
SENATE BILL No. 321

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4.

Synopsis: Unemployment insurance. Transfers numerous rulemaking and administrative duties of the unemployment insurance board to the department of workforce development (department). Reduces from 150 to 30 days the time within which a successor employer is required to file an application to assume a predecessor employer's experience account. Establishes civil penalties for an individual who fails to disclose or falsifies information to receive a benefit. Provides additional circumstances in which an administrative law judge or the review board may hold hearings by telephone. Repeals and restates provisions concerning an individual's failure to disclose earnings, witness fees, and the unemployment insurance board's rulemaking authority. Makes technical corrections. Makes conforming amendments.

Effective: Upon passage; July 1, 2006.

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January 10, 2006, read first time and referred to Committee on Pensions and Labor.

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Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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SENATE BILL No. 321



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

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

1 SECTION 1. IC 22-4-2-17 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. **Except as**
3 **provided in IC 22-4-11.5**, "computation date" means June 30 of the
4 year preceding the effective date of new rates of contribution, except
5 that in the event, after having been legally terminated, an employer
6 again becomes subject to this article during the last six (6) months of
7 a calendar year and resumes **his the employer's** former position with
8 respect to the resources and liabilities of the experience account, then
9 and in such case **his the employer's** first "computation date" shall
10 mean December 31 of the fourth consecutive calendar year of such
11 subjectivity and thereafter "computation date" for such employer shall
12 mean June 30.

13 SECTION 2. IC 22-4-2-23 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. "Initial claim"
15 means a written application, in a form prescribed by the ~~board;~~
16 **department**, made by an individual for the determination of ~~his the~~
17 **individual's** status as an insured worker.



1 SECTION 3. IC 22-4-2-24 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. "Additional claim"
 3 means a written application for a determination of benefit eligibility,
 4 made by an individual in a form prescribed by the ~~board,~~ **department,**
 5 to begin a second or subsequent series of claims in a benefit period, by
 6 which application the individual certifies to new unemployment
 7 resulting from a break in or loss of work which has occurred since the
 8 last claim was filed by such individual.

9 SECTION 4. IC 22-4-2-39 IS ADDED TO THE INDIANA CODE
 10 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 2006]: **Sec. 39. As used in this article, "liability administrative
 12 law judge" means a person who is:**

13 **(1) employed as an administrative law judge under**
 14 **IC 22-4-17-4; and**

15 **(2) authorized to hear matters described in IC 22-4-32-1.**

16 SECTION 5. IC 22-4-7-2 IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2006]: Sec. 2. "Employer" also means **the
 18 following:**

19 (a) Any employing unit whether or not an employing unit at the time
 20 of the acquisition which acquires the organization, trade, or business
 21 within this state of another which at the time of such acquisition is an
 22 employer subject to this article, and any employing unit whether or not
 23 an employing unit at the time of the acquisition which acquires
 24 substantially all the assets within this state of such an employer used in
 25 or in connection with the operation of such trade or business, if the
 26 acquisition of substantially all such assets of such trade or business
 27 results in or is used in the operation or continuance of an organization,
 28 trade, or business.

29 (b) Any employing unit (whether or not an employing unit at the
 30 time of acquisition) which acquires a distinct and segregable portion of
 31 the organization, trade, or business within this state of another
 32 employing unit which at the time of such acquisition is an employer
 33 subject to this article only if the employment experience of the
 34 disposing employing unit combined with the employment of its
 35 predecessor or predecessors would have qualified such employing unit
 36 under ~~IC 22-4-7-1, 22-4-7-2(a), 22-4-7-2(b), 22-4-7-2(d), 22-4-7-2(f), or~~
 37 ~~22-4-7-2(h);~~ **section 1 of this chapter** if the portion acquired had
 38 constituted its entire organization, trade, or business and the acquisition
 39 results in the operation or continuance of an organization, trade, or
 40 business.

41 (c) Any employing unit which, having become an employer under
 42 ~~IC 22-4-7-1, 22-4-7-2(a), 22-4-7-2(b), 22-4-7-2(d), 22-4-7-2(f), or~~
~~22-4-7-2(h);~~ **section 1, 2(a), 2(b), 2(d), 2(f), or 2(h) of this chapter,**

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1 has not ceased to be an employer by compliance with the provisions of
 2 IC 22-4-9-2 and IC 22-4-9-3.

3 (d) For the effective period of its election pursuant to IC 22-4-9-4
 4 or 22-4-9-5, any other employing unit which has elected to become
 5 fully subject to this article.

6 (e) Any employing unit for which service in employment as defined
 7 in IC 22-4-8-2(l) is performed. In determining whether an employing
 8 unit for which service other than agricultural labor is also performed is
 9 an employer under sections 1 or 2 of this chapter, the wages earned or
 10 the employment of an employee performing service in agricultural
 11 labor ~~after December 31, 1977~~, may not be taken into account. If an
 12 employing unit is determined an employer of agricultural labor, the
 13 employing unit shall be determined an employer for the purposes of
 14 section 1 of this chapter.

15 (f) Any employing unit not an employer by reason of any other
 16 paragraph of IC ~~22-4-7-2(a) through 22-4-7-2(e)~~ **section 2(a) through**
 17 **2(e) of this chapter** inclusive, for which within either the current or
 18 preceding calendar year services in employment are or were performed
 19 with respect to which such employing unit is liable for any federal tax
 20 against which credit may be taken for contributions required to be paid
 21 into a state unemployment ~~compensation insurance~~ fund; or which, as
 22 a condition for approval of this article for full tax credit against the tax
 23 imposed by the Federal Unemployment Tax Act, is required, pursuant
 24 to such Act, to be an "employer" under this article; however, an
 25 employing unit subject to contribution solely because of the terms of
 26 this subsection may file a written application to cover and insure his
 27 employees under the unemployment ~~compensation insurance~~ law of
 28 another jurisdiction. Upon approval of such application by the ~~board~~;
 29 **department**, the employing unit shall not be deemed to be an employer
 30 and such service shall not be deemed employment under this article.

31 (g) Any employing unit for which service in employment, as defined
 32 in IC 22-4-8-2(i) ~~is performed after December 31, 1971 and subsequent~~
 33 ~~to December 31, 1977~~; any employing unit for which service in
 34 employment is performed; as defined in ~~or~~ IC 22-4-8-2(i)(1), **is**
 35 **performed.**

36 (h) Any employing unit for which service in employment, as defined
 37 in IC 22-4-8-2(j) is performed. ~~after December 31, 1971.~~

38 (i) Any employing unit for which service in employment as defined
 39 in IC 22-4-8-2(m) is performed. In determining whether an employing
 40 unit for which service other than domestic service is also performed is
 41 an employer under sections 1 or 2 of this chapter, the wages earned or
 42 the employment of an employee performing domestic service ~~after~~

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1 ~~December 31, 1977~~, may not be taken into account.

2 SECTION 6. IC 22-4-8-1 IS AMENDED TO READ AS FOLLOWS

3 [EFFECTIVE JULY 1, 2006]: Sec. 1. **(a)** "Employment," subject to the

4 other provisions of this section, means service, including service in

5 interstate commerce performed for remuneration or under any contract

6 of hire, written or oral, expressed or implied.

7 ~~(a)~~ **(b)** Services performed by an individual for remuneration shall

8 be deemed to be employment subject to this article irrespective of

9 whether the common-law relationship of master and servant exists,

10 unless and until ~~it is~~ **all the following conditions are** shown to the

11 satisfaction of the ~~board that~~ **(A) such department**:

12 **(1) The** individual has been and will continue to be free from

13 control and direction in connection with the performance of such

14 service, both under ~~his~~ **the individual's** contract of service and in

15 fact.

16 ~~(B) such~~ **(2) The** service is performed outside the usual course of

17 the business for which the service is performed. ~~and~~

18 ~~(C) such~~ **(3) The** individual:

19 **(A)** is customarily engaged in an independently established

20 trade, occupation, profession, or business of the same nature

21 as that involved in the service performed; or

22 **(B)** is a sales agent who receives remuneration solely upon a

23 commission basis and who is the master of ~~his~~ **the**

24 **individual's** own time and effort.

25 ~~(b) Such~~ **(c) The term shall include: also includes the following:**

26 **(1)** Services performed for remuneration by an officer of a

27 corporation in ~~his~~ **the officer's** official corporate capacity.

