED BY P.L.175-2009,
4 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: Sec. 5. (a) As further conditions precedent to the
6 payment of benefits to an individual with respect to benefit periods
7 established on and after July 1, 1995: ~~but before January 1, 2010:~~

8 (1) the individual must have established, after the last day of the
9 individual's last base period, if any, wage credits (as defined in
10 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at
11 least one and one-quarter (1.25) times the wages paid to the
12 individual in the calendar quarter in which the individual's wages
13 were highest; and

14 (2) the individual must have established wage credits in the last
15 two (2) calendar quarters of the individual's base period in a total
16 amount of not less than one thousand six hundred fifty dollars
17 (\$1,650) and an aggregate in the four (4) calendar quarters of the
18 individual's base period of not less than two thousand seven
19 hundred fifty dollars (\$2,750).

20 (b) As a further condition precedent to the payment of benefits to an
21 individual with respect to a benefit year established on and after July
22 1, 1995, an insured worker may not receive benefits in a benefit year
23 unless after the beginning of the immediately preceding benefit year
24 during which the individual received benefits, the individual performed
25 insured work and earned wages in employment under IC 22-4-8 in an
26 amount not less than the individual's weekly benefit amount established
27 for the individual in the preceding benefit year in each of eight (8)
28 weeks.

29 (c) ~~As further conditions precedent to the payment of benefits to an~~
30 ~~individual with respect to benefit periods established on and after~~
31 ~~January 1, 2010:~~

32 (1) the individual must have established, after the last day of the
33 individual's last base period, if any, wage credits (as defined in
34 ~~IC 22-4-4-3~~ and within the meaning of wages under IC 22-4-22-3)
35 equal to at least one and five-tenths (1.5) times the wages paid to
36 the individual in the calendar quarter in which the individual's
37 wages were highest; and

38 (2) the individual must have established wage credits in the last
39 two (2) calendar quarters of the individual's base period in a total
40 amount of not less than two thousand five hundred dollars
41 (\$2,500) and a total amount in the four (4) calendar quarters of
42 the individual's base period of not less than four thousand two

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1 ~~hundred dollars (\$4,200).~~

2 SECTION 20. IC 22-4-14-6, AS AMENDED BY P.L.175-2009,
3 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 6. (a) An individual shall be eligible to
5 receive extended benefits with respect to any week of unemployment
6 in the individual's eligibility period only if the commissioner finds that
7 with respect to such week:

8 (1) the individual is an "exhaustee" (as defined in
9 ~~IC 22-4-2-34(j)~~); **IC 22-4-2-34(i)**); and

10 (2) the individual has satisfied the requirements of this article for
11 the receipt of regular benefits that are applicable to extended
12 benefits, including not being subject to a disqualification for the
13 receipt of benefits.

14 (b) If an individual has been disqualified from receiving extended
15 benefits for failure to actively engage in seeking work under
16 IC 22-4-15-2(c), the ineligibility shall continue for the week in which
17 the failure occurs and until the individual earns remuneration in
18 employment equal to or exceeding the weekly benefit amount of the
19 individual's claim in each of four (4) weeks. For purposes of this
20 subsection, an individual shall be treated as actively engaged in seeking
21 work during any week if:

22 (1) the individual has engaged in a systematic and sustained effort
23 to obtain work during the week; and

24 (2) the individual provides tangible evidence to the department of
25 workforce development that the individual has engaged in an
26 effort to obtain work during the week.

27 (c) For claims for extended benefits established after September 25,
28 1982, notwithstanding any other provision of this article, an individual
29 shall be eligible to receive extended benefits only if the individual's
30 insured wages in the base period with respect to which the individual
31 exhausted all rights to regular compensation were equal to or exceeded
32 one and one-half (1 1/2) times the individual's insured wages in that
33 calendar quarter of the base period in which the individual's insured
34 wages were the highest.

35 SECTION 21. IC 22-4-15-1, AS AMENDED BY P.L.175-2009,
36 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 UPON PASSAGE]: Sec. 1. (a) With respect to benefit periods
38 established on and after July 6, 1980, an individual who has voluntarily
39 left the individual's most recent employment without good cause in
40 connection with the work or who was discharged from the individual's
41 most recent employment for just cause is ineligible for waiting period
42 or benefit rights for the week in which the disqualifying separation

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1 occurred and until the individual has earned remuneration in
 2 employment equal to or exceeding the weekly benefit amount of the
 3 individual's claim in each of eight (8) weeks. If the qualification
 4 amount has not been earned at the expiration of an individual's benefit
 5 period, the unearned amount shall be carried forward to an extended
 6 benefit period or to the benefit period of a subsequent claim.

7 (b) When it has been determined that an individual has been
 8 separated from employment under disqualifying conditions as outlined
 9 in this section, the maximum benefit amount of the individual's current
 10 claim, as initially determined, shall be reduced by an amount
 11 determined as follows:

12 (1) For the first separation from employment under disqualifying
 13 conditions, the maximum benefit amount of the individual's
 14 current claim is equal to the result of:

15 (A) the maximum benefit amount of the individual's current
 16 claim, as initially determined; multiplied by

17 (B) seventy-five percent (75%);

18 rounded (if not already a multiple of one dollar (\$1)) to the next
 19 higher dollar.

20 (2) For the second separation from employment under
 21 disqualifying conditions, the maximum benefit amount of the
 22 individual's current claim is equal to the result of:

23 (A) the maximum benefit amount of the individual's current
 24 claim determined under subdivision (1); multiplied by

25 (B) eighty-five percent (85%);

26 rounded (if not already a multiple of one dollar (\$1)) to the next
 27 higher dollar.

28 (3) For the third and any subsequent separation from employment
 29 under disqualifying conditions, the maximum benefit amount of
 30 the individual's current claim is equal to the result of:

31 (A) the maximum benefit amount of the individual's current
 32 claim determined under subdivision (2); multiplied by

33 (B) ninety percent (90%);

34 rounded (if not already a multiple of one dollar (\$1)) to the next
 35 higher dollar.

