

Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1344

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

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

SECTION 1. IC 22-4-2-3 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 3: "~~Board~~" means ~~the unemployment insurance board established by this article~~:

SECTION 2. IC 22-4-2-34, AS AMENDED BY P.L.12-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a) With respect to benefits for weeks of unemployment beginning after August 13, 1981, "extended benefit period" means a period which begins with the third week after a week for which there is a state "on" indicator and ends with the later of the 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

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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 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 II (the federal Assistance to Unemployed Workers and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(e) There is a state "off" 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 requirements of subsection (c) have not been met.

(f) With respect to benefits for weeks of unemployment beginning after August 13, 1981, "rate of insured unemployment," for purposes of subsection (c), means the percentage derived by dividing:

- (1) the average weekly number of individuals filing claims for



regular compensation in this state for weeks of unemployment with respect to the most recent 13 consecutive week period (as determined by the **board department** on the basis of this state's reports to the United States Secretary of Labor); by

(2) the average monthly employment covered under this article for the first four (4) of the most recent six (6) completed calendar quarters ending before the end of such 13-week period.

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

(h) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 8501 through 8525) payable to an individual under the provisions of this article for weeks of unemployment in the individual's "eligibility period". Pursuant to Section 3304 of the Internal Revenue Code extended benefits are not payable to interstate claimants filing claims in an agent state which is not in an extended benefit period, against the liable state of Indiana when the state of Indiana is in an extended benefit period. This prohibition does not apply to the first two (2) weeks claimed that would, but for this prohibition, otherwise be payable. However, only one (1) such two (2) week period will be granted on an extended claim. Notwithstanding any other provisions of this chapter, with respect to benefits for weeks of unemployment beginning after October 31, 1981, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this clause, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero (0)) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(i) "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit period which begin in an



extended benefit period and, if the individual's benefit period ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period. For any weeks of unemployment beginning after February 17, 2009, and before January 1, 2012, an individual's eligibility period (as described in Section 203(c) of the Federal-State Unemployment Compensation Act of 1970) is, for purposes of any determination of eligibility for extended compensation under state law, considered to include any week that begins:

- (1) after the date as of which the individual exhausts all rights to emergency unemployment compensation; and
- (2) during an extended benefit period that began on or before the date described in subdivision (1).

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

- (1) has received, prior to such week, all of the regular benefits including dependent's allowances that were available to the individual under this article or under the law of any other state (including benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. 8501 through 8525) in the individual's current benefit period that includes such week. However, for the purposes of this subsection, an individual shall be deemed to have received all of the regular benefits that were available to the individual although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit period or although a nonmonetary decision denying benefits is pending, the individual may subsequently be determined to be entitled to added regular benefits;
- (2) may be entitled to regular benefits with respect to future weeks of unemployment but such benefits are not payable with respect to such week of unemployment by reason of seasonal limitations in any state unemployment insurance law; or
- (3) having had the individual's benefit period expire prior to such week, has no, or insufficient, wages on the basis of which the individual could establish a new benefit period that would include such week;

and has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Act of 1974, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor, and has not received and is not seeking unemployment benefits under the unemployment compensation law of



Canada; but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, the individual is considered an exhaustee.

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

(l) With respect to compensation for weeks of unemployment beginning after March 1, 2011, and ending on the later of December 10, 2011, 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 II (the federal Assistance to Unemployed and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), in addition to the tests for a state "on" indicator under subsections (c) and (d), there is a state "on" indicator for a week if:

- (1) the average rate of insured unemployment for the period consisting of the week and the immediately preceding twelve (12) weeks equals or exceeds five percent (5%); and
- (2) the average rate of insured unemployment for the period consisting of the week and the immediately preceding twelve (12) weeks equals or exceeds one hundred twenty percent (120%) of the average rates of insured unemployment for the corresponding thirteen (13) week period ending in each of the preceding three (3) calendar years.

(m) There is a state "off" indicator for a week based on the rate of insured unemployment only if the rate of insured unemployment for the period consisting of the week and the immediately preceding twelve (12) weeks does not result in an "on" indicator under subsection (c)(1).

(n) With respect to compensation for weeks of unemployment beginning after March 1, 2011, and ending on the later of December 10, 2011, 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 II (the federal Assistance to Unemployed and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), in addition to the tests for a state "on" indicator under subsections (c), (d), and (l) there is a state "on" indicator for a week if:

- (1) the average rate of total unemployment (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 one-half 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 any or all of the corresponding three (3) month periods ending in the three (3) preceding calendar years.

(o) There is a state "off" indicator for a week based on the rate of total unemployment only if the rate of total unemployment 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 does not result in an "on" indicator under subsection (d)(1).

SECTION 3. IC 22-4-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. "Remuneration" whenever used in this article, unless the context clearly denotes otherwise, means all compensation for personal services, including but not limited to commissions, bonuses, dismissal pay, vacation pay, sick pay (subject to the provisions of section 2(b)(2) of this chapter) payments in lieu of compensation for services, and cash value of all compensation paid in any medium other than cash. The reasonable cash value of compensation paid in any medium other than cash may be estimated and determined in accordance with rules prescribed by the ~~board~~ **department**. Such term shall not, however, include the value of meals, lodging, books, tuition, or educational facilities furnished to a student while such student is attending an established school, college, university, hospital, or training course for services performed within the regular school term or school year, including the customary vacation days or periods falling within such school term or school year.

SECTION 4. IC 22-4-7-1, AS AMENDED BY P.L.121-2014, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Before January 1, 2015, "employer" means:

(1) any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or the preceding year, has or had in employment, and/or has incurred liability for wages payable to, one (1) or more individuals (irrespective of whether the same individual or individuals are or were employed in each such day);
or

(2) any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand five hundred dollars (\$1,500) or more, except as provided in section 2(e), 2(h), and 2(i) of this chapter.

(b) After December 31, 2014, "employer" means either of the



following:

(1) An employing unit that has incurred liability for wages payable to one (1) or more individuals.

(2) An employing unit that in any calendar quarter during the current or preceding calendar year paid for service in employment wages of one dollar (\$1) or more, except as provided in section 2(e), 2(h), and 2(i) of this chapter.

(c) For the purpose of this definition, if any week includes both December 31, and January 1, the days up to January 1 shall be deemed one (1) calendar week and the days beginning January 1 another such week.

(d) For purposes of this section, "employment" shall include services which would constitute employment but for the fact that such services are deemed to be performed entirely within another state pursuant to an election under an arrangement entered into by the **board department** (pursuant to IC 22-4-22) and an agency charged with the administration of any other state or federal unemployment compensation law.