28 **(2)** Services performed for remuneration for any employing unit

29 by an individual:

30 **(A)** as an agent-driver or commission-driver engaged in

31 distributing products, including but not limited to, meat,

32 vegetables, fruit, bakery, beverages, or laundry or dry-cleaning

33 services for his principal; **or**

34 **(B)** as a traveling or city salesman, other than as an

35 agent-driver or commission-driver, engaged upon a full-time

36 basis in the solicitation on behalf of, and the transmission to,

37 ~~his~~ **the individual's** principal (except for sideline sales

38 activities on behalf of some other person) of orders from

39 wholesalers, retailers, contractors, or operators of hotels,

40 restaurants, or other similar establishments for merchandise

41 for resale or supplies for use in their business operations.

42 ~~Provided; That~~ **(d)** For purposes of ~~subparagraph (b)(2)~~ **subsection**

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1 (c)(2), the term "employment" shall include services described in ~~(A)~~
2 **subsection (c)(2)(A) and ~~(B)~~ (c)(2)(B) only if all the following**
3 **conditions are met:**

- 4 i. (1) The contract of service contemplates that substantially all of
- 5 the services are to be performed personally by such individual.
- 6 ii. (2) The individual does not have a substantial investment in
- 7 facilities used in connection with the performance of the services
- 8 (other than in facilities for transportation). ~~and~~
- 9 iii. (3) The services are not in the nature of a single transaction
- 10 that is not part of a continuing relationship with the person for
- 11 whom the services are performed.

12 SECTION 7. IC 22-4-9-3, AS AMENDED BY P.L.98-2005,
13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2006]: Sec. 3. (a) This section is subject to the provisions of
15 IC 22-4-11.5.

16 (b) Any employer subject to this article as successor to an employer
17 pursuant to the provisions of IC 22-4-7-2(a) or IC 22-4-7-2(b) shall
18 cease to be an employer at the end of the year in which the acquisition
19 occurs only if the **board department** finds that within such calendar
20 year the employment experience of the predecessor prior to the date of
21 disposition combined with the employment experience of the successor
22 subsequent to the date of acquisition would not be sufficient to qualify
23 the successor employer as an employer under the provisions of
24 IC 22-4-7-1. No such successor employer may cease to be an employer
25 subject to this article at the end of the first year of the current period of
26 coverage of the predecessor employer. If all of the resources and
27 liabilities of the experience account of an employer are assumed by
28 another in accordance with the provisions of IC 22-4-10-6 or
29 IC 22-4-10-7, such employer's status as employer and under this article
30 is hereby terminated unless and until such employer subsequently
31 qualifies under the provisions of IC 22-4-7-1 or IC 22-4-7-2 or elects
32 to become an employer under sections 4 or 5 of this chapter.

33 (c) If no application for termination, as herein provided, is filed by
34 an employer and four (4) full calendar years have elapsed since any
35 contributions have become payable from such employer, then and in
36 such cases the **board department** may terminate such employer's
37 experience account.

38 SECTION 8. IC 22-4-9-4 IS AMENDED TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2006]: Sec. 4. Any employing unit not
40 otherwise subject to this article which files with the **board department**
41 its written election to become an employer subject to this article for not
42 less than two (2) calendar years shall, with the written approval of such

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1 election by the ~~board,~~ **department**, become an employer subject to this
2 article to the same extent as all other employers as of the date stated in
3 such approval. ~~provided;~~ However, ~~that~~ the voluntary election of any
4 such employer shall become inoperative if such employing unit
5 becomes an employer by reason of IC 22-4-7-1.

6 SECTION 9. IC 22-4-10-1 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Contributions
8 shall accrue and become payable from each employer for each calendar
9 year in which it is subject to this article with respect to wages paid
10 during such calendar year. ~~except~~ Where the status of an employer is
11 changed by cessation or disposition of business or appointment of a
12 receiver, trustees, trustee in bankruptcy, or other fiduciary,
13 contributions shall immediately become due and payable on the basis
14 of wages paid or payable by such employer as of the date of the change
15 of status. Such contributions shall be paid to the department in such
16 manner as the ~~commissioner~~ **department** may prescribe, and shall not
17 be deducted, in whole or in part, from the remuneration of individuals
18 in an employer's employ. When contributions are determined in
19 accordance with Schedule A as provided in IC 22-4-11-3, the ~~board~~
20 **department** may prescribe rules to require an estimated advance
21 payment of contributions in whole or in part, if in the judgment of the
22 ~~board~~ **department** such advance payments will avoid a debit balance
23 in the fund during the calendar quarter to which the advance payment
24 applies. An adjustment shall be made following the quarter in which an
25 advance payment has been made to reflect the difference between the
26 estimated contribution and the contribution actually payable. Advance
27 payment of contributions shall not be required for more than one (1)
28 calendar quarter in any calendar year.

29 ~~(a)(1)~~ (b) Any employer which is, or becomes, subject to this article
30 by reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions
31 as provided under this article unless it elects to become liable for
32 "payments in lieu of contributions" (as defined in IC 22-4-2-32).

33 ~~(2)~~ (c) Except as provided in subsection ~~(a)(4)~~; (e), the election to
34 become liable for "payments in lieu of contributions" must be filed with
35 the department on a form prescribed by the ~~commissioner~~ **department**
36 not later than thirty-one (31) days following the date upon which such
37 entity qualifies as an employer under this article, and shall be for a
38 period of not less than two (2) calendar years.

39 ~~(3)~~ (d) Any employer which makes an election in accordance with
40 subdivisions ~~(1)~~ through ~~(2)~~ **subsections (b) and (c)** will continue to
41 be liable for "payments in lieu of contributions" until it files with the
42 ~~commissioner~~ **department** a written notice terminating its election.

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1 ~~This~~ **The notice filed by an employer to terminate its election** must
 2 be filed not later than thirty (30) days prior to the beginning of the
 3 taxable year for which such termination shall first be effective.

4 ~~(4)~~ **(e)** Any employer which qualifies to elect to become liable for
 5 "payments in lieu of contributions" and has been paying contributions
 6 under this article ~~for a period subsequent to January 1, 1972;~~ may
 7 change to a reimbursable basis by filing with the department not later
 8 than thirty (30) days prior to the beginning of any taxable year a written
 9 notice of election to become liable for payments in lieu of
 10 contributions. Such election shall not be terminable by the organization
 11 for that and the next year.

12 ~~(b)(1)~~ **(f)** Employers making "payments in lieu of contributions"
 13 under ~~subsection (a)~~ **subsections (b) and (c)** shall make reimbursement
 14 payments monthly. At the end of each calendar month the department
 15 shall bill each such employer (or group of employers) for an amount
 16 equal to the full amount of regular benefits plus one-half (1/2) of the
 17 amount of extended benefits paid during such month that is attributable
 18 to services in the employ of such employers or group of employers.
 19 Governmental entities of this state and its political subdivisions
 20 electing to make "payments in lieu of contributions" shall be billed by
 21 the department at the end of each calendar month for an amount equal
 22 to the full amount of regular benefits plus the full amount of extended
 23 benefits paid during the month that is attributable to service in the
 24 employ of the governmental entities.

25 ~~(2)~~ **(g)** Payment of any bill rendered under ~~subdivision (1)~~
 26 **subsection (f)** shall be made not later than thirty (30) days after such
 27 bill was mailed to the last known address of the employer or was
 28 otherwise delivered to it, unless there has been an application for
 29 review and redetermination ~~in accordance with subdivision (4)~~. **filed**
 30 **under subsection (i).**

31 ~~(3)~~ **(h)** Payments made by any employer under the provisions of ~~this~~
 32 ~~subsection~~ **subsections (f) through (j)** shall not be deducted or
 33 deductible, in whole or in part, from the remuneration of individuals in
 34 the employ of the employer.

35 ~~(4)~~ **(i)** The amount due specified in any bill from the department
 36 shall be conclusive on the employer unless, not later than fifteen (15)
 37 days after the bill was mailed to its last known address or otherwise
 38 delivered to it, the employer files an application for redetermination. If
 39 the employer so files, the employer shall have an opportunity to be
 40 heard, and such hearing shall be conducted by a liability administrative
 41 law judge pursuant to IC 22-4-32-1 through IC 22-4-32-15. After the
 42 hearing, the liability administrative law judge shall immediately notify

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1 the employer in writing of the finding, and the bill, if any, so made
2 shall be final, in the absence of judicial review proceedings, fifteen
3 (15) days after such notice is issued.