36 **twenty-five percent (25%). If twenty-five percent (25%) of the**
 37 **maximum benefit amount is not an even dollar amount, the amount**
 38 **of such reduction must be raised to the next higher even dollar**
 39 **amount. The maximum benefit amount may not be reduced by**
 40 **more than twenty-five percent (25%) during any benefit period or**
 41 **extended benefit period.**

42 (c) The disqualifications provided in this section shall be subject to

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- 1 the following modifications:
- 2 (1) An individual shall not be subject to disqualification because
- 3 of separation from the individual's employment if:
- 4 (A) the individual left to accept with another employer
- 5 previously secured permanent full-time work which offered
- 6 reasonable expectation of continued covered employment and
- 7 betterment of wages or working conditions and thereafter was
- 8 employed on said job;
- 9 (B) having been simultaneously employed by two (2)
- 10 employers, the individual leaves one (1) such employer
- 11 voluntarily without good cause in connection with the work
- 12 but remains in employment with the second employer with a
- 13 reasonable expectation of continued employment; or
- 14 (C) the individual left to accept recall made by a base period
- 15 employer.
- 16 (2) An individual whose unemployment is the result of medically
- 17 substantiated physical disability and who is involuntarily
- 18 unemployed after having made reasonable efforts to maintain the
- 19 employment relationship shall not be subject to disqualification
- 20 under this section for such separation.
- 21 (3) An individual who left work to enter the armed forces of the
- 22 United States shall not be subject to disqualification under this
- 23 section for such leaving of work.
- 24 (4) An individual whose employment is terminated under the
- 25 compulsory retirement provision of a collective bargaining
- 26 agreement to which the employer is a party, or under any other
- 27 plan, system, or program, public or private, providing for
- 28 compulsory retirement and who is otherwise eligible shall not be
- 29 deemed to have left the individual's work voluntarily without
- 30 good cause in connection with the work. However, if such
- 31 individual subsequently becomes reemployed and thereafter
- 32 voluntarily leaves work without good cause in connection with the
- 33 work, the individual shall be deemed ineligible as outlined in this
- 34 section.
- 35 (5) An otherwise eligible individual shall not be denied benefits
- 36 for any week because the individual is in training approved under
- 37 Section 236(a)(1) of the Trade Act of 1974, nor shall the
- 38 individual be denied benefits by reason of leaving work to enter
- 39 such training, provided the work left is not suitable employment,
- 40 or because of the application to any week in training of provisions
- 41 in this law (or any applicable federal unemployment
- 42 compensation law), relating to availability for work, active search

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1 for work, or refusal to accept work. For purposes of this
 2 subdivision, the term "suitable employment" means with respect
 3 to an individual, work of a substantially equal or higher skill level
 4 than the individual's past adversely affected employment (as
 5 defined for purposes of the Trade Act of 1974), and wages for
 6 such work at not less than eighty percent (80%) of the individual's
 7 average weekly wage as determined for the purposes of the Trade
 8 Act of 1974.

9 (6) An individual is not subject to disqualification because of
 10 separation from the individual's employment if:

11 (A) the employment was outside the individual's labor market;

12 (B) the individual left to accept previously secured full-time
 13 work with an employer in the individual's labor market; and

14 (C) the individual actually became employed with the
 15 employer in the individual's labor market.

16 (7) An individual who, but for the voluntary separation to move
 17 to another labor market to join a spouse who had moved to that
 18 labor market, shall not be disqualified for that voluntary
 19 separation, if the individual is otherwise eligible for benefits.
 20 Benefits paid to the spouse whose eligibility is established under
 21 this subdivision shall not be charged against the employer from
 22 whom the spouse voluntarily separated.

23 (8) An individual shall not be subject to disqualification if the
 24 individual voluntarily left employment or was discharged due to
 25 circumstances directly caused by domestic or family violence (as
 26 defined in IC 31-9-2-42). An individual who may be entitled to
 27 benefits based on this modification may apply to the office of the
 28 attorney general under IC 5-26.5 to have an address designated by
 29 the office of the attorney general to serve as the individual's
 30 address for purposes of this article.

31 As used in this subsection, "labor market" means the area surrounding
 32 an individual's permanent residence, outside which the individual
 33 cannot reasonably commute on a daily basis. In determining whether
 34 an individual can reasonably commute under this subdivision, the
 35 department shall consider the nature of the individual's job.

36 (d) "Discharge for just cause" as used in this section is defined to
 37 include but not be limited to:

38 (1) separation initiated by an employer for falsification of a
 39 employment application to obtain employment through
 40 subterfuge;

41 (2) knowing violation of a reasonable and uniformly enforced rule
 42 of an employer; ~~including a rule regarding attendance;~~

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- 1 (3) if an employer does not have a rule regarding attendance, an
- 2 individual's unsatisfactory attendance, if the individual cannot
- 3 show good cause for absences or tardiness;
- 4 (4) damaging the employer's property through willful negligence;
- 5 (5) refusing to obey instructions;
- 6 (6) reporting to work under the influence of alcohol or drugs or
- 7 consuming alcohol or drugs on employer's premises during
- 8 working hours;
- 9 (7) conduct endangering safety of self or coworkers;
- 10 (8) incarceration in jail following conviction of a misdemeanor or
- 11 felony by a court of competent jurisdiction; or
- 12 (9) any breach of duty in connection with work which is
- 13 reasonably owed an employer by an employee.

14 (e) To verify that domestic or family violence has occurred, an
 15 individual who applies for benefits under subsection (c)(8) shall
 16 provide one (1) of the following:

- 17 (1) A report of a law enforcement agency (as defined in
- 18 IC 10-13-3-10).
- 19 (2) A protection order issued under IC 34-26-5.
- 20 (3) A foreign protection order (as defined in IC 34-6-2-48.5).
- 21 (4) An affidavit from a domestic violence service provider
- 22 verifying services provided to the individual by the domestic
- 23 violence service provider.

24 SECTION 22. IC 22-4-15-2, AS AMENDED BY P.L.175-2009,
 25 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 UPON PASSAGE]: Sec. 2. (a) With respect to benefit periods
 27 established on and after July 3, 1977, an individual is ineligible for
 28 waiting period or benefit rights, or extended benefit rights, if the
 29 department finds that, being totally, partially, or part-totally
 30 unemployed at the time when the work offer is effective or when the
 31 individual is directed to apply for work, the individual fails without
 32 good cause:

- 33 (1) to apply for available, suitable work when directed by the
- 34 commissioner, the deputy, or an authorized representative of the
- 35 department of workforce development or the United States
- 36 training and employment service;
- 37 (2) to accept, at any time after the individual is notified of a
- 38 separation, suitable work when found for and offered to the
- 39 individual by the commissioner, the deputy, or an authorized
- 40 representative of the department of workforce development or the
- 41 United States training and employment service, or an employment
- 42 unit; or