SECTION 5. IC 22-4-8-3, AS AMENDED BY P.L.2-2007, SECTION 292, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. "Employment" shall not include the following:

(1) Except as provided in section 2(i) of this chapter, service performed prior to January 1, 1978, in the employ of this state, any other state, any town or city, or political subdivision, or any instrumentality of any of them, other than service performed in the employ of a municipally owned public utility as defined in this article; or service performed in the employ of the United States of America, or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this article, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation statute, all of the provisions of this article shall be applicable to such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. However, if this state shall not be certified for any year by the Secretary of Labor under Section 3304 of the Internal Revenue Code the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within



the same period as is provided in IC 22-4-32-19 with respect to contribution erroneously paid or wrongfully assessed.

(2) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; however, the department is authorized to enter into agreements with the proper agencies under such Act of Congress which agreements shall become effective ten (10) days after publication thereof, in accordance with rules adopted by the department under IC 4-22-2, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under such Act of Congress, or who have, after having acquired potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this article.

(3) "Agricultural labor" as provided in section 2(1)(1) of this chapter shall include only services performed:

(A) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(B) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(C) in connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act (12 U.S.C. 1141j(g)) as amended, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(D) in the employ of:

(i) the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such



operator produced more than one-half (1/2) of the commodity with respect to which such service is performed;
or

(ii) a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in item (i), but only if such operators produce more than one-half (1/2) of the commodity with respect to which such service is performed; except the provisions of items (i) and (ii) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(E) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

(4) As used in subdivision (3), "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(5) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in section 2(m) of this chapter.

(6) Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with such vessel or aircraft when outside the United States.

(7) Service performed by an individual in the employ of child or spouse, and service performed by a child under the age of twenty-one (21) in the employ of a parent.

(8) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for such service is fifty dollars (\$50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purposes of this subdivision, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:

(A) on each of some of twenty-four (24) days during such quarter such individual performs such service for some portion



of the day; or

(B) such individual was regularly employed (as determined under clause (A)) by such employing unit in the performance of such service during the preceding calendar quarter.

(9) Service performed by an individual in any calendar quarter in the employ of any organization exempt from income tax under Section 501 of the Internal Revenue Code (except those services included in sections 2(i) and 2(j) of this chapter if the remuneration for such service is less than fifty dollars (\$50)).

(10) Service performed in the employ of a hospital, if such service is performed by a patient of such hospital.

(11) Service performed in the employ of a school or eligible postsecondary educational institution if the service is performed:

(A) by a student who is enrolled and is regularly attending classes at the school or eligible postsecondary educational institution; or

(B) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

(i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by the school or eligible postsecondary educational institution; and

(ii) such employment will not be covered by any program of unemployment insurance.

(12) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(13) Service performed in the employ of a government foreign to the United States of America, including service as a consular or other officer or employee or a nondiplomatic representative.

(14) Service performed in the employ of an instrumentality wholly owned by a government foreign to that of the United States of America, if the service is of a character similar to that



performed in foreign countries by employees of the United States of America or of an instrumentality thereof, and if the **board department** finds that the Secretary of State of the United States has certified to the Secretary of the Treasury of the United States that the government, foreign to the United States, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in such country by employees of the United States and of instrumentalities thereof.

(15) Service performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four (4) year course in a medical school chartered or approved pursuant to state law.

(16) Service performed by an individual as an insurance producer or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

(17) Service performed by an individual:

(A) under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

(B) in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by the individual at a fixed price, the individual's compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to the individual, whether or not the individual is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(18) Service performed in the employ of an international organization.

(19) Except as provided in IC 22-4-7-1, services covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law in accordance with an arrangement pursuant to IC 22-4-22-1 through IC 22-4-22-5, during the effective period of such election.



(20) If the service performed during one-half (1/2) or more of any pay period by an individual for an employing unit constitutes employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any pay period by such an individual do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection, "pay period" means a period of not more than thirty-one (31) consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit. This subsection shall not be applicable with respect to services performed in a pay period by any such individual where any such service is excepted by subdivision (2).

(21) Service performed by an inmate of a custodial or penal institution.

(22) Service performed as a precinct election officer (as defined in IC 3-5-2-40.1).

SECTION 6. IC 22-4-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Every employer subject to this article or who has ceased to be subject to this article pursuant to section 2 of this chapter shall post and maintain printed notices thereof on its premises of such design, in such numbers, and at such places as the **board department** may determine to be necessary to give such notice to persons in its service and may furnish for such purposes. Such employer shall also cause to be distributed to employees any booklets, pamphlets, leaflets, or other literature or materials supplied and furnished to such employer by the department and which contain instructions to employees on the filing of claims or which relate to the rights of employees under this article and are deemed by the **board department** to promote the proper and efficient administration of this article.

SECTION 7. IC 22-4-11-2, AS AMENDED BY P.L.183-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in IC 22-4-10-6 and IC 22-4-11.5, the department shall for each year determine the contribution rate applicable to each employer.

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



IC 22-4-10-5.5 (repealed):

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

(2) for each calendar year, an employer's rate shall be two and five-tenths percent (2.5%), except as otherwise provided in subsection (g) or IC 22-4-37-3, unless:

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

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

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

(c) In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A), (b)(2)(B), and (b)(2)(C), an employer's rate is equal to the sum of the employer's contribution rate determined or estimated by the department under this article plus two percent (2%) unless all required contributions and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessor for periods before and including the computation date have been paid:

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

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

(A) the delinquency; or

(B) failure to file the reports;

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

(d) However, if the employer is the state or a political subdivision of the state or any instrumentality of a state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1)



or more other states or political subdivisions, the employer may contribute at a rate of one and six-tenths percent (1.6%) until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

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

STEP ONE: Divide:

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

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

STEP TWO: Subtract:

(A) the amount described in IC 22-4-10-4.5(e)(2), if any; from

(B) the total amount of benefits charged to the fund under section 1 of this chapter.

STEP THREE: Multiply the quotient determined under STEP ONE by the difference determined under STEP TWO.

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

(1) considered a contribution for the purposes of this article; and

(2) deposited in the unemployment insurance benefit fund established under IC 22-4-26.

(g) Except as otherwise provided in IC 22-4-37-3, this subsection, instead of subsection (b)(2), applies to an employer in the construction industry. As used in the subsection, "construction industry" means business establishments whose proper primary classification in the current edition of the North American Industry Classification System Manual - United States, published by the National Technical Information Service of the United States Department of Commerce is 23 (construction). For each calendar year beginning after December 31, 2013, an employer's rate shall be equal to the lesser of four percent (4%) or the average of the contribution rates paid by all employers in the construction industry subject to this article during the twelve (12) months preceding the computation date, unless:

(1) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately



preceding the computation date;

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

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

SECTION 8. IC 22-4-12-4, AS AMENDED BY P.L.12-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Benefits shall be computed upon the basis of wage credits of an individual in the individual's base period. Wage credits shall be reported by the employer and credited to the individual in the manner prescribed by the ~~board~~ **department**. With respect to initial claims filed for any week beginning on and after July 7, 1991, the maximum total amount of benefits payable to any eligible individual during any benefit period shall not exceed twenty-six (26) times the individual's weekly benefit, or twenty-eight percent (28%) of the individual's wage credits with respect to the individual's base period, whichever is less. If such maximum total amount of benefits is not a multiple of one dollar (\$1), it shall be computed to the next lower multiple of one dollar (\$1).