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

7 ~~(c)~~ (k) Two (2) or more employers that have elected to become
8 liable for "payments in lieu of contributions" in accordance with
9 ~~subsection (a)~~ **subsections (b) and (c)** may file a joint application with
10 the department for the establishment of a group account for the purpose
11 of sharing the cost of benefits paid that are attributable to service in the
12 employ of such employers. Such group account shall be established as
13 provided in regulations prescribed by the commissioner.

14 SECTION 10. IC 22-4-10-3 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. Except as provided
16 in ~~section 1(a)~~ **section 1(b) through 1(e)** of this chapter, each
17 employer shall pay contributions equal to ~~the following percentage of~~
18 ~~wages: (a) five and four-tenths six-tenths percent (5.4%); (5.6%) of~~
19 ~~wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3,~~
20 ~~and IC 22-4-37-3, and IC 22-4-11.5.~~

21 SECTION 11. IC 22-4-10-4 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Except as
23 provided in ~~section 1(a)~~ **section 1(b) through 1(e)** of this chapter, the
24 commissioner shall maintain within the fund a separate experience
25 account for each employer and shall credit to such account all
26 contributions paid by such employer on its behalf except as otherwise
27 provided in this article.

28 (b) The commissioner shall also maintain a separate account for
29 each employer electing to make payments in lieu of contributions as
30 provided in ~~section 1(a)~~ **section 1(b) through 1(e)** of this chapter and
31 shall charge to such account all benefits chargeable to such employer
32 and credit to such account all reimbursements made by such employer.

33 SECTION 12. IC 22-4-10-6, AS AMENDED BY P.L.98-2005,
34 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2006]: Sec. 6. (a) When:

- 36 (1) an employing unit (whether or not an employing unit at the
37 time of the acquisition) becomes an employer under
38 IC 22-4-7-2(a);
39 (2) an employer acquires the organization, trade, or business, or
40 substantially all the assets of another employer; or
41 (3) an employer transfers all or a portion of the employer's trade
42 or business (including the employer's workforce) to another

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1 employer as described in IC 22-4-11.5-7;
2 the successor employer shall, in accordance with the rules prescribed
3 by the ~~board~~, **department**, assume the position of the predecessor with
4 respect to all the resources and liabilities of the predecessor's
5 experience account.

- 6 (b) Except as provided by IC 22-4-11.5, when:
7 (1) an employing unit (whether or not an employing unit at the
8 time of the acquisition) becomes an employer under
9 IC 22-4-7-2(b); or
10 (2) an employer acquires a distinct and segregable portion of the
11 organization, trade, or business within this state of another
12 employer;

13 the successor employer shall assume the position of the predecessor
14 employer with respect to the portion of the resources and liabilities of
15 the predecessor's experience account as pertains to the distinct and
16 segregable portion of the predecessor's organization, trade, or business
17 acquired by the successor. An application for the acquiring employer
18 to assume this portion of the resources and liabilities of the disposing
19 employer's experience account must be filed with the ~~commissioner~~
20 **department** on prescribed forms not later than ~~one hundred fifty (150)~~
21 **thirty (30)** days immediately following the disposition date or not later
22 than ten (10) days after the disposing and acquiring employers are
23 mailed or otherwise delivered final notice that the acquiring employer
24 is a successor employer, whichever is the earlier date. This portion of
25 the resources and liabilities of the disposing employer's experience
26 account shall be transferred in accordance with IC 22-4-11.5.

27 (c) Except as provided by IC 22-4-11.5, the successor employer, if
28 an employer prior to the acquisition, shall pay at the rate of
29 contribution originally assigned to it for the calendar year in which the
30 acquisition occurs, until the end of that year. If not an employer prior
31 to the acquisition, the successor employer shall pay the rate of two and
32 seven-tenths percent (2.7%) unless the successor employer assumes all
33 or part of the resources and liabilities of the predecessor employer's
34 experience account, in which event the successor employer shall pay
35 at the rate of contribution assigned to the predecessor employer for the
36 period starting with the first day of the calendar quarter in which the
37 acquisition occurs, until the end of that year. However, if a successor
38 employer, not an employer prior to the acquisition, simultaneously
39 acquires all or part of the experience balance of two (2) or more
40 employers, the successor employer shall pay at the highest rate
41 applicable to the experience accounts totally or partially acquired for
42 the period starting with the first day of the calendar quarter in which

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1 the acquisition occurs, until the end of the year. If the successor
2 employer had any employment prior to the date of acquisition upon
3 which contributions were owed under IC 22-4-9-1, the employer's rate
4 of contribution from the first of the year to the first day of the calendar
5 quarter in which the acquisition occurred would be two and
6 seven-tenths percent (2.7%).

7 SECTION 13. IC 22-4-10.5-8 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) **Subject to**
9 **subsection (d)**, skills 2016 assessments unpaid on the date on which
10 they are due and payable bear interest at the rate of one percent (1%)
11 per month or fraction of a month from and after that date until payment
12 plus accrued interest is received by the department.

13 (b) **Subject to subsection (d)**, a twenty-five dollar (\$25) penalty
14 shall be assessed on any skills 2016 assessments that are unpaid on the
15 date subsequent to the date on which they are due and payable.

16 (c) All penalty and interest collected on delinquent skills 2016
17 assessments shall be deposited in the skills 2016 training fund
18 established under ~~IC 22-4-24.5~~ **IC 5-28-27-3**.

19 **(d) The department may adopt fair and reasonable policies to**
20 **waive the penalty and interest assessed under this section.**

21 SECTION 14. IC 22-4-11-2, AS AMENDED BY P.L.98-2005,
22 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2006]: Sec. 2. (a) Except as provided in IC 22-4-11.5, the
24 ~~commissioner~~ **department** shall for each year determine the
25 contribution rate applicable to each employer.

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

31 (1) for each calendar year, an employer's rate shall be determined
32 in accordance with the rate schedules in section 3 or 3.3 of this
33 chapter; and

34 (2) for each calendar year, an employer's rate shall be two and
35 seven-tenths percent (2.7%), except as otherwise provided in
36 IC 22-4-37-3, unless and until:

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

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

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1 (c) In addition to the conditions and requirements set forth and
2 provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall
3 not be less than five and ~~four-tenths~~ **six-tenths** percent (~~5.4%~~) **(5.6%)**
4 unless all required contribution and wage reports have been filed
5 within thirty-one (31) days following the computation date and all
6 contributions, penalties, and interest due and owing by the employer or
7 the employer's predecessors for periods prior to and including the
8 computation date have been paid:

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

- 13 (A) the delinquency; or
14 (B) failure to file the reports;
15 whichever is the later date.

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

21 (d) However, if the employer is the state or a political subdivision
22 of the state or any instrumentality of a state or a political subdivision,
23 or any instrumentality which is wholly owned by the state and one (1)
24 or more other states or political subdivisions, the employer may
25 contribute at a rate of one percent (1%) until it has been subject to this
26 article throughout the thirty-six (36) consecutive calendar months
27 immediately preceding the computation date.

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

- 32 STEP ONE: Divide:
33 (A) the employer's taxable wages for the preceding calendar
34 year; by
35 (B) the total taxable wages for the preceding calendar year.
36 STEP TWO: Multiply the quotient determined under STEP ONE
37 by the total amount of benefits charged to the fund under section
38 1 of this chapter.

39 (f) One (1) percentage point of the rate imposed under subsection
40 (c) or the amount of the employer's payment that is attributable to the
41 increase in the contribution rate, whichever is less, shall be imposed as
42 a penalty that is due and shall be deposited upon collection into the

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1 special employment and training services fund established under
2 IC 22-4-25-1. The remainder of the contributions paid by an employer
3 pursuant to the maximum rate shall be:

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

7 SECTION 15. IC 22-4-11-3 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The applicable
9 schedule of rates for the calendar year 1983 and thereafter shall be
10 determined by the ratio resulting when the balance in the fund as of the
11 determination date is divided by the total payroll of all subject
12 employers for the immediately preceding calendar year. Schedule A,
13 B, C, or D, appearing on the line opposite the fund ratio in the schedule
14 below, shall be applicable in determining and assigning each
15 employer's contribution rate for the calendar year immediately
16 following the determination date. For the purposes of this subsection,
17 "total payroll" means total remuneration reported by all contributing
18 employers as required by this article and does not include the total
19 payroll of any employer who elected to become liable for payments in
20 lieu of contributions (as defined in IC 22-4-2-32). For the purposes of
21 this subsection, "subject employers" means those employers who are
22 subject to contribution.