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- 1 (3) to return to the individual's customary self-employment when
2 directed by the commissioner or the deputy.
- 3 (b) With respect to benefit periods established on and after July 6,
4 1980, the ineligibility shall continue for the week in which the failure
5 occurs and until the individual earns remuneration in employment
6 equal to or exceeding the weekly benefit amount of the individual's
7 claim in each of eight (8) weeks. If the qualification amount has not
8 been earned at the expiration of an individual's benefit period, the
9 unearned amount shall be carried forward to an extended benefit period
10 or to the benefit period of a subsequent claim.
- 11 (c) With respect to extended benefit periods established on and after
12 July 5, 1981, the ineligibility shall continue for the week in which the
13 failure occurs and until the individual earns remuneration in
14 employment equal to or exceeding the weekly benefit amount of the
15 individual's claim in each of four (4) weeks.
- 16 (d) If an individual failed to apply for or accept suitable work as
17 outlined in this section, the maximum benefit amount of the
18 individual's current claim, as initially determined, shall be reduced by
19 an amount determined as follows:
- 20 (1) For the first failure to apply for or accept suitable work, the
21 maximum benefit amount of the individual's current claim is
22 equal to the result of:
- 23 (A) the maximum benefit amount of the individual's current
24 claim, as initially determined; multiplied by
25 (B) seventy-five percent (75%);
26 rounded (if not already a multiple of one dollar (\$1)) to the next
27 higher dollar.
- 28 (2) For the second failure to apply for or accept suitable work, the
29 maximum benefit amount of the individual's current claim is
30 equal to the result of:
- 31 (A) the maximum benefit amount of the individual's current
32 claim determined under subdivision (1); multiplied by
33 (B) eighty-five percent (85%);
34 rounded (if not already a multiple of one dollar (\$1)) to the next
35 higher dollar.
- 36 (3) For the third and any subsequent failure to apply for or accept
37 suitable work, the maximum benefit amount of the individual's
38 current claim is equal to the result of:
- 39 (A) the maximum benefit amount of the individual's current
40 claim determined under subdivision (2); multiplied by
41 (B) ninety percent (90%);
42 rounded (if not already a multiple of one dollar (\$1)) to the next

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1 higher dollar.
 2 **twenty-five percent (25%). If twenty-five percent (25%) of the**
 3 **maximum benefit amount is not an even dollar amount, the amount**
 4 **of such reduction shall be raised to the next higher even dollar**
 5 **amount. The maximum benefit amount of the individual's current**
 6 **claim may not be reduced by more than twenty-five percent (25%)**
 7 **during any benefit period or extended benefit period.**

8 (e) In determining whether or not any such work is suitable for an
 9 individual, the department shall consider:

- 10 (1) the degree of risk involved to such individual's health, safety,
 11 and morals;
 12 (2) the individual's physical fitness and prior training and
 13 experience;
 14 (3) the individual's length of unemployment and prospects for
 15 securing local work in the individual's customary occupation; and
 16 (4) the distance of the available work from the individual's
 17 residence.

18 However, work under substantially the same terms and conditions
 19 under which the individual was employed by a base-period employer,
 20 which is within the individual's prior training and experience and
 21 physical capacity to perform, shall be considered to be suitable work
 22 unless the claimant has made a bona fide change in residence which
 23 makes such offered work unsuitable to the individual because of the
 24 distance involved. ~~During the fifth through the eighth consecutive week~~
 25 ~~of claiming benefits, work is not considered unsuitable solely because~~
 26 ~~the work pays not less than ninety percent (90%) of the individual's~~
 27 ~~prior weekly wage. After eight (8) consecutive weeks of claiming~~
 28 ~~benefits, work is not considered unsuitable solely because the work~~
 29 ~~pays not less than eighty percent (80%) of the individual's prior weekly~~
 30 ~~wage. However, work is not considered suitable under this section if~~
 31 ~~the work pays less than Indiana's minimum wage as determined under~~
 32 ~~IC 22-2-2. For an individual who is subject to section 1(c)(8) of this~~
 33 ~~chapter, the determination of suitable work for the individual must~~
 34 ~~reasonably accommodate the individual's need to address the physical,~~
 35 ~~psychological, legal, and other effects of domestic or family violence.~~

36 (f) Notwithstanding any other provisions of this article, no work
 37 shall be considered suitable and benefits shall not be denied under this
 38 article to any otherwise eligible individual for refusing to accept new
 39 work under any of the following conditions:

- 40 (1) If the position offered is vacant due directly to a strike,
 41 lockout, or other labor dispute.
 42 (2) If the remuneration, hours, or other conditions of the work

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1 offered are substantially less favorable to the individual than
2 those prevailing for similar work in the locality.

3 (3) If as a condition of being employed the individual would be
4 required to join a company union or to resign from or refrain from
5 joining a bona fide labor organization.

6 (4) If as a condition of being employed the individual would be
7 required to discontinue training into which the individual had
8 entered with the approval of the department.

9 (g) Notwithstanding subsection (e), with respect to extended benefit
10 periods established on and after July 5, 1981, "suitable work" means
11 any work which is within an individual's capabilities. However, if the
12 individual furnishes evidence satisfactory to the department that the
13 individual's prospects for obtaining work in the individual's customary
14 occupation within a reasonably short period are good, the
15 determination of whether any work is suitable work shall be made as
16 provided in subsection (e).

17 (h) With respect to extended benefit periods established on and after
18 July 5, 1981, no work shall be considered suitable and extended
19 benefits shall not be denied under this article to any otherwise eligible
20 individual for refusing to accept new work under any of the following
21 conditions:

22 (1) If the gross average weekly remuneration payable to the
23 individual for the position would not exceed the sum of:

24 (A) the individual's average weekly benefit amount for the
25 individual's benefit year; plus

26 (B) the amount (if any) of supplemental unemployment
27 compensation benefits (as defined in Section 501(c)(17)(D) of
28 the Internal Revenue Code) payable to the individual for such
29 week.

30 (2) If the position was not offered to the individual in writing or
31 was not listed with the department of workforce development.

32 (3) If such failure would not result in a denial of compensation
33 under the provisions of this article to the extent that such
34 provisions are not inconsistent with the applicable federal law.

35 (4) If the position pays wages less than the higher of:

36 (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (the
37 Fair Labor Standards Act of 1938), without regard to any
38 exemption; or

39 (B) the state minimum wage (IC 22-2-2).

40 (i) The department of workforce development shall refer individuals
41 eligible for extended benefits to any suitable work (as defined in
42 subsection (g)) to which subsection (h) would not apply.

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1 SECTION 23. IC 22-4-15-6.1, AS AMENDED BY P.L.175-2009,
2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 6.1. (a) Notwithstanding any other provisions
4 of this article, all of the individual's wage credits established prior to
5 the day upon which the individual was discharged for gross misconduct
6 in connection with work are canceled.

7 (b) As used in this section, "Gross misconduct" means any of the
8 following committed in connection with work, as determined by the
9 department by a preponderance of the evidence:

- 10 (1) includes a felony or
- 11 (2) a Class A misdemeanor
- 12 (3) Working, or reporting for work, in a state of intoxication
- 13 caused by the individual's use of alcohol or a controlled substance
- 14 (as defined in IC 35-48-1-9);
- 15 (4) Battery on another individual while on the employer's property
- 16 or during working hours;
- 17 (5) Theft or embezzlement;
- 18 (6) Fraud;

19 (c) An employer:

- 20 (1) has the burden of proving by a preponderance of the evidence
- 21 that a discharged employee's conduct was gross misconduct; and
- 22 (2) may present evidence that the employer filled or maintained
- 23 the position or job held by the discharged employee after the
- 24 employee's discharge;

25 (d) Evidence that a discharged employee's conduct did not result in:

- 26 (1) a prosecution for an offense; or
- 27 (2) a conviction of an offense;

28 may be presented.