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

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

(1) the individual has established:

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

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

(2) all regular benefits and all disaster unemployment assistance



benefits:

- (A) have been exhausted by the individual; or
- (B) are no longer payable to the individual due to the expiration of the disaster assistance period; and
- (3) the individual remains unemployed as a direct result of the disaster.

(d) For purposes of this subsection, "high unemployment period" means a period during which an extended benefit period would be in effect if IC 22-4-2-34(d)(1) were applied by substituting "eight percent (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 II (the federal Assistance to Unemployed Workers and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(e) For purposes of this subsection, "high unemployment period" means a period during which an extended benefit period would be in effect if IC 22-4-2-34(n)(1) were applied by substituting "eight percent (8%)" for "six and one-half percent (6.5%)". Effective with respect to weeks of unemployment beginning after March 1, 2011, and ending on the later of December 10, 2011, 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 II (the federal Assistance to Unemployed and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), 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



lesser 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.

SECTION 9. IC 22-4-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this section, the term "part-time worker" means an individual whose normal work is in an occupation in which ~~his~~ **the individual's** services are not required for the customary scheduled full-time hours prevailing in the establishment in which ~~he~~ **the individual** is employed, or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which ~~he~~ **the individual** is employed.

(b) The ~~board~~ **department** may prescribe rules applicable to part-time workers for determining their weekly benefit amount and the wage credits required to qualify such individuals for benefits. Such rules shall, with respect to such individuals, supersede any inconsistent provisions of this article, but, so far as practicable, shall secure results reasonably equivalent to those provided in the analogous provisions of this article.

SECTION 10. IC 22-4-14-2, AS AMENDED BY P.L.175-2009, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) An unemployed individual is eligible to receive benefits with respect to any week only if the individual has:

- (1) registered for work at an employment office or branch thereof or other agency designated by the commissioner within the time limits that the department by rule adopts; and
- (2) subsequently reported with the frequency and in the manner, either in person or in writing, that the department by rule adopts.

(b) Failure to comply with subsection (a) shall be excused by the commissioner or the commissioner's authorized representative upon a showing of good cause therefor. The department shall waive or alter the requirements of this section as to such types of cases or situations that compliance with such requirements would be oppressive. ~~or would be inconsistent with the purposes of this article.~~

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



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

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

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

SECTION 11. IC 22-4-14-3, AS AMENDED BY P.L.195-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) may restrict the individual's availability because of the individual's need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (as defined in IC 31-9-2-42).

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

- (1) is physically and mentally able to work;
- (2) is available for work;
- (3) is found by the department to be making an effort to secure full-time work; and
- (4) participates in reemployment services and reemployment and eligibility assessment activities **as required by section 3.2 of this chapter or** when directed by the department as provided under section 3.5 of this chapter, unless the department determines that:
 - (A) the individual has completed the reemployment services; or
 - (B) failure by the individual to participate in or complete the reemployment services is excused by the director under



IC 22-4-14-2(b).

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

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

- (1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment, or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;
- (2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;
- (3) that such individual is suspended for misconduct in connection with the individual's work; or
- (4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and is available for suitable full-time work with the individual's last employer, or is available for any other full-time employment deemed suitable.

(d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions



of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The department shall by rule prescribe the conditions under which approval of such training will be granted.

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

- (1) obtain from the court proof of the individual's jury service; and
- (2) provide to the department, in the manner the department prescribes by rule, proof of the individual's jury service.

SECTION 12. IC 22-4-14-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]: **Sec. 3.2. (a) For purposes of section 3 of this chapter, not later than the fourth week after the week an individual begins receiving benefits, the individual must be scheduled to visit and receive an orientation to the services available through a one stop center (as defined by IC 22-4.1-1-5). The individual must appear when scheduled, but in any event, the individual's orientation must be completed not later than the sixth week after the week the individual begins receiving benefits.**

(b) The department may waive the requirements of subsection (a) only when one (1) of the following applies to an individual:

- (1) The individual is attending training or retraining approved by the department.**
- (2) The individual is a job-attached worker with a specific recall date that is not more than sixty (60) days after the individual's separation date.**
- (3) The individual is using:**
 - (A) a hiring service;**
 - (B) a referral service; or**
 - (C) another job placement service as determined by the department.**
- (4) The individual is receiving a supplemental unemployment benefit under a contract or agreement.**

SECTION 13. IC 22-4-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) For weeks of unemployment occurring after October 1, 1983, benefits may be paid to an individual on the basis of service performed in seasonal employment (as defined in IC 22-4-8-4) only if the claim is filed within the operating period of the seasonal employment. If the claim is filed



outside the operating period of the seasonal employment, benefits may be paid on the basis of nonseasonal wages only.

(b) An employer shall file an application for a seasonal determination (as defined by IC 22-4-7-3) with the department of workforce development. A seasonal determination shall be made by the department within ninety (90) days after the filing of such an application. Until a seasonal determination by the department has been made in accordance with this section, no employer or worker may be considered seasonal.

(c) Any interested party may file an appeal regarding a seasonal determination within fifteen (15) calendar days after the determination by the department and obtain review of the determination in accordance with IC 22-4-32.

(d) Whenever an employer is determined to be a seasonal employer, the following provisions apply:

(1) The seasonal determination becomes effective the first day of the calendar quarter commencing after the date of the seasonal determination.

(2) The seasonal determination does not affect any benefit rights of seasonal workers with respect to employment before the effective date of the seasonal determination.

(e) If a seasonal employer, after the date of its seasonal determination, operates its business or its seasonal operation during a period or periods of twenty-six (26) weeks or more in a calendar year, the employer shall be determined by the department to have lost its seasonal status with respect to that business or operation effective at the end of the then current calendar quarter. The redetermination shall be reported in writing to the employer. Any interested party may file an appeal within fifteen (15) calendar days after the redetermination by the department and obtain review of the redetermination in accordance with IC 22-4-32.

(f) Seasonal employers shall keep account of wages paid to seasonal workers within the seasonal period as determined by the department and shall report these wages on a special seasonal quarterly report form provided by the department.

(g) The ~~board~~ **department** shall adopt rules applicable to seasonal employers for determining their normal seasonal period or periods.

SECTION 14. IC 22-4-17-5, AS AMENDED BY P.L.175-2009, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The governor shall appoint a review board composed of three (3) members, not more than two (2) of whom shall be members of the same political party, with salaries to be fixed



by the governor. The review board shall consist of the chairman and the two (2) members who shall serve for terms of three (3) years. At least one (1) member must be admitted to the practice of law in Indiana.