23 FUND RATIO SCHEDULE

24 When the Fund Ratio Is:

25	26	27	28	29	30	Applicable
	As Much As	But Less Than				Schedule
		1.0%				A
	1.0%	1.5%				B
	1.5%	2.25%				C
	2.25%					D

31 (b) For calendar years before 2002, if the conditions and
32 requirements of section 2 of this chapter are met, the rate of
33 contributions shall be determined and assigned, with respect to each
34 calendar year, to employers whose accounts have a credit balance and
35 who are eligible therefor according to each employer's credit reserve
36 ratio. Each employer shall be assigned the contribution rate appearing
37 in the applicable schedule A, B, C, ~~or~~ D, ~~or~~ E on the line opposite ~~his~~
38 **the employer's** credit reserve ratio as set forth in the rate schedule
39 below:

40 RATE SCHEDULE FOR ACCOUNTS
41 WITH CREDIT BALANCES

42 When the Credit Reserve Ratio Is:

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	As	But	Rate Schedules				
	Much	Less	(%)				
	As	Than	A	B	C	D	E
1							
2							
3							
4	3.0		1.2	0.2	0.2	0.2	0.15
5	2.8	3.0	1.4	0.4	0.2	0.2	0.15
6	2.6	2.8	1.6	0.6	0.2	0.2	0.15
7	2.4	2.6	1.8	0.8	0.4	0.2	0.2
8	2.2	2.4	2.0	1.0	0.6	0.2	0.2
9	2.0	2.2	2.2	1.2	0.8	0.4	0.4
10	1.8	2.0	2.4	1.4	1.0	0.6	0.6
11	1.6	1.8	2.6	1.6	1.2	0.8	0.8
12	1.4	1.6	2.8	1.8	1.4	1.0	1.0
13	1.2	1.4	3.0	2.0	1.6	1.2	1.2
14	1.0	1.2	3.2	2.2	1.8	1.4	1.4
15	0.8	1.0	3.4	2.4	2.0	1.6	1.6
16	0.6	0.8	3.6	2.6	2.2	1.8	1.8
17	0.4	0.6	3.8	2.8	2.4	2.0	2.0
18	0.2	0.4	4.0	3.0	2.6	2.2	2.2
19	0	0.2	4.2	3.2	2.8	2.4	2.4

(c) Each employer whose account as of any computation date occurring on and after June 30, 1984, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite his the employer's debit ratio as set forth in the following rate schedule for accounts with debit balances:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

	As	But	Rate Schedules				
	Much	Less	(%)				
	As	Than	A	B	C	D	E
28							
29							
30							
31		1.5	4.5	4.4	4.3	4.2	3.6
32	1.5	3.0	4.8	4.7	4.6	4.5	3.8
33	3.0	4.5	5.1	5.0	4.9	4.8	4.1
34	4.5	6.0	5.4	5.3	5.2	5.1	4.4
35	6.0		5.7	5.6	5.5	5.4	5.4

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

SECTION 16. IC 22-4-11.5-2, AS ADDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "administrative law

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1 judge" means a person ~~appointed~~ **employed** by the commissioner under
2 IC 22-4-17-4.

3 SECTION 17. IC 22-4-11.5-5, AS ADDED BY P.L.98-2005,
4 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2006]: Sec. 5. As used in this chapter, "violates or attempts to
6 violate" includes

- 7 ~~(1)~~ **(1)** the intent to evade **a higher employer contribution rate in**
- 8 **connection with a transfer of a trade or business through**
- 9 ~~(2)~~ misrepresentation or
- 10 ~~(3)~~ **(3)** willful nondisclosure **of information relevant to the**
- 11 **transfer.**

12 SECTION 18. IC 22-4-11.5-7, AS ADDED BY P.L.98-2005,
13 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2006]: Sec. 7. (a) ~~¶~~ **This section applies to a transfer of a**
15 **trade or business that meets the following requirements:**

- 16 (1) An employer transfers all or a portion of the employer's trade
- 17 or business to another employer. ~~and~~
- 18 (2) At the time of the transfer, the two (2) employers have
- 19 substantially common ownership, management, or control.

20 **(b)** The successor employer shall assume the experience ~~rating~~
21 **account balance** of the predecessor employer for the resources and
22 liabilities of the predecessor employer's experience account that are
23 attributable to the transfer.

24 ~~(b)~~ **(c)** The contribution rates of both employers shall be
25 recalculated, and **the recalculated rate** made effective on the **effective**
26 date ~~that of~~ the transfer described in subsection (a). ~~is effective~~

27 ~~(c)~~ **(d)** The ~~experience account balance and the~~ payroll of the
28 predecessor employer on the **effective** date of the transfer, and the
29 benefits chargeable to the predecessor employer's original experience
30 account after the **effective** date of the transfer, must be divided
31 between the predecessor employer and the successor employer in
32 accordance with rules adopted by the department under IC 4-22-2.

33 ~~(d)~~ **(e)** Any written determination made by the department is
34 conclusive and binding on both the predecessor employer and the
35 successor employer unless one (1) **employer files** or both employers
36 file ~~with the department~~ a written protest **with the department** setting
37 forth ~~the grounds and all~~ reasons for the protest. A protest under this
38 section must be filed not later than ~~ten (10)~~ **fifteen (15)** days after the
39 date the department ~~mails~~ **sends** the initial determination to the
40 **employing units employers**. The protest shall be heard and determined
41 under this section and IC 22-4-32-1 through IC 22-4-32-15. ~~Both~~ The
42 predecessor employer, ~~and the~~ successor employer, **and the**

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1 **department** shall be parties to the hearing before the **liability**
2 administrative law judge and are entitled to receive copies of all
3 pleadings and the decision.

4 SECTION 19. IC 22-4-11.5-8, AS ADDED BY P.L.98-2005,
5 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2006]: Sec. 8. (a) If the department determines that an
7 employing unit or other person that is not an employer under IC 22-4-7
8 at the time of the acquisition has acquired an employer's trade or
9 business solely **or primarily** for the purpose of obtaining a lower
10 employer contribution rate, the employing unit or other person:

11 (1) may not assume the experience ~~rating~~ **account balance** of the
12 predecessor employer for the resources and liabilities of the
13 predecessor employer's experience account that are attributable to
14 the acquisition; and

15 (2) shall pay the applicable contribution rate as determined under
16 this ~~chapter~~ **article**.

17 (b) In determining whether an employing unit or other person
18 acquired a trade or business solely **or primarily** for the purpose of
19 obtaining a lower employer contribution rate under subsection (a), the
20 ~~commissioner shall~~ **department may** consider the following **factors**:

21 (1) The cost of acquiring the trade or business.

22 (2) Whether the employing unit or other person continued the
23 business enterprise of the acquired trade or business.

24 (3) The length of time the employing unit or other person
25 continued the business enterprise of the acquired trade or
26 business.

27 (4) Whether a substantial number of new employees were hired
28 to perform duties unrelated to the business enterprise that the
29 trade or business conducted before the trade or business was
30 acquired.

31 ~~(c) If the commissioner makes an initial determination that a~~
32 ~~violation of this chapter has occurred, the commissioner shall promptly~~
33 ~~refer the matter to an administrative law judge for a hearing and~~
34 ~~decision under this article.~~

35 **(c) Any written determination made by the department is**
36 **conclusive and binding on the employing unit or other person,**
37 **unless the employing unit or other person files a written protest**
38 **with the department setting forth all reasons for the protest. A**
39 **protest under this section must be filed not later than fifteen (15)**
40 **days after the date the department sends the initial determination**
41 **to the employing unit or other person. The protest shall be heard**
42 **and determined under this section and IC 22-4-32-1 through**

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1 **IC 22-4-32-15. The department and the employing unit or other**
2 **person shall be parties to the hearing before the liability**
3 **administrative law judge and are entitled to receive copies of all**
4 **pleadings and the decision.**

5 SECTION 20. IC 22-4-11.5-9, AS ADDED BY P.L.98-2005,
6 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2006]: Sec. 9. (a) A person who knowingly or recklessly:

- 8 (1) violates or attempts to violate:
 - 9 (A) section 7 or 8 of this chapter; or
 - 10 (B) any other provision of this article related to determining
 - 11 the assumption or assignment of an employer's contribution
 - 12 rate; or
 - 13 (2) advises another person in a way that results in a violation of:
 - 14 (A) section 7 or 8 of this chapter; or
 - 15 (B) any other provision of this article related to determining
 - 16 the assumption or assignment of an employer's contribution
 - 17 rate;

18 ~~commits a Class C misdemeanor.~~ **is subject to a civil penalty under**
19 **this chapter.**