29 (e) If evidence is presented that an action or requirement of the
30 employer may have caused the conduct that is the basis for the
31 employee's discharge, the conduct is not gross misconduct under this
32 section.

33 (f) Lawful conduct not otherwise prohibited by an employer is not
34 gross misconduct under this section:

35 **committed in connection with work, but only if the felony or**
36 **misdemeanor is admitted by the individual or has resulted in a**
37 **conviction.**

38 SECTION 24. IC 22-4-17-1, AS AMENDED BY P.L.175-2009,
39 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 UPON PASSAGE]: Sec. 1. (a) Claims for benefits shall be made in
41 accordance with rules adopted by the department. The department shall
42 adopt reasonable procedures consistent with the provisions of this

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1 article for the expediting of the taking of claims of individuals for
 2 benefits in instances of mass layoffs by employers, the purpose of
 3 which shall be to minimize the amount of time required for such
 4 individuals to file claims upon becoming unemployed as the result of
 5 such mass layoffs.

6 (b) Except when the result would be inconsistent with the other
 7 provisions of this article, as provided in the rules of the department, the
 8 provisions of this article which apply to claims for, or the payment of,
 9 regular benefits shall apply to claims for, and the payment of, extended
 10 benefits.

11 (c) Whenever an extended benefit period is to become effective in
 12 this state as a result of a state "on" indicator, or an extended benefit
 13 period is to be terminated in this state as a result of a state "off"
 14 indicator, the commissioner shall make an appropriate public
 15 announcement.

16 (d) Computations required by the provisions of ~~IC 22-4-2-34(f)~~
 17 **IC 22-4-2-34(e)** shall be made by the department in accordance with
 18 regulations prescribed by the United States Department of Labor.

19 (e) Each employer shall display and maintain in places readily
 20 accessible to all employees posters concerning its regulations and shall
 21 make available to each such individual at the time the individual
 22 becomes unemployed printed benefit rights information furnished by
 23 the department.

24 SECTION 25. IC 22-4-17-2, AS AMENDED BY P.L.110-2010,
 25 SECTION 31, AND AS AMENDED BY P.L.1-2010, SECTION 88, IS
 26 CORRECTED AND AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) When an individual files
 28 an initial claim, the department shall promptly *follow the procedure*
 29 *described in subsections (b) through (e) to* make a determination of the
 30 individual's status as an insured worker in a form prescribed by the
 31 department. A written notice of the determination of insured status
 32 shall be furnished to the individual promptly. *The notice must include*
 33 *the time by which the employer is required to respond to the*
 34 *department's notice of the individual's claim, and complete information*
 35 *about the rules of evidence and standards of proof that the department*
 36 *will apply to determine the validity of the individual's claim, if the*
 37 *employer disputes the claim.* Each such determination shall be based
 38 on and include a written statement showing the amount of wages paid
 39 to the individual for insured work by each employer during the
 40 individual's base period and shall include a finding as to whether such
 41 wages meet the requirements for the individual to be an insured
 42 worker, and, if so, the week ending date of the first week of the

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1 individual's benefit period, the individual's weekly benefit amount, and
 2 the maximum amount of benefits that may be paid to the individual for
 3 weeks of unemployment in the individual's benefit period. For the
 4 individual who is not insured, the notice shall include the reason for the
 5 determination. Unless the individual, within ten (10) days after such
 6 determination was mailed to the individual's last known address, or
 7 otherwise delivered to the individual, asks a hearing thereon before an
 8 administrative law judge, such determination shall be final and benefits
 9 shall be paid or denied in accordance therewith.

10 *(b) Not later than January 1, 2010, the department shall establish*
 11 *an unemployment claims compliance center. When an individual files*
 12 *an initial claim after the unemployment claims compliance center is*
 13 *established, the department, before making a determination that the*
 14 *individual is eligible for benefits, shall compare the information*
 15 *provided by the individual making the claim with information from the*
 16 *separating employer concerning the individual's eligibility for benefits.*
 17 *If the information provided by the individual making the claim does not*
 18 *match the information from the separating employer, the department*
 19 *may not pay the individual benefits and shall refer the individual's*
 20 *claim to the department's unemployment claims compliance center for*
 21 *investigation. The department shall provide a written notice to the*
 22 *individual who filed the claim that the individual's claim is being*
 23 *referred to the unemployment claims compliance center, including the*
 24 *reason for the referral.*

25 *(c) After receiving a claim from the department, the unemployment*
 26 *claims compliance center shall contact the separating employer that*
 27 *provided information that does not match information provided by the*
 28 *individual making the claim to obtain information about the claim that*
 29 *is accurate and sufficient for the department to determine whether the*
 30 *individual is eligible for benefits. The center shall also obtain from the*
 31 *employer the name and address of a person to receive without delay*
 32 *notices served on the employer concerning the claim.*

33 *(d) Except as provided in subsection (e), the department may not*
 34 *pay the individual benefits under this article as long as the discrepancy*
 35 *between the information provided by the individual and the*
 36 *information provided by the individual's separating employer is*
 37 *unresolved. If the information provided by an individual and the*
 38 *information provided by the individual's separating employer does not*
 39 *match, the department shall notify both the separating employer and*
 40 *the individual that they have forty-eight (48) hours to resolve the*
 41 *discrepancy. If the discrepancy is not resolved at the end of the*
 42 *forty-eighth hour, the department shall use the information provided*

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1 *by the employer to determine the individual's eligibility for benefits.*

2 *(e) If the employer does not respond to the inquiry from the*
 3 *unemployment claims compliance center within five (5) days after the*
 4 *date of the inquiry, the center shall report to the department that the*
 5 *employer has not responded, and the department shall use the*
 6 *information provided by the individual to determine the individual's*
 7 *eligibility for benefits.*

8 *(f) (b) After the department makes a determination concerning the*
 9 *individual's eligibility for benefits, The department shall promptly*
 10 *furnish each employer in the base period whose experience or*
 11 *reimbursable account is potentially chargeable with benefits to be paid*
 12 *to such individual with a notice in writing of the employer's benefit*
 13 *liability. The notice shall contain the date, the name and Social Security*
 14 *account number of the individual, the ending date of the individual's*
 15 *base period, and the week ending date of the first week of the*
 16 *individual's benefit period. the time by which the employer is required*
 17 *to respond to the notice, and complete information about the rules of*
 18 *evidence and standards of proof that the department will apply to*
 19 *determine the validity of a claim, if an employer disputes the claim.*
 20 *The notice shall further contain information as to the proportion of*
 21 *benefits chargeable to the employer's experience or reimbursable*
 22 *account in ratio to the earnings of such individual from such employer.*
 23 *Unless the employer within ten (10) days after such notice of benefit*
 24 *liability was mailed to the employer's last known address, or otherwise*
 25 *delivered to the employer, asks a hearing thereon before an*
 26 *administrative law judge, such determination shall be final and benefits*
 27 *paid shall be charged in accordance therewith.*