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

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

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

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

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

SECTION 15. IC 22-4-17-7, AS AMENDED BY P.L.108-2006, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. In the discharge of the duties imposed by this article, ~~any member of the board,~~ the department, the review board, ~~or~~ an administrative law judge, or any duly authorized representative of any of them, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue and serve subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the disputed claim or the administration of this article.

SECTION 16. IC 22-4-17-8, AS AMENDED BY P.L.108-2006,



SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. In case of contumacy by, or refusal to obey a subpoena issued to, any person in the administration of this article, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by ~~the board~~, the department, ~~or~~ the review board, or a duly authorized representative of ~~any~~ **either** of these, shall have jurisdiction to issue to such person an order requiring such person to appear before ~~the board~~, the department, the review board, an administrative law judge, or the duly authorized representative of any of these, there to produce evidence if so ordered, or there to give testimony touching the matter in question or under investigation. Any failure to obey such order of the court may be punished by said court as a contempt thereof.

SECTION 17. IC 22-4-17-9, AS AMENDED BY P.L.108-2006, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before ~~the board~~, the department, the review board, an administrative law judge, or the duly authorized representative of any of them, in obedience to the subpoena of any of them in any cause or proceeding before any of them on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled after having claimed the privilege against self-incrimination to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Any testimony or evidence submitted in due course before ~~the board~~, the department, the review board, an administrative law judge, or any duly authorized representative of any of them, shall be deemed a communication presumptively privileged with respect to any civil action except actions to enforce the provisions of this article.

SECTION 18. IC 22-4-17-14, AS AMENDED BY P.L.108-2006, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) This section applies to notices given under sections 2, 3, 11, and 12 of this chapter. This section does not apply to rules adopted by ~~the board~~ ~~or~~ the department, unless



specifically provided.

(b) As used in this section, "notices" includes mailings of notices, determinations, decisions, orders, motions, or the filing of any document with the appellate division or review board.

(c) If a notice is served through the United States mail, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the appellate division or review board is complete on the earliest of the following dates that apply to the filing:

- (1) The date on which the document is delivered to the appellate division or review board.
- (2) The date of the postmark on the envelope containing the document if the document is mailed to the appellate division or review board by the United States Postal Service.
- (3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the appellate division or review board by a private carrier.

SECTION 19. IC 22-4-17-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) An administrative law judge may not preside over or otherwise participate in the hearing or disposition of an appeal in which the judge's impartiality might reasonably be questioned, including instances where the judge:

- (1) has:
 - (A) personal bias or prejudice concerning a party; or
 - (B) personal knowledge of disputed evidentiary facts concerning the appeal;
- (2) has served as a lawyer in the matter in controversy; or
- (3) knows that the judge has any direct or indirect financial or other interest in the subject matter of an appeal or in a party to the appeal.

(b) Disqualification of an administrative law judge shall be in accordance with the rules adopted by the ~~Indiana unemployment insurance board~~: **department**.

(c) This subsection does not apply to the disposition of ex parte matters specifically authorized by statute or rule. An administrative law judge may not communicate, directly or indirectly, regarding any substantive issue in the appeal while the appeal is pending, with any party to the appeal, or with any individual who has a direct or indirect interest in the outcome of the appeal, without notice and opportunity



for all parties to participate in the communication.

SECTION 20. IC 22-4-18-1, AS AMENDED BY P.L.69-2015, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) There is created a department under IC 22-4.1-2-1 which shall be known as the department of workforce development.

(b) The department of workforce development may:

- (1) Administer the unemployment insurance program.
- (2) Enter into agreements with the United States government that may be required as a condition of obtaining federal funds related to activities of the department under this article.
- (3) Enter into contracts or agreements and cooperate with local governmental units or corporations, including profit or nonprofit corporations, or combinations of units and corporations to carry out the duties of the department imposed by this article, including contracts for the delegation of the department's administrative, monitoring, and program responsibilities and duties set forth in this article.

(c) The payment of unemployment insurance benefits must be made in accordance with 26 U.S.C. 3304.

(d) The department of workforce development may do all acts and things necessary or proper to carry out the powers expressly granted under this article, including the adoption of rules under IC 4-22-2.

(e) The department of workforce development may not charge any claimant for benefits for providing services under this article, except as provided in IC 22-4-17-12.

(f) The department of workforce development shall do the following:

(1) Submit a report to the general assembly in an electronic format under IC 5-14-6 and to the governor before December 1 of each year concerning the status of the unemployment compensation system, including the following:

(A) Recommendations for maintaining the solvency of the unemployment insurance benefit fund established under IC 22-4-26-1.

(B) Information regarding expenditures from the special employment and training services fund.

(C) Information regarding money released under IC 22-4-25-1(c).

(2) Make a presentation to the budget committee at each meeting of the budget committee held before November 1, 2016, concerning the status of the unemployment



compensation system, including the following:

- (A) Recommendations for maintaining the solvency of the unemployment insurance benefit fund established under IC 22-4-26-1.
- (B) Information regarding expenditures from the special employment and training services fund.
- (C) Information regarding money released under IC 22-4-25-1(c).
- (D) Any other information requested by the budget committee.

(g) In addition to the duties prescribed in subsections (a) through (f), the department of workforce development shall establish, implement, and maintain a training program in the nature and dynamics of domestic and family violence for training of all employees of the department who interact with a claimant for benefits to determine whether the claim of the individual for unemployment benefits is valid and to determine that employment separations stemming from domestic or family violence are reliably screened, identified, and adjudicated and that victims of domestic or family violence are able to take advantage of the full range of job services provided by the department. The training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including using the staff of shelters for battered women in the presentation of the training. The initial training shall consist of instruction of not less than six (6) hours. Refresher training shall be required annually and shall consist of instruction of not less than three (3) hours.

SECTION 21. IC 22-4-18-2 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 2: (a) The Indiana unemployment insurance board is created. The board is responsible for the oversight of the unemployment insurance program. The board shall report annually to the governor on the status of unemployment insurance together with recommendations for maintaining the solvency of the unemployment insurance benefit fund. The department staff shall provide support to the board. The unemployment insurance board shall consist of nine (9) members, who shall be appointed by the governor, as follows:

- (1) Four (4) members shall be appointed as representatives of labor and its interests.
- (2) One (1) member shall be appointed as a representative of the state and its interest and of the public at large.
- (3) Two (2) members shall be appointed as representatives of the large employers of the state.



(4) Two (2) members shall be appointed as representatives of the independent merchants and small employers of the state.

All appointments shall be made for terms of four (4) years. All appointments to full terms or to fill vacancies shall be made so that all terms end on March 31.