20 (b) **If the department determines that an employer (as defined**
21 **under IC 22-4-7) is subject to a civil penalty under subsection**
22 **(a)(1), the department shall assign an employer contribution rate**
23 **equal to one (1) of the following as a civil penalty:**

- 24 (1) **The highest employer contribution rate assignable under**
25 **this article for the year in which the violation occurred and**
26 **the following three (3) years.**
- 27 (2) **An additional employer contribution rate of two percent**
28 **(2%) of the employer's taxable wages (as defined in**
29 **IC 22-4-4-2) for the year in which the violation occurred and**
30 **the following three (3) years, if:**
 - 31 (A) **an employer is already paying the highest employer**
32 **contribution rate at the time of the violation; or**
 - 33 (B) **the increase in the contribution rate described in**
34 **subdivision (1) is less than two percent (2%).**

35 (c) **If the department determines that a person who is not an**
36 **employer (as defined in IC 22-4-7) is subject to a civil penalty**
37 **under subsection (a)(2), the department shall assess a civil penalty**
38 **of not more than five thousand dollars (\$5,000).**

39 (d) **All civil penalties collected under this section shall be**
40 **deposited in the special unemployment insurance benefit fund**
41 **established by IC 22-4-26-1.**

42 (e) **Any written determination made by the department is**

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1 conclusive and binding on the employing unit, employer, or person
 2 unless the employing unit, employer, or person files a written
 3 protest with the department setting forth all reasons for the
 4 protest. A protest under this section must be filed not later than
 5 fifteen (15) days after the date the department sends the initial
 6 determination to the employing unit, employer, or person. The
 7 protest shall be heard and determined under this section and
 8 IC 22-4-32-1 through IC 22-4-32-15. The employing unit, employer,
 9 or person, and the department shall be parties to the hearing
 10 before the liability administrative law judge and are entitled to
 11 receive copies of all pleadings and the decision.

12 SECTION 21. IC 22-4-11.5-10, AS ADDED BY P.L.98-2005,
 13 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 10. (a) In addition to any other penalty
 15 imposed, a person **who knowingly, recklessly, or intentionally**
 16 **violates this chapter** is subject to a civil penalty under this chapter:

17 (b) This subsection applies to a person who is an employer (as
 18 defined in IC 22-4-7). If an administrative law judge determines that a
 19 person is subject to a civil penalty under subsection (a); the
 20 administrative law judge shall assign an employer contribution rate
 21 equal to one (1) of the following as a civil penalty:

22 (1) The highest employer contribution rate assignable under this
 23 article for:

- 24 (A) the year in which the violation occurred; and
- 25 (B) the following three (3) years:

26 (2) An employer contribution rate of two percent (2%) of the
 27 employer's taxable wages (as defined in IC 22-4-4-2) for the year
 28 in which the violation occurred and the following three (3) years;
 29 if:

- 30 (A) an employer is already paying the highest employer
 31 contribution rate at the time of the violation; or
- 32 (B) the increase in the contribution rate described in
 33 subdivision (1) is less than two percent (2%).

34 (c) This subsection applies to a person who is not an employer (as
 35 defined in IC 22-4-7-1 or IC 22-4-7-2). If an administrative law judge
 36 determines that a person is subject to a civil penalty under subsection
 37 (a); the administrative law judge shall assess a civil penalty of not more
 38 than five thousand dollars (\$5,000):

39 (d) All civil penalties collected under this section shall be deposited
 40 in the unemployment insurance benefit fund established by
 41 IC 22-4-26-1.

42 **commits a Class C misdemeanor.**

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1 SECTION 22. IC 22-4-12-1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Benefits designated
 3 as unemployment ~~compensation~~ **insurance** benefits shall become
 4 payable from the fund to any individual who is or becomes unemployed
 5 and eligible for benefits under the terms of this article. All benefits
 6 shall be paid through ~~employment offices maintained and operated by~~
 7 ~~this state the~~ **department** or such other agencies as the ~~board~~
 8 **department** by rule may designate at such times and in such manner
 9 as the ~~board department~~ may prescribe. ~~provided; that the board~~ **The**
 10 **department** may ~~prescribe~~ **adopt** rules to provide for the payment of
 11 benefits due and payable on executed vouchers to persons since
 12 deceased; benefits so due and payable may be paid to the legal
 13 representative, dependents, or next of kin of the deceased as are found
 14 to be entitled thereto, which rules need not conform with the laws of
 15 the state governing decedent estates, and every such payment shall be
 16 deemed a valid payment to the same extent as if made to the legal
 17 representative of the deceased.

18 SECTION 23. IC 22-4-13-1 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. **(a) Whenever an**
 20 **individual receives benefits or extended benefits to which the**
 21 **individual is not entitled under:**

- 22 **(1) this article; or**
- 23 **(2) the unemployment insurance law of the United States or**
 24 **any state;**

25 **the department shall establish that an overpayment has occurred**
 26 **and establish the amount of the overpayment.**

27 **(b) An individual described in subsection (a) is liable to repay**
 28 **the established amount of the overpayment.**

29 ~~(a)~~ **(c) Any individual who knowingly:**

- 30 **(1) makes, or causes to be made by another, a false statement or**
 31 **representation of a material fact knowing it to be false; or**
 32 **knowingly**

33 **(2) fails, or causes another to fail, to disclose a material fact; and**
 34 **as a result thereof has received any amount as benefits to which the**
 35 **individual is not entitled under this article, shall be liable to repay such**
 36 **amount, with interest at the rate of one percent (1%) per month, to**
 37 **the ~~commissioner~~ department for the unemployment insurance benefit**
 38 **fund or to have such amount deducted from any benefits otherwise**
 39 **payable to the individual under this article, within the six (6) year**
 40 **period following the later of the date of the filing of the claim or**
 41 **statement that resulted in the payment of such benefits, if the existence**
 42 **of such misrepresentation or nondisclosure has become final by virtue**

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1 of an unappealed determination of a deputy, or a decision of an
 2 administrative law judge, or the review board, or by a court of
 3 competent jurisdiction: **the department establishes that an**
 4 **overpayment has occurred or the date that the determination of an**
 5 **overpayment becomes final following the exhaustion of all appeals.**

6 ~~(b)~~ **(d)** Any individual who, for any reason other than
 7 misrepresentation or nondisclosure as specified in subsection ~~(a)~~; **(c)**,
 8 has received any amount as benefits to which the individual is not
 9 entitled under this article or because of the subsequent receipt of
 10 income deductible from benefits which is allocable to the week or
 11 weeks for which such benefits were paid becomes not entitled to such
 12 benefits under this article shall be liable to repay such amount to the
 13 ~~commissioner~~ **department** for the unemployment insurance benefit
 14 fund or to have such amount deducted from any benefits otherwise
 15 payable to the individual under this article, within the three (3) year
 16 period following **the later of the date of the filing of the claim or**
 17 **statement that resulted in the payment of such benefits; if the existence**
 18 **of such reason has become final by virtue of an unappealed**
 19 **determination of a deputy or a decision of an administrative law judge;**
 20 **or the review board; or by a court of competent jurisdiction: the**
 21 **department establishes that the overpayment occurred or the date**
 22 **that the determination that an overpayment occurred becomes**
 23 **final following the exhaustion of all appeals.**

24 ~~(c)~~ **(e)** When benefits are paid to an individual who was eligible or
 25 qualified to receive such payments, but when such payments are made
 26 because of the failure of representatives or employees of the
 27 department to transmit or communicate to such individual notice of
 28 suitable work offered, through the department, to such individual by an
 29 employing unit, then and in such cases, the individual shall not be
 30 required to repay or refund amounts so received, but such payments
 31 shall be deemed to be benefits improperly paid.

32 ~~(d)~~ **(f)** Where it is finally determined by a deputy, an administrative
 33 law judge, the review board, or a court of competent jurisdiction that
 34 an individual has received benefits to which the individual is not
 35 entitled under this article, the ~~commissioner~~ **department** shall relieve
 36 the affected employer's experience account of any benefit charges
 37 directly resulting from such overpayment. However, an employer's
 38 experience account will not be relieved of the charges resulting from
 39 an overpayment of benefits which has been created by a retroactive
 40 payment by such employer directly or indirectly to the claimant for a
 41 period during which the claimant claimed and was paid benefits unless
 42 the employer reports such payment by the end of the calendar quarter

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1 following the calendar quarter in which the payment was made or
 2 unless and until the overpayment has been collected. Those employers
 3 electing to make payments in lieu of contributions shall not have their
 4 account relieved as the result of any overpayment unless and until such
 5 overpayment has been repaid to the unemployment insurance benefit
 6 fund.