28 *(g) (c) An employing unit, including an employer, having*
 29 *knowledge of any facts which may affect an individual's eligibility or*
 30 *right to waiting period credits or benefits, shall notify the department*
 31 *of such facts within ten (10) days after the mailing of notice that a*
 32 *former employee has filed an initial or additional claim for benefits on*
 33 *a form prescribed by the department.*

34 *(h) (d) If, after the department determines that additional*
 35 *information is necessary to make a determination under this chapter:*

36 *(1) the department makes a request in writing for additional*
 37 *information from an employing unit, including an employer, on*
 38 *a form prescribed by the department; and*

39 *(2) the employing unit fails to respond within ten (10) days after*
 40 *the date the request is delivered mailed to the employing unit,*
 41 *the department shall make the determination a decision with the*
 42 *information available.*

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1 ~~(i)~~ ~~(e)~~ ff:

2 (1) an employer *subsequently obtains a determination by the*
3 *department that the employee is not eligible for benefits; appeals*
4 *an original determination granting benefits to a claimant and the*
5 *determination is reversed on appeal; and*

6 (2) the *determination decision to reverse the determination* is at
7 least in part based on information that the department requested
8 from the employer under subsection ~~(h)~~; ~~(d)~~; but which the
9 employer failed to provide within ten ~~(10)~~ days after the
10 department's request was *delivered mailed* to the employer;

11 the employer's experience account shall be charged an amount equal to
12 fifty percent (50%) of the benefits paid to the employee to which the
13 employee was not entitled *and for which the employer's experience*
14 *account may be charged.*

15 ~~(j)~~ ~~(f)~~ ff:

16 (1) the employer's experience account is charged under subsection
17 ~~(i)~~; ~~(e)~~; and

18 (2) the employee repays all or a part of the benefits on which the
19 charge under subsection ~~(i)~~ ~~(e)~~ is based;

20 the employer shall receive a credit to the employer's experience
21 account that is equal to the amount of the employee's repayment up to
22 *fifty percent (50%) of the amount charged to the employer's experience*
23 *account under subsection ~~(i)~~ ~~(e)~~.*

24 ~~(k)~~ ~~(g)~~ **(d)** In addition to the foregoing determination of insured
25 status by the department, the deputy shall, throughout the benefit
26 period, determine the claimant's eligibility with respect to each week
27 for which the claimant claims waiting period credit or benefit rights,
28 the validity of the claimant's claim therefor, and the cause for which the
29 claimant left the claimant's work, or may refer such claim to an
30 administrative law judge who shall make the initial determination with
31 respect thereto in accordance with the procedure in section 3 of this
32 chapter.

33 ~~(l)~~ ~~(h)~~ **(e)** In cases where the claimant's benefit eligibility or
34 disqualification is disputed, the department shall promptly notify the
35 claimant and the employer or employers directly involved or connected
36 with the issue raised as to the validity of such claim, the eligibility of
37 the claimant for waiting period credit or benefits, or the imposition of
38 a disqualification period or penalty, or the denial thereof, and of the
39 cause for which the claimant left the claimant's work, of such
40 determination and the reasons thereof.

41 ~~(m)~~ ~~(i)~~ **(f)** Except as otherwise hereinafter provided in this section
42 regarding parties located in Alaska, Hawaii, and Puerto Rico, unless

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1 the claimant or such employer, within ten (10) days after the
2 notification required by subsection ~~(f)~~, ~~(h)~~, **(e)**, was mailed to the
3 claimant's or the employer's last known address or otherwise delivered
4 to the claimant or the employer, asks for a hearing before an
5 administrative law judge thereon, such decision shall be final and
6 benefits shall be paid or denied in accordance therewith.

7 ~~(m)~~ ~~(j)~~ **(g)** For a notice of disputed administrative determination or
8 decision mailed or otherwise delivered to the claimant or employer
9 either of whom is located in Alaska, Hawaii, or Puerto Rico, unless the
10 claimant or employer, within fifteen (15) days after the notification
11 required by subsection ~~(f)~~ ~~(h)~~, **(e)**, was mailed to the claimant's or
12 employer's last known address or otherwise delivered to the claimant
13 or employer, asks for a hearing before an administrative law judge
14 thereon, such decision shall be final and benefits shall be paid or
15 denied in accordance therewith.

16 ~~(o)~~ ~~(k)~~ **(h)** If a claimant or an employer requests a hearing under
17 subsection ~~(m)~~ ~~(i)~~ **(f)** or ~~(n)~~, ~~(j)~~, **(g)**, the request therefor shall be filed
18 with the department in writing within the prescribed periods as above
19 set forth in this section and shall be in such form as the department may
20 prescribe. In the event a hearing is requested by an employer or the
21 department after it has been administratively determined that benefits
22 should be allowed to a claimant, entitled benefits shall continue to be
23 paid to said claimant unless said administrative determination has been
24 reversed by a due process hearing. Benefits with respect to any week
25 not in dispute shall be paid promptly regardless of any appeal.

26 ~~(p)~~ ~~(l)~~ **(i)** A person may not participate on behalf of the department
27 in any case in which the person is an interested party.

28 ~~(q)~~ ~~(m)~~ **(j)** Solely on the ground of obvious administrative error
29 appearing on the face of an original determination, and within the
30 benefit year of the affected claims, the commissioner, or a
31 representative authorized by the commissioner to act in the
32 commissioner's behalf, may reconsider and direct the deputy to revise
33 the original determination so as to correct the obvious error appearing
34 therein. Time for filing an appeal and requesting a hearing before an
35 administrative law judge regarding the determinations handed down
36 pursuant to this subsection shall begin on the date following the date
37 of revision of the original determination and shall be filed with the
38 commissioner in writing within the prescribed periods as above set
39 forth in subsection ~~(g)~~, **(c)**.

40 ~~(r)~~ ~~(n)~~ **(k)** Notice to the employer and the claimant that the
41 determination of the department is final if a hearing is not requested
42 shall be prominently displayed on the notice of the determination

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which is sent to the employer and the claimant.
~~(s)~~ ~~(e)~~ (l) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer of the claimant's current address or physical location.

SECTION 26. IC 22-4-17-3, AS AMENDED BY P.L.175-2009, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Unless such request for hearing is withdrawn, an administrative law judge, after providing the notice required under section 6 of this chapter and affording the parties a reasonable opportunity for fair hearing, shall affirm, modify, or reverse the findings of fact and decision of the deputy.

(b) The parties shall be duly notified of the decision made under subsection (a) and the reasons therefor, which shall be deemed to be the final decision of the review board, unless within fifteen (15) days after the date of notification or mailing of such decision, an appeal is taken by the commissioner or by any party adversely affected by such decision to the review board.

SECTION 27. IC 22-4-17-4, AS AMENDED BY P.L.175-2009, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~(a)~~ The department shall employ one (1) or more administrative law judges to hear and decide disputed claims. Administrative law judges employed under this section are not subject to IC 4-21.5 or any other statute regulating administrative law judges, unless specifically provided.