(b) Every Indiana unemployment insurance board member so appointed shall serve until a successor shall have been appointed and qualified. Before entering upon the discharge of official duties, each member of the board shall take and subscribe to an oath of office, which shall be filed in the office of the secretary of state. Any vacancy occurring in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term. The governor may, at any time, remove any member of the board for misconduct, incapacity, or neglect of duty. Each member of the board shall be entitled to receive as compensation for the member's services the sum of one hundred dollars (\$100) per month for each and every month which the member devotes to the actual performance of the member's duties, as prescribed in this article, but the total amount of such compensation shall not exceed the sum of twelve hundred dollars (\$1,200) per year. In addition to the compensation hereinbefore prescribed, each member of the board shall be entitled to receive the amount of traveling and other necessary expenses actually incurred while engaged in the performance of official duties.

(c) The board may hold one (1) regular meeting each month and such called meetings as may be deemed necessary by the commissioner or the board. The April meeting shall be known as the annual meeting. Five (5) members of the board constitute a quorum for the transaction of business. At its first meeting and at each annual meeting held thereafter, the board shall organize by the election of a president and vice president from its own number, each of whom, except those first elected, shall serve for a term of one (1) year and until a successor is elected.

SECTION 22. IC 22-4-18-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.4. (a) The Indiana unemployment insurance board and the department shall cooperate to provide for an orderly transition of the powers, duties, agreements, liabilities, records, property, and other assets as described in section 2.5 of this chapter on April 1, 2016.**

(b) This section expires January 1, 2017.

SECTION 23. IC 22-4-18-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



[EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) The Indiana unemployment insurance board is abolished on April 1, 2016.**

(b) On April 1, 2016, all powers, duties, agreements, and liabilities of the Indiana unemployment insurance board are transferred to the department.

(c) On April 1, 2016, all records and property of the Indiana unemployment insurance board, including appropriations or other funds under the control or supervision of the Indiana unemployment insurance board, are transferred to the department.

(d) After March 31, 2016, any amounts owed to the Indiana unemployment insurance board are considered to be owed to the department.

(e) After March 31, 2016, a reference to the Indiana unemployment insurance board in a statute, rule, or other document is considered a reference to the department.

(f) Rules that were adopted by the Indiana unemployment insurance board before April 1, 2016, shall be treated as though the rules were adopted by the department until the department adopts rules under IC 4-22-2 to administer this article.

(g) Proceedings that pertain to the unemployment insurance system pending before the Indiana unemployment insurance board on April 1, 2016, shall be transferred to the department and must be treated as if the department was the original party.

(h) This section expires January 1, 2017.

SECTION 24. IC 22-4-19-1, AS AMENDED BY P.L.108-2006, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The ~~board~~ **department** shall have the power and authority to adopt, amend, or rescind such rules and regulations to employ such persons, make such expenditures, require such reports, make such investigations and take such other action as it may deem necessary or suitable for the proper administration of this article. All rules and regulations issued under the provisions of this article shall be effective upon publication in the manner hereinafter provided and shall have the force and effect of law. The ~~board~~ **department** may prescribe the extent, if any, to which any rule or regulation so issued or legal interpretation of this article shall be with or without retroactive effect. Whenever the ~~board~~ **department** believes that a change in contribution or benefit rates will become necessary to protect the solvency of the unemployment insurance benefit fund, ~~it~~ **the department** shall promptly so inform the governor and the general assembly, and make recommendations with respect thereto.



SECTION 25. IC 22-4-19-4 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 4. Subject to the further provisions of this article, the board is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties. All positions shall be filled by persons selected and appointed as provided in this section. The board may authorize any such person so appointed to do any act or acts which would lawfully be done by the board and may, in its discretion, require suitable bond from any person charged with the custody of any money or securities.

SECTION 26. IC 22-4-19-7, AS AMENDED BY P.L.175-2009, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. In any case where an employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, shall fail or refuse upon demand by ~~the board~~, the department, the review board, or an administrative law judge, or the duly authorized representative of any of them, to produce or permit the examination or copying of any book, paper, account, record, or other data pertaining to payrolls or employment or ownership of interests or stock in any employing unit, or bearing upon the correctness of any contribution report, or for the purpose of making a report as required by this article where none has been made, then and in that event ~~the board~~, the department, the review board, or the administrative law judge, or the duly authorized representative of any of them, may by issuance of a subpoena require the attendance of such employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, and take testimony with respect to any such matter and may require any such person to produce any books or records specified in such subpoena.

SECTION 27. IC 22-4-19-8, AS AMENDED BY P.L.108-2006, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) ~~The board~~, The department, the review board, or the administrative law judge, or the duly authorized representative of any of them, at any such hearing shall have power to administer oaths to any such person or persons. When any person called as a witness by such subpoena, duly signed, and served upon the witness by any duly authorized person or by the sheriff of the county of which such person is a resident, or wherein is located the principal office of such employing unit or wherein such records are located or kept, shall fail to obey such subpoena to appear before ~~the board~~, the department, the review board, or the administrative law judge, or the authorized representative of any of them, or shall refuse to testify or to



answer any questions, or to produce any book, record, paper, or other data when notified and demanded so to do, such failure or refusal shall be reported to the attorney general for the state of ~~Indiana~~ who shall thereupon institute proceedings by the filing of a petition in the name of the state of ~~Indiana~~ on the relation of the ~~board~~, **department**, in the circuit court or superior or other court of competent jurisdiction of the county where such witness resides, or wherein such records are located or kept, to compel obedience of and by such witness.

(b) Such petition shall set forth the facts and circumstances of the demand for and refusal or failure to permit the examination or copying of such records or the failure or refusal of such witness to testify in answer to such subpoena or to produce the records so required by such subpoena. Such court, upon the filing and docketing of such petition shall thereupon promptly issue an order to the defendants named in said petition, to produce forthwith in such court or at a place in such county designated in such order, for the examination or copying by ~~the board~~, the department, the review board, an administrative law judge, or the duly authorized representative of any of them, the records, books, or documents so described and to testify concerning matters described in such petition. Unless such defendants to such petition shall appear in said court upon a day specified in such order, which said day shall be not more than ten (10) days after the date of issuance of such order, and offer, under oath, good and sufficient reasons why such examination or copying should not be permitted, or why such subpoena should not be obeyed, such court shall thereupon deliver to ~~the board~~, the department, the review board, the administrative law judge, or representative of any of them, for examination or copying, the records, books and documents so described in said petition and so produced in such court and shall order said defendants to appear in answer to the subpoena, and to testify concerning the subject matter of the inquiry. Any employing unit, or any officer, member, or agent ~~thereof~~, **of the employing unit**, or any other persons having possession of the records thereof who shall willfully disobey such order of the court after the same shall have been served upon ~~him~~, **the employing unit, any officer, member, or agent of the employing unit, or any other person having possession of the records** shall be guilty of indirect contempt of such court from which such order shall have issued and may be adjudged in contempt of said court and punished therefor as provided by law.

SECTION 28. IC 22-4-19-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. If the ~~board~~ **department** determines that Public Law 94-566 or the federal laws it



amends have been adjudged unconstitutional or invalid in its application to, or have been stayed pendente lite as to, a state or a political subdivision or an instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions and its employees by any court of competent jurisdiction, the **board department** shall suspend the enforcement of this article with respect to these employers and employees to the extent of the adjudged unconstitutionality or inapplicability or of the stay.