7 ~~(e)~~ (g) Where any individual is liable to repay any amount to the
 8 ~~commissioner~~ **department** for the unemployment insurance benefit
 9 fund for the restitution of benefits to which the individual is not entitled
 10 under this article, the amount due may be collectible without interest,
 11 **except as otherwise provided in subsection (c)**, by civil action in the
 12 name of the state of Indiana, on relation of the department, which
 13 remedy by civil action shall be in addition to all other existing remedies
 14 and to the methods for collection provided in this ~~section~~ **article**.

15 ~~(f)~~ (h) Liability for repayment of benefits paid to an individual
 16 (other than an individual employed by an employer electing to make
 17 payments in lieu of contributions) for any week may be waived upon
 18 the request of the individual if:

19 (1) the benefits were received by the individual without fault of
 20 the individual;

21 (2) the benefits were the result of payments made:

22 (A) during the pendency of an appeal before an administrative
 23 law judge or the review board under IC 22-4-17 under which
 24 the individual is determined to be ineligible for benefits; or

25 (B) **because of an error by the employer or the**
 26 **department;** and

27 (3) repayment would cause economic hardship **to the individual**.

28 SECTION 24. IC 22-4-13-1.1 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2006]: **Sec. 1.1. (a) Notwithstanding any**
 31 **other provisions of this article, an individual forfeits any wage**
 32 **credits earned or any benefits or extended benefits that might**
 33 **otherwise be payable to the individual if the individual knowingly:**

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

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

38 **that would disqualify, reduce, or render the individual ineligible**
 39 **for benefits or extended benefits.**

40 (b) **In addition to amounts forfeited under subsection (a), an**
 41 **individual is subject to the following civil penalties for each**
 42 **instance in which the individual knowingly fails to disclose or**

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1 falsified any fact which if accurately reported to the department
 2 would disqualify, reduce, or render the individual ineligible for
 3 benefits or extended benefits:

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

6 (2) For the second instance, an amount equal to fifty percent
 7 (50%) of the benefit overpayment.

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

11 (c) The department's decision to seek repayment of benefits or
 12 a civil penalty under this section constitutes an initial
 13 determination under IC 22-4-32-4 and is subject to a hearing and
 14 review under IC 22-4-32-1 through IC 22-4-32-15.

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

18 SECTION 25. IC 22-4-14-2 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) An unemployed
 20 individual is eligible to receive benefits with respect to any week only
 21 if the individual has:

22 (1) registered for work at an employment office or branch thereof
 23 or other agency designated by the commissioner within the time
 24 limits that the ~~board~~ **department** by rule adopts; and

25 (2) subsequently reported with the frequency and in the manner,
 26 either in person or in writing, that the ~~board~~ **department** by rule
 27 adopts.

28 (b) Failure to comply with subsection (a) shall be excused by the
 29 commissioner or the commissioner's authorized representative upon a
 30 showing of good cause therefor. The ~~board~~ **department** shall by rule
 31 waive or alter the requirements of this section as to such types of cases
 32 or situations with respect to which the ~~commissioner~~ **department** finds
 33 that compliance with such requirements would be oppressive or would
 34 be inconsistent with the purposes of this article.

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

39 (d) The ~~board~~ may by rule prescribe procedures for the issuance of
 40 unemployment compensation warrants from the ~~local office~~.

41 SECTION 26. IC 22-4-14-3 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) ~~This section does~~

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1 ~~not apply to~~ An individual who is receiving benefits as determined
 2 under IC 22-4-15-1(c)(8) **may restrict the individual's availability**
 3 **because of the individual's need to address the physical,**
 4 **psychological, or legal effects of being a victim of domestic abuse.**

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

- 7 (1) is physically and mentally able to work;
 8 (2) is available for work;
 9 (3) is found by the department to be making an effort to secure
 10 full-time work; and
 11 (4) participates in reemployment services, such as job search
 12 assistance services, if the individual has been determined to be
 13 likely to exhaust regular benefits and to need reemployment
 14 services under a profiling system established by the
 15 ~~commissioner,~~ **department,** unless the ~~commissioner~~
 16 **department** determines that:

- 17 (A) the individual has completed the reemployment services;
 18 or
 19 (B) failure by the individual to participate in or complete the
 20 reemployment services is excused by the director under
 21 IC 22-4-14-2(b).

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

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

- 34 (1) that such individual is engaged by any unit, agency, or
 35 instrumentality of the United States, in charge of public works or
 36 assistance through public employment; or any unit, agency, or
 37 instrumentality of this state, or any political subdivision thereof,
 38 in charge of any public works or assistance through public
 39 employment;
 40 (2) that such individual is in full-time active military service of
 41 the United States, or is enrolled in civilian service as a
 42 conscientious objector to military service;

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1 (3) that such individual is suspended for misconduct in
 2 connection with the individual's work; or
 3 (4) that such individual is in attendance at a regularly established
 4 public or private school during the customary hours of the
 5 individual's occupation or is in any vacation period intervening
 6 between regular school terms during which the individual is a
 7 student. However, this subdivision does not apply to any
 8 individual who is attending a regularly established school, has
 9 been regularly employed and upon becoming unemployed makes
 10 an effort to secure full-time work and is available for suitable
 11 full-time work with the individual's last employer, or is available
 12 for any other full-time employment deemed suitable.

13 (d) Notwithstanding any other provisions in this section or
 14 IC 22-4-15-2, no otherwise eligible individual shall be denied benefits
 15 for any week because the individual is in training with the approval of
 16 the department, nor shall such individual be denied benefits with
 17 respect to any week in which the individual is in training with the
 18 approval of the department by reason of the application of the
 19 provisions of this section with respect to the availability for work or
 20 active search for work or by reason of the application of the provisions
 21 of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept,
 22 suitable work. The ~~board~~ **department** shall by rule prescribe the
 23 conditions under which approval of such training will be granted.

24 SECTION 27. IC 22-4-15-8 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. Notwithstanding any
 26 other provisions of this article, benefits otherwise payable for any week
 27 under this article shall not be denied or reduced on account of any
 28 payment or payments the claimant receives, has received, will receive,
 29 or accrues right to receive with respect to or based upon such week
 30 under a private unemployment benefit plan financed in whole or part
 31 by his employer or former employer. No claim for repayment of
 32 benefits and no deduction from benefits otherwise payable under this
 33 article shall be made under ~~IC 22-4-13-1(b)~~ **IC 22-4-13-1(d)** and
 34 ~~IC 22-4-13-1(c)~~ **IC 22-4-13-1(e)** because of payments which have been
 35 or will be made under such private unemployment benefit plans.

36 SECTION 28. IC 22-4-17-1 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Claims for
 38 benefits shall be made in accordance with ~~such regulations as the board~~
 39 ~~may prescribe; however,~~ **rules adopted by the department**. The ~~board~~
 40 **department** shall ~~prescribe~~ **adopt** reasonable procedures consistent
 41 with the provisions of this article for the expediting of the taking of
 42 claims of individuals for benefits in instances of mass layoffs by

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1 employers, the purpose of which shall be to minimize the amount of
2 time required for such individuals to file claims upon becoming
3 unemployed as the result of such mass layoffs.

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

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

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

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

23 SECTION 29. IC 22-4-17-2 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) When an
25 individual files an initial claim, the department shall promptly make a
26 determination of the individual's status as an insured worker in a form
27 prescribed by the ~~board~~ **department**. A written notice of the
28 determination of insured status shall be furnished to the individual
29 promptly. Each such determination shall be based on and include a
30 written statement showing the amount of wages paid to the individual
31 for insured work by each employer during the individual's base period
32 and shall include a finding as to whether such wages meet the
33 requirements for the individual to be an insured worker, and, if so, the
34 week ending date of the first week of the individual's benefit period, the
35 individual's weekly benefit amount, and the maximum amount of
36 benefits that may be paid to the individual for weeks of unemployment
37 in the individual's benefit period. For the individual who is not insured,
38 the notice shall include the reason for the determination. Unless the
39 individual, within ten (10) days after such determination was mailed to
40 the individual's last known address, or otherwise delivered to the
41 individual, asks a hearing thereon before an administrative law judge,
42 such determination shall be final and benefits shall be paid or denied

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in accordance therewith.