(b) The department shall provide at least annually to all administrative law judges, review board members, and other individuals who adjudicate claims training concerning:

- (1) unemployment compensation law;
- (2) rules for the conduct of hearings and appeals; and
- (3) rules of conduct for administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process.

(c) The department regularly shall monitor the hearings and decisions of its administrative law judges, review board members, and other individuals who adjudicate claims to ensure that the hearings and decisions strictly comply with the law and the rules described in subsection (b).

(d) An individual who does not strictly comply with the law and the rules described in subsection (b), including the rules of conduct for administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other

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1 adjudicative process, is subject to disciplinary action by the
2 department, up to and including suspension from or termination of
3 employment:

4 SECTION 28. IC 22-4-17-5, AS AMENDED BY P.L.175-2009,
5 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 UPON PASSAGE]: Sec. 5. (a) The governor shall appoint a review
7 board composed of three (3) members, not more than two (2) of whom
8 shall be members of the same political party, with salaries to be fixed
9 by the governor. The review board shall consist of the chairman and the
10 two (2) members who shall serve for terms of three (3) years. At least
11 one (1) member must be admitted to the practice of law in Indiana.

12 (b) Any claim pending before an administrative law judge, and all
13 proceedings therein, may be transferred to and determined by the
14 review board upon its own motion, at any time before the
15 administrative law judge announces a decision. Any claim pending
16 before either an administrative law judge or the review board may be
17 transferred to the board for determination at the direction of the board.
18 If the review board considers it advisable to procure additional
19 evidence, it may direct the taking of additional evidence within a time
20 period it shall fix. ~~An employer that is a party to a claim transferred to~~
21 ~~the review board or the board under this subsection is entitled to~~
22 ~~receive notice in accordance with section 6 of this chapter of the~~
23 ~~transfer or any other action to be taken under this section before a~~
24 ~~determination is made or other action concerning the claim is taken.~~

25 (c) Any proceeding so removed to the review board shall be heard
26 by a quorum of the review board in accordance with the requirements
27 of section 3 of this chapter. The review board shall notify the parties to
28 any claim of its decision, together with its reasons for the decision.

29 (d) Members of the review board, when acting as administrative law
30 judges, are subject to section 15 of this chapter.

31 (e) The review board may on the board's own motion affirm, modify,
32 set aside, remand, or reverse the findings, conclusions, or orders of an
33 administrative law judge on the basis of any of the following:

- 34 (1) Evidence previously submitted to the administrative law
35 judge.
- 36 (2) The record of the proceeding after the taking of additional
37 evidence as directed by the review board.
- 38 (3) A procedural error by the administrative law judge.

39 SECTION 29. IC 22-4-17-6, AS AMENDED BY P.L.175-2009,
40 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 UPON PASSAGE]: Sec. 6. (a) The manner in which disputed claims
42 shall be presented and the conduct of hearings and appeals ~~including~~

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1 the conduct of administrative law judges, review board members, and
2 other individuals who adjudicate claims during a hearing or other
3 adjudicative process; shall be in accordance with rules adopted by the
4 department for determining the rights of the parties, whether or not the
5 rules conform to common law or statutory rules of evidence and other
6 technical rules of procedure.

7 (b) A full and complete record shall be kept of all proceedings in
8 connection with a disputed claim. The testimony at any hearing upon
9 a disputed claim need not be transcribed unless the disputed claim is
10 further appealed.

11 (c) Each party to a hearing before an administrative law judge held
12 under section 3 of this chapter shall be mailed a notice of the hearing
13 at least ten (10) days before the date of the hearing specifying the ~~date~~;
14 place and time of the hearing **and** identifying the issues to be decided.
15 ~~and providing complete information about the rules of evidence and~~
16 ~~standards of proof that the administrative law judge will use to~~
17 ~~determine the validity of the claim.~~

18 (d) If a hearing so scheduled has not commenced within at least
19 sixty (60) minutes of the time for which it was scheduled, then a party
20 involved in the hearing may request a continuance of the hearing. Upon
21 submission of a request for continuance of a hearing under
22 circumstances provided in this section, the continuance shall be
23 granted unless the party requesting the continuance was responsible for
24 the delay in the commencement of the hearing as originally scheduled.
25 In the latter instance, the continuance shall be discretionary with the
26 administrative law judge. Testimony or other evidence introduced by
27 a party at a hearing before an administrative law judge or the review
28 board that another party to the hearing:

- 29 (1) is not prepared to meet; and
- 30 (2) by ordinary prudence could not be expected to have
- 31 anticipated;

32 shall be good cause for continuance of the hearing and upon motion
33 such continuance shall be granted.

34 SECTION 30. IC 22-4-19-6, AS AMENDED BY P.L.110-2010,
35 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 UPON PASSAGE]: Sec. 6. (a) Each employing unit shall keep true and
37 accurate records containing information the department considers
38 necessary. These records are:

- 39 (1) open to inspection; and
- 40 (2) subject to being copied;

41 by an authorized representative of the department at any reasonable
42 time and as often as may be necessary. The department, the review

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1 board, or an administrative law judge may require from any employing
2 unit any verified or unverified report, with respect to persons employed
3 by it, which is considered necessary for the effective administration of
4 this article.

5 (b) Except as provided in subsections (d) and (f), information
6 obtained or obtained from any person in the administration of this
7 article and the records of the department relating to the unemployment
8 tax or the payment of benefits is confidential and may not be published
9 or be open to public inspection in any manner revealing the individual's
10 or the employing unit's identity, except in obedience to an order of a
11 court or as provided in this section.

12 (c) A claimant ~~or an employer~~ at a hearing before an administrative
13 law judge or the review board shall be supplied with information from
14 the records referred to in this section to the extent necessary for the
15 proper presentation of the subject matter of the appearance. The
16 department may make the information necessary for a proper
17 presentation of a subject matter before an administrative law judge or
18 the review board available to an agency of the United States or an
19 Indiana state agency.