SECTION 29. IC 22-4-20-1, AS AMENDED BY P.L.175-2009, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Whenever the commissioner shall consider any account or claim for contributions against an employer, and any penalty or interest due thereon, or any part thereof, to be uncollectible, written notification containing appropriate information shall be furnished to the attorney general by the commissioner setting forth the reasons therefor and the extent to which collection proceedings have been taken. The attorney general may review such notice and may undertake additional investigation as to the facts relating thereto, and shall thereupon certify to the commissioner an opinion as to the collectibility of such account or claim. If the attorney general consents to the cancellation of such claim for delinquent contributions, and any interest or penalty due thereon, the board may then cancel all or any part of such claim.

(b) In addition to the procedure for cancellation of claims for delinquent contributions set out in subsection (a), the **board department** may cancel all or any part of a claim for delinquent contributions against an employer if all of the following conditions are met:

- (1) The employer's account has been delinquent for at least seven (7) years.
- (2) The commissioner has determined that the account is uncollectible and has recommended that the **board department** cancel the claim for delinquent contributions.

(c) When any such claim or any part thereof is cancelled by the **board department**, there shall be placed in the files and records of the department, in the appropriate place for the same, a statement of the amount of contributions, any interest or penalty due thereon, and the action of the **board department** taken with relation thereto, together with the reasons therefor.

SECTION 30. IC 22-4-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. In the administration of this article the **board department** shall cooperate to



the fullest extent consistent with the provisions of this article with the federal Department of Labor, shall make such reports in such form and containing such information as the federal Department of Labor may from time to time require and shall comply with such provisions as the federal Department of Labor may from time to time find necessary to insure the correctness and verification of such reports, and shall comply with the regulations prescribed by the Secretary of Labor governing the expenditures of such sums as may be allotted and paid to the state of Indiana under 42 U.S.C. 501 through 504 or any other federal statute for the purpose of assisting in the administration of this article.

SECTION 31. IC 22-4-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. Upon request therefor the **board department** shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this article.

SECTION 32. IC 22-4-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The **board department** may afford reasonable cooperation with every agency of the United States of America, or with any state charged with the administration of any unemployment compensation law.

SECTION 33. IC 22-4-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The **board department** shall enter into arrangements with the appropriate agencies of other states or jurisdictions or the United States of America whereby individuals performing services in this and other states or jurisdictions for a single employing unit under circumstances not specifically provided for in ~~IC 1971~~, IC 22-4-8-2(b), ~~of this article~~, or under similar provisions in the unemployment compensation laws of such other states or jurisdictions, shall be deemed to be employment performed entirely within this state or within one (1) of such other states or jurisdictions, and whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or jurisdictions, or under such a law of the United States of America, or both, may constitute the basis for the payment of benefits through a single appropriate agency under the terms which the **board department** finds will be fair and reasonable to all affected interests and will not result in substantial loss to the fund.

SECTION 34. IC 22-4-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The **board**



department is authorized to enter into reciprocal arrangements with the appropriate agencies of other states or jurisdictions or the United States of America, adjusting the collection and payment of contributions by employers with respect to employment not localized within this state.

SECTION 35. IC 22-4-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The ~~board~~ **department** is authorized to enter into reciprocal agreements with the agencies of other states or jurisdictions administering unemployment compensation laws whereby the ~~board~~ **department** and such other agencies or jurisdictions may act as agents for each other for the purpose of accepting contributions on each other's behalf. Such contributions upon remittance to the state or jurisdiction on whose behalf such contributions were received, shall be deemed contributions required and paid into the unemployment compensation fund of such state or jurisdiction as of the date received by the agent, state or jurisdiction.

SECTION 36. IC 22-4-22-5, AS AMENDED BY P.L.108-2006, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. In order that the administration of this article and the unemployment insurance laws of other states or jurisdictions or of the United States of America will be promoted by cooperation between this state and such other states or jurisdictions or the appropriate agencies of the United States in exchanging services and making available facilities and information, ~~the board and the department are~~ **is** authorized to make such investigations, secure and transmit such information, make available such services and facilities, and exercise such of the other powers provided in this article with respect to the administration of this article as deemed necessary or appropriate to facilitate the administration of any unemployment insurance law and in like manner to accept and utilize information, services, and facilities made available to this state by the agency or jurisdiction charged with the administration of any such other unemployment insurance law.

SECTION 37. IC 22-4-25-1, AS AMENDED BY P.L.69-2015, SECTION 23, 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~~ **department** 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~~ **department** directly, or by transfer by the ~~board~~ **department** of the required amount from the special employment and training services fund to the employment and training services administration fund. The ~~board~~ **department** 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~~ **department** 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~~ **department** for expenditures in accordance with the provisions of this section and for the prevention, detection, and recovery of delinquent contributions, penalties, and improper benefit payments, and shall not lapse at any time or be transferred to any other fund, except as provided in this article. **After making the grants required under subsection (c), the department may expend an amount not to exceed five million dollars (\$5,000,000) in a state fiscal year for the purposes described in this subsection, unless an additional amount is approved by the budget committee.** Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by



and out of the funds of such special employment and training services fund created by this section.

(b) Whenever the balance in the special employment and training services fund exceeds eight million five hundred thousand dollars (\$8,500,000), the ~~board~~ **department** shall order payment of the amount that exceeds eight million five hundred thousand dollars (\$8,500,000) into the unemployment insurance benefit fund.

(c) Subject to ~~the approval of the board,~~ and the availability of funds, on July 1 each year the commissioner shall release:

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

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

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

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

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

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

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

(5) three hundred thousand dollars (\$300,000) annually for training and counseling assistance provided by the state institution established under IC 21-25-2-1 to individuals who have been unemployed for at least four (4) weeks or whose annual income is less than twenty thousand dollars (\$20,000) for the purpose of enabling those individuals to apply for admission to apprenticeship programs offered by providers approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

(d) Each state educational institution described in subsection (c) is entitled to keep ten percent (10%) of the funds released under subsection (c) for the payment of costs of administering the funds. On



each June 30 following the release of the funds, any funds released under subsection (c) not used by the state educational institutions under subsection (c) shall be returned to the special employment and training services fund.

SECTION 38. IC 22-4-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. There is established a special fund to be known as the unemployment insurance benefit fund which shall be administered separate and apart from all public money or funds of the state. This fund shall consist of:

- (1) all contributions, all payments in lieu of contributions, all money received from the federal government as reimbursements pursuant to section 204 of the Federal-State Extended Compensation Act of 1970, and all money paid into and received by it as provided in this article;
- (2) any property or securities and the earnings thereof acquired through the use of money belonging to the fund;
- (3) all other money received for the fund from any other source;
- (4) all money credited to this state's account in the unemployment trust fund pursuant to 42 U.S.C. 1103, as amended; and
- (5) interest earned from all money in the fund.