(b) ~~Except as provided in subsection (f);~~ The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within ten (10) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

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

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after such notification was mailed to the claimant's or the

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1 employer's last known address, or otherwise delivered to the claimant
 2 or the employer, asks a hearing before an administrative law judge
 3 thereon, such decision shall be final and benefits shall be paid or
 4 denied in accordance therewith. With respect to notice of disputed
 5 administrative determination or decision mailed or otherwise delivered
 6 to the claimant or employer either of whom is located in Alaska,
 7 Hawaii, or Puerto Rico, unless such claimant or employer, within
 8 fifteen (15) days after such notification was mailed to the claimant's or
 9 employer's last known address or otherwise delivered to the claimant
 10 or employer, asks a hearing before an administrative law judge thereon,
 11 such decision shall be final and benefits shall be paid or denied in
 12 accordance therewith. If such hearing is desired, the request therefor
 13 shall be filed with the ~~commissioner~~ **department** in writing within the
 14 prescribed periods as above set forth in this subsection and shall be in
 15 such form as the ~~board~~ **department** may prescribe. In the event a
 16 hearing is requested by an employer or the department after it has been
 17 administratively determined that benefits should be allowed to a
 18 claimant, entitled benefits shall continue to be paid to said claimant
 19 unless said administrative determination has been reversed by a due
 20 process hearing. Benefits with respect to any week not in dispute shall
 21 be paid promptly regardless of any appeal.

22 (f) A person may not participate on behalf of the department in any
 23 case in which the person is an interested party.

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

35 (h) Notice to the employer and the claimant that the determination
 36 of the department is final if a hearing is not requested shall be
 37 prominently displayed on the notice of the determination which is sent
 38 to the employer and the claimant.

39 (i) ~~If an allegation of the applicability of IC 22-4-15-1(c)(8) is made~~
 40 ~~by the individual at the time of the claim for benefits, the department~~
 41 ~~shall not notify the employer that a claim for benefits has been made.~~

42 SECTION 30. IC 22-4-17-4 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. ~~(a)~~ The
 2 **commissioner department** shall ~~appoint~~ **employ** one (1) or more
 3 administrative law judges to hear and decide disputed claims. ~~Such~~
 4 ~~administrative law judges shall be full-time salaried employees of the~~
 5 ~~department.~~ Administrative law judges ~~appointed~~ **employed** under this
 6 section are not subject to IC 4-21.5 or any other statute regulating
 7 administrative law judges, unless specifically provided.

8 ~~(b) The unemployment insurance board may authorize employment~~
 9 ~~of part time administrative law judges for limited periods.~~

10 SECTION 31. IC 22-4-17-6 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. The manner in which
 12 disputed claims shall be presented and the conduct of hearings and
 13 appeals shall be in accordance with rules adopted by the ~~board~~
 14 **department** for determining the rights of the parties, whether or not
 15 the rules conform to common law or statutory rules of evidence and
 16 other technical rules of procedure. A full and complete record shall be
 17 kept of all proceedings in connection with a disputed claim. The
 18 testimony at any hearing upon a disputed claim need not be transcribed
 19 unless the disputed claim is further appealed. Each party to a hearing
 20 before an administrative law judge held under section 3 of this chapter
 21 shall be mailed a notice of the hearing at least ten (10) days before the
 22 date of the hearing specifying the place and time of the hearing and
 23 identifying the issues to be decided. If a hearing so scheduled has not
 24 commenced within at least sixty (60) minutes of the time for which it
 25 was scheduled, then a party involved in the hearing may request a
 26 continuance of the hearing. ~~A request for a continuance shall be~~
 27 ~~submitted to the administrative law judge scheduled to conduct the~~
 28 ~~hearing if the administrative law judge is available to receive the~~
 29 ~~request; or otherwise may be submitted to the local office in which or~~
 30 ~~nearest to which the hearing is scheduled to be held.~~ Upon submission
 31 of a request for continuance of a hearing under circumstances provided
 32 in this section, the continuance shall be granted unless the party
 33 requesting the continuance was responsible for the delay in the
 34 commencement of the hearing as originally scheduled. In the latter
 35 instance, the continuance shall be discretionary with the administrative
 36 law judge. Testimony or other evidence introduced by a party at a
 37 hearing before an administrative law judge or the review board that
 38 another party to the hearing:

39 (1) is not prepared to meet; and

40 (2) by ordinary prudence could not be expected to have
 41 anticipated;

42 shall be good cause for continuance of the hearing and upon motion

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such continuance shall be granted.

SECTION 32. IC 22-4-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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 33. IC 22-4-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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 ~~either~~; **any 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 34. IC 22-4-17-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8.5. **(a) As used in this section, "interested party" has the meaning set forth in 646 IAC 3-12-1.**

(b) An administrative law judge ~~and or~~ the review board may hold a hearing under this chapter by telephone if any of the following conditions exist:

- (1) The claimant or the employer is not located in Indiana.
- (2) ~~All of the following conditions exist:~~
 - ~~(A) The claimant and the employer are located in Indiana.~~
 - ~~(B) The claimant or the employer An interested party requests without an objection being filed as provided in 646 IAC 3-12-21 that the hearing be held by telephone.~~
 - ~~(C) The administrative law judge or the review board determines that the distance between the location of the claimant and the location of the employer is so great that a~~

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1 ~~hearing held by telephone is justified under the circumstances.~~
 2 (3) ~~Ⓐ~~ **An interested** party cannot appear in person because of an
 3 illness or injury to the party.
 4 **(4) In the case of a hearing before an administrative law**
 5 **judge, the administrative law judge determines without any**
 6 **interested party filing an objection as provided in 646**
 7 **IAC 3-12-21 that a hearing by telephone is proper and just.**
 8 ~~(4)~~ **(5)** In the case of a hearing before the review board, the issue
 9 to be adjudicated does not require both parties to be present.
 10 ~~(5)~~ **(6) In the case of a hearing before the review board,** the
 11 ~~unemployment insurance~~ review board has determined that a
 12 hearing by telephone is proper and just.

13 SECTION 35. IC 22-4-17-9 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. No person shall be
 15 excused from attending and testifying or from producing books, papers,
 16 correspondence, memoranda, and other records before the board, **the**
 17 **department**, the review board, an administrative law judge or the duly
 18 authorized representative of any of them in obedience to the subpoena
 19 of any of them in any cause or proceeding before any of them on the
 20 ground that the testimony or evidence, documentary or otherwise,
 21 required of ~~him~~ **the person** may tend to incriminate ~~him~~ **the person** or
 22 subject ~~him~~ **the person** to a penalty or forfeiture, but no individual
 23 shall be prosecuted or subjected to any penalty or forfeiture for or on
 24 account of any transaction, matter, or thing concerning which ~~he~~ **the**
 25 **person** is compelled after having claimed ~~his~~ **the** privilege against
 26 self-incrimination to testify or produce evidence, documentary or
 27 otherwise, except that such individual so testifying shall not be exempt
 28 from prosecution and punishment for perjury committed in so
 29 testifying. Any testimony or evidence submitted in due course before
 30 the board, **the department, the** review board, an administrative law
 31 judge, or any duly authorized representative of any of them shall be
 32 deemed a communication presumptively privileged with respect to any
 33 civil action except actions to enforce the provisions of this article.

34 SECTION 36. IC 22-4-17-14 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) This section
 36 applies to notices given under sections 2, 3, 11, and 12 of this chapter.
 37 This section does not apply to rules adopted by the board **or the**
 38 **department**, unless specifically provided.

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

42 (c) If a notice is served through the United States mail, three (3)

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1 days must be added to a period that commences upon service of that
2 notice.

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

6 (1) The date on which the document is delivered to the appellate
7 division or review board.

8 (2) The date of the postmark on the envelope containing the
9 document if the document is mailed to the appellate division or
10 review board by the United States Postal Service.

11 (3) The date on which the document is deposited with a private
12 carrier, as shown by a receipt issued by the carrier, if the
13 document is sent to the appellate division or review board by a
14 private carrier.

15 SECTION 37. IC 22-4-18-2 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The Indiana
17 unemployment insurance board is created. The board is responsible for
18 **the oversight of** the unemployment insurance program. The board
19 shall report annually to the governor on the status of unemployment
20 insurance together with recommendations for maintaining the solvency
21 of the unemployment insurance benefit fund. The department staff shall
22 provide support to the board. The unemployment insurance board shall
23 consist of nine (9) members, who shall be appointed by the governor,
24 as follows:

25 (1) Four (4) members shall be appointed as representatives of
26 labor and its interests.

27 (2) One (1) member shall be appointed as a representative of the
28 state and its interest and of the public at large.

29 (3) Two (2) members shall be appointed as representatives of the
30 large employers of the state.