- 20 (d) The department may release the following information:
 - 21 (1) Summary statistical data may be released to the public.
 - 22 (2) Employer specific information known as ES 202 data and data
23 resulting from enhancements made through the business
24 establishment list improvement project may be released to the
25 Indiana economic development corporation only for the following
26 purposes:
 - 27 (A) The purpose of conducting a survey.
 - 28 (B) The purpose of aiding the officers or employees of the
29 Indiana economic development corporation in providing
30 economic development assistance through program
31 development, research, or other methods.
 - 32 (C) Other purposes consistent with the goals of the Indiana
33 economic development corporation and not inconsistent with
34 those of the department. ~~including the purposes of IC 5-28-6-7.~~
 - 35 (3) Employer specific information known as ES 202 data and data
36 resulting from enhancements made through the business
37 establishment list improvement project may be released to the
38 budget agency and the legislative services agency only for aiding
39 the employees of the budget agency or the legislative services
40 agency in forecasting tax revenues.
 - 41 (4) Information obtained from any person in the administration of
42 this article and the records of the department relating to the

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1 unemployment tax or the payment of benefits for use by the
 2 following governmental entities:
 3 (A) department of state revenue; or
 4 (B) state or local law enforcement agencies;
 5 only if there is an agreement that the information will be kept
 6 confidential and used for legitimate governmental purposes.
 7 (e) The department may make information available under
 8 subsection (d)(1), (d)(2), or (d)(3) only:
 9 (1) if:
 10 (A) data provided in summary form cannot be used to identify
 11 information relating to a specific employer or specific
 12 employee; or
 13 (B) there is an agreement that the employer specific
 14 information released to the Indiana economic development
 15 corporation, the budget agency, or the legislative services
 16 agency will be treated as confidential and will be released only
 17 in summary form that cannot be used to identify information
 18 relating to a specific employer or a specific employee; and
 19 (2) after the cost of making the information available to the
 20 person requesting the information is paid under IC 5-14-3.
 21 (f) In addition to the confidentiality provisions of subsection (b), the
 22 fact that a claim has been made under IC 22-4-15-1(c)(8) and any
 23 information furnished by the claimant or an agent to the department to
 24 verify a claim of domestic or family violence are confidential.
 25 Information concerning the claimant's current address or physical
 26 location shall not be disclosed to the employer or any other person.
 27 Disclosure is subject to the following additional restrictions:
 28 (1) The claimant must be notified before any release of
 29 information.
 30 (2) Any disclosure is subject to redaction of unnecessary
 31 identifying information, including the claimant's address.
 32 (g) An employee:
 33 (1) of the department who recklessly violates subsection (a), (c),
 34 (d), (e), or (f); or
 35 (2) of any governmental entity listed in subsection (d)(4) who
 36 recklessly violates subsection (d)(4);
 37 commits a Class B misdemeanor.
 38 (h) An employee of the Indiana economic development corporation,
 39 the budget agency, or the legislative services agency who violates
 40 subsection (d) or (e) commits a Class B misdemeanor.
 41 (i) An employer or agent of an employer that becomes aware that a
 42 claim has been made under IC 22-4-15-1(c)(8) shall maintain that

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information as confidential.

(j) The department may charge a reasonable processing fee not to exceed two dollars (\$2) for each record that provides information about an individual's last known employer released in compliance with a court order under subsection (b).

SECTION 31. IC 22-4-25-1, AS AMENDED BY P.L.182-2009(ss), SECTION 368, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in

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1 accordance with the provisions of this section and shall not lapse at any
2 time or be transferred to any other fund, except as provided in this
3 article. Nothing in this section shall be construed to limit, alter, or
4 amend the liability of the state assumed and created by IC 22-4-28, or
5 to change the procedure prescribed in IC 22-4-28 for the satisfaction of
6 such liability, except to the extent that such liability may be satisfied by
7 and out of the funds of such special employment and training services
8 fund created by this section.

9 (b) Whenever the balance in the special employment and training
10 services fund ~~exceeds eight million five hundred thousand dollars~~
11 ~~(\$8,500,000)~~; **is considered excessive by the board**, the board shall
12 order payment ~~of the amount that exceeds eight million five hundred~~
13 ~~thousand dollars (\$8,500,000)~~ into the unemployment insurance benefit
14 fund **of the amount of the special employment and training services**
15 **fund considered to be excessive.**

16 (c) Subject to the approval of the board and the availability of funds,
17 on July 1, 2008, and each subsequent July 1, the commissioner shall
18 release:

19 (1) one million dollars (\$1,000,000) to the state educational
20 institution established under IC 21-25-2-1 for training provided
21 to participants in apprenticeship programs approved by the United
22 States Department of Labor, Bureau of Apprenticeship and
23 Training;

24 (2) four million dollars (\$4,000,000) to the state educational
25 institution instituted and incorporated under IC 21-22-2-1 for
26 training provided to participants in joint labor and management
27 apprenticeship programs approved by the United States
28 Department of Labor, Bureau of Apprenticeship and Training;

29 (3) two hundred fifty thousand dollars (\$250,000) for journeyman
30 upgrade training to each of the state educational institutions
31 described in subdivisions (1) and (2);

32 (4) four hundred thousand dollars (\$400,000) annually for
33 training and counseling assistance:

34 (A) provided by Hometown Plans under 41 CFR 60-4.5; and

35 (B) approved by the United States Department of Labor,
36 Bureau of Apprenticeship and Training;

37 to individuals who have been unemployed for at least four (4)
38 weeks or whose annual income is less than twenty thousand
39 dollars (\$20,000); and

40 (5) three hundred thousand dollars (\$300,000) annually for
41 training and counseling assistance provided by the state
42 institution established under IC 21-25-2-1 to individuals who

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1 have been unemployed for at least four (4) weeks or whose annual
2 income is less than twenty thousand dollars (\$20,000) for the
3 purpose of enabling those individuals to apply for admission to
4 apprenticeship programs offered by providers approved by the
5 United States Department of Labor, Bureau of Apprenticeship and
6 Training.

7 (d) The funds released under subsection (c)(4) through (c)(5):
8 (1) shall be considered part of the amount allocated under section
9 2.5 of this chapter; and
10 (2) do not limit the amount that an entity may receive under
11 section 2.5 of this chapter.

12 (e) Each state educational institution described in subsection (c) is
13 entitled to keep ten percent (10%) of the funds released under
14 subsection (c) for the payment of costs of administering the funds. On
15 each June 30 following the release of the funds, any funds released
16 under subsection (c) not used by the state educational institutions under
17 subsection (c) shall be returned to the special employment and training
18 services fund.

19 SECTION 32. IC 22-4-32-23, AS AMENDED BY P.L.175-2009,
20 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 UPON PASSAGE]: Sec. 23. (a) As used in this section:

22 (1) "Dissolution" refers to dissolution of a corporation under
23 IC 23-1-45 through IC 23-1-48. ~~or dissolution under Indiana law
24 of an association, a joint venture, an estate, a partnership, a
25 limited liability partnership, a limited liability company, a joint
26 stock company, or an insurance company (referred to as a
27 "noncorporate entity" in this section).~~

28 (2) "Liquidation" means the operation or act of winding up a
29 corporation's ~~or entity's~~ affairs, when normal business activities
30 have ceased, by settling its debts and realizing upon and
31 distributing its assets.

32 (3) "Withdrawal" refers to the withdrawal of a foreign corporation
33 from Indiana under IC 23-1-50.