Subject to the provisions of this article, the **board department** is vested with full power, authority, and jurisdiction over the fund, including all money and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated in this article which are necessary or convenient in the administration thereof consistent with the provisions of this article and the Depository Act. The money in this fund shall be used only for the payment of unemployment compensation benefits.

SECTION 39. IC 22-4-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The treasurer of state shall be ex officio treasurer and custodian of the fund and shall administer the fund in accordance with the provisions of this article and the directions of the commissioner and shall pay all warrants drawn upon it in accordance with such rules as the **board department** may prescribe. All contributions provided for in this article shall be paid to and collected by the department. All contributions and other money payable to the fund as provided in this article upon receipt thereof by the department shall be paid to and deposited with the treasurer of state to the credit of the unemployment insurance benefit fund. The commissioner shall immediately order the auditor of state to issue the auditor's warrant on the treasurer of state immediately to forward such money and deposit it, together with any money earned thereby while in



the treasurer's custody and any other money received by the treasurer for the payment of benefits from any source other than the unemployment trust fund, with the Secretary of the Treasury of the United States of America to the credit of the unemployment trust fund. All money belonging to the unemployment insurance benefit fund and not otherwise deposited, invested, or paid over pursuant to the provisions of this article may be deposited by the treasurer of state under the direction of the commissioner in any banks or public depositories in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of money in the unemployment insurance benefit fund, any other provisions of law to the contrary notwithstanding. The treasurer of state shall, if required by the Social Security Administration, give a separate bond conditioned upon the faithful performance of the treasurer's duties as custodian of the fund in an amount and with such sureties as shall be fixed and approved by the governor. Premiums for the said bond shall be paid as provided in IC 22-4-24.

SECTION 40. IC 22-4-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. If any money received after June 30, 1941, from the Social Security Administration under 42 U.S.C. 501 through 504, or any unencumbered balances in the employment and training services administration fund as of June 30, 1941, or any money granted after June 30, 1941 to this state under 29 U.S.C. 49 et seq. or any money made available by this state or its political subdivisions and matched by such money granted to this state under 29 U.S.C. 49 et seq. is found by the Secretary of Labor because of any action or contingency to have been lost or been expended for purposes other than or in amounts in excess of those found necessary by the Secretary of Labor for the proper administration of this article, it is the policy of this state that upon receipt of notice of such a finding by the Secretary of Labor the ~~board~~ **department** shall promptly report the amount required for such replacement to the governor, and the governor shall at the earliest opportunity submit to the general assembly a request for the appropriation of such amount. This section shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, under 49 U.S.C. 501 through 504.

SECTION 41. IC 22-4-29-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Contributions unpaid on the date on which they are due and payable, as prescribed by the commissioner, shall bear interest at the rate of one percent (1%) per month or fraction thereof from and after such date until payment, plus



accrued interest, is received by the department. The **board department** may prescribe fair and reasonable regulations pursuant to which such interest shall not accrue.

(b) If the failure to pay any part or all of the delinquent contributions is due to negligence or intentional disregard of authorized rules, regulations, or notices, but without intent to defraud, there shall be added, as a penalty, ten percent (10%) of the total amount of contributions unpaid, which penalty shall become due and payable upon notice and demand by the commissioner.

(c) If the commissioner finds that the failure to pay any part or all of delinquent contributions is due to fraud with intent to evade the payment of contributions, there shall be added, as a penalty, fifty percent (50%) of the total amount of delinquent contributions, which penalty shall become due and payable upon notice and demand by the commissioner.

(d) Interest and penalties collected pursuant to this section shall be paid into the special employment and training services fund.

SECTION 42. IC 22-4-29-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Unless an assessment is paid in full within seven (7) days after it becomes final, the commissioner or the commissioner's representative may file with the clerk of the circuit court of any county in the state a warrant in duplicate, directed to the sheriff of such county, commanding the sheriff to levy upon and sell the property, real and personal, tangible and intangible, of the employing unit against whom the assessment has been made, in sufficient quantity to satisfy the amount thereof, plus damages to the amount of ten percent (10%) of such assessment, which shall be in addition to the penalties prescribed in this article for delinquent payment, and in addition to the interest at the rate of one percent (1%) per month upon the unpaid contribution from the date it was due, to the date of payment of the warrant, and in addition to all costs incident to the recording and execution thereof. The remedies by garnishment and proceedings supplementary to execution as provided by law shall be available to the **board department** to effectuate the purposes of this chapter. Within five (5) days after receipt of a warrant under this section, the clerk shall:

- (1) retain the duplicate copy of the warrant;
- (2) enter in the judgment record in the column for judgment debtors the name of the employing unit stated in the warrant, or if the employing unit is a partnership, the names of the partners;
- (3) enter the amount sought by the warrant;
- (4) enter the date the warrant was received; and



(5) certify the original warrant and return it to the department.

(b) Five (5) days after the clerk receives a warrant under subsection (a), the amount sought in the warrant, the damages to an amount of ten percent (10%) of the assessment as provided in subsection (a), penalties, and interest described in subsection (a) become a lien upon the title to and interest in the real and personal property of the employing unit.

SECTION 43. IC 22-4-31-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The collection of the whole or any part of the amount of such assessment may be stayed for not exceeding sixty (60) days, by filing with the ~~board~~ **department** a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties as the ~~board~~ **department** considers necessary, conditioned upon payment of the amount which may finally be found to be due after notice and opportunity to be heard as herein provided.

SECTION 44. IC 22-4-32-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Upon receipt of such protest in writing, the commissioner promptly shall refer the written protest to the liability administrative law judge who shall set a date for a hearing before the liability administrative law judge and notify the interested parties thereof by registered mail. Unless such written protest is withdrawn, the liability administrative law judge, after affording the parties a reasonable opportunity for a fair hearing, shall make findings and conclusions, and, on the basis thereof, affirm, modify, or reverse the initial determination of the ~~board.~~ **department.**

SECTION 45. IC 22-4-32-23, AS AMENDED BY P.L.42-2011, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) As used in this section:

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

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

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

(b) The officers and directors of a corporation effecting dissolution,



liquidation, or withdrawal or the appropriate individuals of a noncorporate entity shall do the following:

- (1) File all necessary documents with the department in a timely manner as required by this article.
- (2) Make all payments of contributions to the department in a timely manner as required by this article.
- (3) File with the department a form of notification within thirty (30) days of the adoption of a resolution or plan. The form of notification shall be prescribed by the department and may require information concerning:
 - (A) the corporation's or noncorporate entity's assets;
 - (B) the corporation's or noncorporate entity's liabilities;
 - (C) details of the plan or resolution;
 - (D) the names and addresses of corporate officers, directors, and shareholders or the noncorporate entity's owners, members, or trustees;
 - (E) a copy of the minutes of the shareholders' meeting or the noncorporate entity's meeting at which the plan or resolution was formally adopted; and
 - (F) such other information as the ~~board~~ **department** may require.

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

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

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

(d) The corporation's officers' and directors' and the noncorporate entity's chief executive's personal liability includes all contributions, penalties, interest, and fees associated with the collection of the liability due the department. In addition to the penalties provided elsewhere in this article, a penalty of up to thirty percent (30%) of the



unpaid contributions may be imposed on the corporate officers and directors and the noncorporate entity's chief executive for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.

(e) If the department fails to begin a collection action against a corporate officer or director or a noncorporate entity's chief executive within one (1) year after the filing of a completed form of notification with the department, the personal liability of the corporate officer or director or noncorporate entity's chief executive expires. The filing of a substantially blank form of notification or a form containing misrepresentation of material facts does not constitute filing a form of notification for the purpose of determining the period of personal liability of the officers and directors of the corporation or the chief executive of the noncorporate entity.

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

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

(1) the:

(A) officers and directors of the corporation have; or

(B) chief executive of the noncorporate entity has;

met the requirements of subsection (b); and

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

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

SECTION 46. IC 22-4-33-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except for fees charged under IC 22-4-17-12, no individual claiming benefits may be charged fees of any kind in a proceeding by ~~the board~~; the review board, an administrative law judge, or the representative of ~~any~~ **either** of them or by any court or any officer thereof.

(b) An individual claiming benefits in a proceeding before ~~the board~~; the review board, an administrative law judge, or a court may be



represented by counsel or other authorized agent, but no counsel or agent may charge or receive for ~~his the counsel's or agent's~~ service more than an amount approved by the ~~board or~~ review board.

SECTION 47. IC 22-4-34-5, AS AMENDED BY P.L.108-2006, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A person who knowingly fails to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, in obedience to a subpoena of ~~the board,~~ the department, the review board, an administrative law judge, or any duly authorized representative of any of them, commits a Class C misdemeanor. Each day a violation continues constitutes a separate offense.

SECTION 48. IC 22-4-35-1, AS AMENDED BY P.L.161-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. In any civil action to enforce the provisions of this article, the department, commissioner, state workforce innovation council, ~~unemployment insurance board,~~ unemployment insurance review board, and the state may be represented by any qualified attorney who is a regular salaried employee of the department and is designated by it for this purpose or, at the director's request, by the attorney general of the state. In case the governor designates special counsel to defend, on behalf of the state, the validity of this article, the expenses and compensation of such special counsel and of any experts employed by the commissioner in connection with such proceedings may be charged to the employment and training services administration fund.

SECTION 49. IC 22-4-37-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) If at any time the governor of Indiana shall find that the tax imposed by 42 U.S.C. 1101 through 1109, as amended, has been amended or repealed by Congress or has been held unconstitutional by the Supreme Court of the United States with the result that no portion of the contributions required by this article may be credited against such tax, or if this article is declared inoperative by the supreme court of Indiana, the governor of Indiana shall publicly so proclaim, and upon the date of such proclamation the provisions of this article requiring the payment of contributions and benefits shall be suspended for a period ending not later than the last day of the next following regular or special session of the general assembly of the state of Indiana. The ~~board department~~ shall thereupon requisition from the unemployment trust fund all moneys therein standing to its credit and shall direct the treasurer of state of Indiana to deposit such moneys, together with any other



moneys in the fund, as a special fund in any banks or public depositories in this state in which general funds of the state may be deposited.

(b) Unless prior to the expiration of such period, the general assembly of the state of Indiana has made provision for an employment security law in this state and has directed that the funds so deposited shall be used for the payment of benefits in this state, the provisions of this article shall cease to be operative, and the ~~board~~ **department** shall, under rules prescribed by it, **the department**, refund without interest to each person by whom contributions have been paid ~~its~~ **the person's** pro rata share of the total contributions paid under this article.

SECTION 50. IC 22-4.1-2-2, AS AMENDED BY P.L.69-2015, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department includes the following entities:

- ~~(1) The unemployment insurance board;~~
- ~~(2) (1) The unemployment insurance review board.~~
- ~~(3) (2) State workforce innovation council established by IC 22-4.1-22-3.~~

SECTION 51. IC 22-4.1-4-8, AS ADDED BY P.L.69-2015, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The department annually shall prepare a written report of its training activities and the training activities of the workforce service area during the immediately preceding state fiscal year. The department's annual report for a particular state fiscal year must include information for each training project for which either the department or the workforce service area provided any funding during that state fiscal year. At a minimum, the following information must be provided for each training project:

- (1) A description of the training project, including the name and address of the training provider.
- (2) The amount of funding that either the department or the workforce service area provided for the project and an indication of which entity provided the funding.
- (3) The number of trainees who participated in the project.
- (4) Demographic information about the trainees, including:
 - (A) the age of each trainee;
 - (B) the education attainment level of each trainee; and
 - (C) for those training projects that have specific gender requirements, the gender of each trainee.
- (5) The results of the project, including:
 - (A) skills developed by trainees;



(B) any license or certification associated with the training project;

(C) the extent to which trainees have been able to secure employment or obtain better employment; and

(D) descriptions of the specific jobs which trainees have been able to secure or to which trainees have been able to advance.

(b) With respect to trainees that have been able to secure employment or obtain better employment, the department shall compile data on the retention rates of those trainees in the jobs which the trainees secured or to which they advanced. The department shall include information concerning those retention rates in each of its annual reports.

(c) On or before October 1 of each state fiscal year, each workforce service area shall provide the department with a written report of its training activities for the immediately preceding state fiscal year. The workforce service area shall prepare the report in the manner prescribed by the department. However, at a minimum, the workforce service area shall include in its report the information required by subsection (a) for each training project for which the workforce service area provided any funding during the state fiscal year covered by the report. In addition, the workforce service area shall include in each report retention rate information as set forth in subsection (b).

(d) The department shall provide a copy of its annual report for a particular state fiscal year to the:

- (1) governor; **and**
- (2) legislative council; **and**
- ~~(3) unemployment insurance board;~~

on or before December 1 of the immediately preceding state fiscal year. An annual report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 52. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "legislative council" refers to the legislative council established by IC 2-5-1.1-1.

(b) The legislative council is urged to assign to the interim study committee on employment and labor established by IC 2-5-1.3-4 or another appropriate interim study committee during the 2016 legislative interim the topic of establishing a committee or board to oversee:

- (1) the unemployment insurance benefit fund established by IC 22-4-26-1; and**
- (2) the special employment and training services fund established by IC 22-4-25-1.**



(c) If the topic described in subsection (b) is assigned to an interim study committee, the interim study committee shall issue a final report to the legislative council containing the interim study committee's findings and recommendations, including any recommended legislation, in an electronic format under IC 5-14-6 not later than November 1, 2016.

(d) This SECTION expires December 31, 2016.

SECTION 53. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