34 (b) The officers and directors of a corporation effecting dissolution,
35 liquidation, or withdrawal ~~or the appropriate individuals of a
36 noncorporate entity~~ shall do the following:

- 37 (1) File all necessary documents with the department in a timely
38 manner as required by this article.
39 (2) Make all payments of contributions to the department in a
40 timely manner as required by this article.
41 (3) File with the department a form of notification within thirty
42 (30) days of the adoption of a resolution or plan. The form of

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1 notification shall be prescribed by the department and may
2 require information concerning:

- 3 (A) the corporation's ~~or noncorporate entity's~~ assets;
- 4 (B) the corporation's ~~or noncorporate entity's~~ liabilities;
- 5 (C) details of the plan or resolution;
- 6 (D) the names and addresses of corporate officers, directors,
7 and shareholders; ~~or the noncorporate entity's owners,~~
8 ~~members, or trustees;~~
- 9 (E) a copy of the minutes of the shareholders' meeting ~~or the~~
10 ~~noncorporate entity's meeting~~ at which the plan or resolution
11 was formally adopted; and
- 12 (F) such other information as the board may require.

13 The commissioner may accept, in lieu of the department's form of
14 notification, a copy of Form 966 that the corporation filed with
15 the Internal Revenue Service.

16 (c) Unless a clearance is issued under subsection (g), for a period of
17 one (1) year following the filing of the form of notification with the
18 department, the corporate officers and directors ~~of a corporation and~~
19 ~~the chief executive of a noncorporate entity~~ remain personally liable,
20 subject to IC 23-1-35-1(e), for any acts or omissions that result in the
21 distribution of corporate ~~or noncorporate entity~~ assets in violation of
22 the interests of the state. An officer or director ~~of a corporation or a~~
23 ~~chief executive of a noncorporate entity~~ held liable for an unlawful
24 distribution under this subsection is entitled to contribution:

- 25 (1) from every other director who voted for or assented to the
26 distribution, subject to IC 23-1-35-1(e); and
- 27 (2) from each shareholder ~~owner, member, or trustee~~ for the
28 amount the shareholder ~~owner, member, or trustee~~ accepted.

29 (d) The corporation's officers' and directors' ~~and the noncorporate~~
30 ~~entity's chief executive's~~ personal liability includes all contributions,
31 penalties, interest, and fees associated with the collection of the
32 liability due the department. In addition to the penalties provided
33 elsewhere in this article, a penalty of up to thirty percent (30%) of the
34 unpaid contributions and skills 2016 training assessments may be
35 imposed on the corporate officers and directors ~~and the noncorporate~~
36 ~~entity's chief executive~~ for failure to take reasonable steps to set aside
37 corporate assets to meet the liability due the department.

38 (e) If the department fails to begin a collection action against a
39 corporate officer or director ~~or a noncorporate entity's chief executive~~
40 within one (1) year after the filing of a completed form of notification
41 with the department, the personal liability of the corporate officer or
42 director ~~or noncorporate entity's chief executive~~ expires. The filing of

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1 a substantially blank form of notification or a form containing
 2 misrepresentation of material facts does not constitute filing a form of
 3 notification for the purpose of determining the period of personal
 4 liability of the officers and directors of the corporation. ~~or the chief~~
 5 ~~executive of the noncorporate entity.~~

6 (f) In addition to the remedies contained in this section, the
 7 department is entitled to pursue corporate assets that have been
 8 distributed to shareholders ~~or noncorporate entity assets that have been~~
 9 ~~distributed to owners, members, or beneficiaries,~~ in violation of the
 10 interests of the state. The election to pursue one (1) remedy does not
 11 foreclose the state's option to pursue other legal remedies.

12 (g) The department may issue a clearance to a corporation ~~or~~
 13 ~~noncorporate entity~~ effecting dissolution, liquidation, or withdrawal if:

14 (1) the

15 ~~(A) officers and directors of the corporation have or~~

16 ~~(B) chief executive of the noncorporate entity has;~~

17 met the requirements of subsection (b); and

18 (2) request for the clearance is made in writing by the officers and
 19 directors of the corporation ~~or chief executive of the noncorporate~~
 20 ~~entity~~ within thirty (30) days after the filing of the form of
 21 notification with the department.

22 (h) The issuance of a clearance by the department under subsection
 23 (g) releases the officers and directors of a corporation ~~and the chief~~
 24 ~~executive of a noncorporate entity~~ from personal liability under this
 25 section.

26 SECTION 33. IC 22-4-37-3, AS AMENDED BY P.L.175-2009,
 27 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]: Sec. 3. (a) Should:

29 (1) the Congress of the United States amend, repeal, or authorize
 30 the implementation of a demonstration project under 29 U.S.C. 49
 31 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26
 32 U.S.C. 3101 through 3504, or any statute or statutes supplemental
 33 to or in lieu thereof or any part or parts of said statutes, or should
 34 any or all of said statutes or any part or parts thereof be held
 35 invalid, to the end and with such effect that appropriations of
 36 funds by the said Congress and grants thereof to the state for the
 37 payment of costs of administration of the department are or no
 38 longer shall be available for such purposes;

39 (2) the primary responsibility for the administration of 26 U.S.C.
 40 3301 through 26 U.S.C. 3311 be transferred to the state as a
 41 demonstration project authorized by Congress; or

42 (3) employers in Indiana subject to the payment of tax under 26

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1 U.S.C. 3301 through 3311 be granted full credit upon such tax for
 2 contributions or taxes paid to the department;
 3 then, beginning with the effective date of such change in liability for
 4 payment of such federal tax and for each year thereafter, the normal
 5 contribution rate under this article shall be established by the
 6 department and may not exceed three and one-half percent (3.5%) per
 7 year of each employer's payroll subject to contribution. With respect to
 8 each employer having a rate of contribution for such year pursuant to
 9 terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B),
 10 IC 22-4-11-2(c), IC 22-4-11-3, IC 22-4-11-3.3, ~~IC 22-4-11-3.5~~, and
 11 IC 22-4-11.5, to the rate of contribution, as determined for such year in
 12 which such change occurs, shall be added not more than eight-tenths
 13 percent (0.8%) as prescribed by the department.

14 (b) The amount of the excess of tax for which such employer is or
 15 may become liable by reason of this section over the amount which
 16 such employer would pay or become liable for except for the provisions
 17 of this section, together with any interest or earnings thereon, shall be
 18 paid and transferred into the employment and training services
 19 administration fund to be disbursed and paid out under the same
 20 conditions and for the same purposes as is other money provided to be
 21 paid into such fund. If the commissioner shall determine that as of
 22 January 1 of any year there is an excess in said fund over the money
 23 and funds required to be disbursed therefrom for the purposes thereof
 24 for such year, then and in such cases an amount equal to such excess,
 25 as determined by the commissioner, shall be transferred to and become
 26 part of the unemployment insurance benefit fund, and such funds shall
 27 be deemed to be and are hereby appropriated for the purposes set out
 28 in this section.

29 SECTION 34. IC 22-4-11-3.5 IS REPEALED [EFFECTIVE
 30 JANUARY 1, 2011 (RETROACTIVE)].

31 SECTION 35. THE FOLLOWING ARE REPEALED [EFFECTIVE
 32 UPON PASSAGE]: IC 2-5-30; IC 22-4-18-4.2; IC 22-4-43.

33 SECTION 36. **An emergency is declared for this act.**

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