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

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

36 (b) Every Indiana unemployment insurance board member so
37 appointed shall serve until a successor shall have been appointed and
38 qualified. Before entering upon the discharge of official duties, each
39 member of the board shall take and subscribe to an oath of office,
40 which shall be filed in the office of the secretary of state. Any vacancy
41 occurring in the membership of the board for any cause shall be filled
42 by appointment by the governor for the unexpired term. The governor

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1 may, at any time, remove any member of the board for misconduct,
 2 incapacity, or neglect of duty. Each member of the board shall be
 3 entitled to receive as compensation for the member's services the sum
 4 of one hundred dollars (\$100) per month for each and every month
 5 which he devotes to the actual performance of the member's duties, as
 6 prescribed in this article, but the total amount of such compensation
 7 shall not exceed the sum of twelve hundred dollars (\$1,200) per year.
 8 In addition to the compensation hereinbefore prescribed, each member
 9 of the board shall be entitled to receive the amount of traveling and
 10 other necessary expenses actually incurred while engaged in the
 11 performance of official duties.

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

21 SECTION 38. IC 22-4-19-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. It shall be the duty
 23 of the board ~~to administer the provisions of this article and; in addition~~
 24 ~~to all other powers conferred on the board; it shall have the power and~~
 25 ~~authority to adopt; amend; or rescind such rules and regulations to~~
 26 ~~employ such persons, make such expenditures, require such reports,~~
 27 ~~make such investigations and take such other action as it may deem~~
 28 ~~necessary or suitable for the proper administration of this article. All~~
 29 ~~rules and regulations issued under the provisions of this article shall be~~
 30 ~~effective upon publication in the manner hereinafter provided and shall~~
 31 ~~have the force and effect of law. The board may prescribe the extent;~~
 32 ~~if any, to which any rule or regulation so issued or legal interpretation~~
 33 ~~of this article shall be with or without retroactive effect. to carry out~~
 34 **its duties under IC 22-4-18-2**. Whenever the board believes that a
 35 change in contribution or benefit rates will become necessary to protect
 36 the solvency of the **unemployment insurance benefit** fund, it shall
 37 promptly so inform the governor and the general assembly, and make
 38 recommendations with respect thereto.

39 SECTION 39. IC 22-4-19-6, AS AMENDED BY P.L.4-2005,
 40 SECTION 131, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Each employing unit shall
 42 keep true and accurate records containing information the department

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1 considers necessary. These records are:

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

4 by an authorized representative of the department at any reasonable
 5 time and as often as may be necessary. The ~~commissioner,~~
 6 **department**, the review board, or an administrative law judge may
 7 require from any employing unit any verified or unverified report, with
 8 respect to persons employed by it, which is considered necessary for
 9 the effective administration of this article.

10 (b) Except as provided in subsections (d) and (f), information
 11 obtained or obtained from any person in the administration of this
 12 article and the records of the department relating to the unemployment
 13 tax, the skills 2016 assessment under IC 22-4-10.5-3, or the payment
 14 of benefits is confidential and may not be published or be open to
 15 public inspection in any manner revealing the individual's or the
 16 employing unit's identity, except in obedience to an order of a court or
 17 as provided in this section.

18 (c) A claimant at a hearing before an administrative law judge or the
 19 review board shall be supplied with information from the records
 20 referred to in this section to the extent necessary for the proper
 21 presentation of the subject matter of the appearance. The ~~commissioner~~
 22 **department** may make the information necessary for a proper
 23 presentation of a subject matter before an administrative law judge or
 24 the review board available to an agency of the United States or an
 25 Indiana state agency.

26 (d) The ~~commissioner~~ **department** may release the following
 27 information:

- 28 (1) Summary statistical data may be released to the public.
 29 (2) Employer specific information known as ES 202 data and data
 30 resulting from enhancements made through the business
 31 establishment list improvement project may be released to the
 32 Indiana economic development corporation only for the following
 33 purposes:
 34 (A) The purpose of conducting a survey.
 35 (B) The purpose of aiding the officers or employees of the
 36 Indiana economic development corporation in providing
 37 economic development assistance through program
 38 development, research, or other methods.
 39 (C) Other purposes consistent with the goals of the Indiana
 40 economic development corporation and not inconsistent with
 41 those of the department.
 42 (3) Employer specific information known as ES 202 data and data

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1 resulting from enhancements made through the business
 2 establishment list improvement project may be released to the
 3 budget agency only for aiding the employees of the budget agency
 4 in forecasting tax revenues.

5 (4) Information obtained from any person in the administration of
 6 this article and the records of the department relating to the
 7 unemployment tax or the payment of benefits for use by the
 8 following governmental entities:

9 (A) department of state revenue; or
 10 (B) state or local law enforcement agencies;
 11 only if there is an agreement that the information will be kept
 12 confidential and used for legitimate governmental purposes.

13 (e) The ~~commissioner~~ **department** may make information available
 14 under subsection (d)(1), (d)(2), or (d)(3) only:

15 (1) if:

16 (A) data provided in summary form cannot be used to identify
 17 information relating to a specific employer or specific
 18 employee; or
 19 (B) there is an agreement that the employer specific
 20 information released to the Indiana economic development
 21 corporation or the budget agency will be treated as
 22 confidential and will be released only in summary form that
 23 cannot be used to identify information relating to a specific
 24 employer or a specific employee; and

25 (2) after the cost of making the information available to the
 26 person requesting the information is paid under IC 5-14-3.

27 (f) In addition to the confidentiality provisions of subsection (b), any
 28 information furnished by the claimant or an agent to the department to
 29 verify a claim of domestic or family violence is confidential. ~~This~~
 30 ~~information shall not be disclosed to the employer or any other person.~~
 31 Disclosure is subject to the following **additional** restrictions:

32 (1) The claimant must be notified before any release of
 33 information.

34 (2) Any disclosure is subject to redaction of unnecessary
 35 identifying information, including the claimant's address.

36 (g) An employee:

37 (1) of the department who recklessly violates subsection (a), (c),
 38 (d), (e), or (f); or
 39 (2) of any governmental entity listed in subsection (d)(4) ~~of this~~
 40 ~~chapter~~ who recklessly violates subsection (d)(4); ~~of this chapter~~;
 41 commits a Class B misdemeanor.

42 (h) An employee of the Indiana economic development corporation

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1 or the budget agency who violates subsection (d) or (e) commits a
 2 Class B misdemeanor.

3 SECTION 40. IC 22-4-19-7 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. In any case where an
 5 employing unit, or any officer, member, or agent thereof or any other
 6 person having possession of the records thereof, shall fail or refuse
 7 upon demand by the board, **the department**, the review board, or an
 8 administrative law judge, or the duly authorized representative of any
 9 of them, to produce or permit the examination or copying of any book,
 10 paper, account, record, or other data pertaining to payrolls or
 11 employment or ownership of interests or stock in any employing unit,
 12 or bearing upon the correctness of any contribution report or the skills
 13 2016 training assessment under IC 22-4-10.5-3, or for the purpose of
 14 making a report as required by this article where none has been made,
 15 then and in that event the board, **the department**, the review board, or
 16 the administrative law judge, or the duly authorized representative of
 17 any of them, may by issuance of a subpoena require the attendance of
 18 such employing unit, or any officer, member, or agent thereof or any
 19 other person having possession of the records thereof, and take
 20 testimony with respect to any such matter and may require any such
 21 person to produce any books or records specified in such subpoena.

22 SECTION 41. IC 22-4-19-8 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The board, **the**
 24 **department**, the review board, or the administrative law judge, or the
 25 duly authorized representative of any of them, at any such hearing shall
 26 have power to administer oaths to any such person or persons. When
 27 any person called as a witness by such subpoena, duly signed, and
 28 served upon ~~him~~ **the witness** by any duly authorized person or by the
 29 sheriff of the county of which such person is a resident, or wherein is
 30 located the principal office of such employing unit or wherein such
 31 records are located or kept, shall fail to obey such subpoena to appear
 32 before the board, **the department**, the review board, or the
 33 administrative law judge, or the authorized representative of any of
 34 them, or shall refuse to testify or to answer any questions, or to produce
 35 any book, record, paper, or other data when notified and demanded so
 36 to do, such failure or refusal shall be reported to the attorney general
 37 for the state of Indiana who shall thereupon institute proceedings by the
 38 filing of a petition in the name of the state of Indiana on the relation of
 39 the board, in the circuit court or superior or other court of competent
 40 jurisdiction of the county where such witness resides, or wherein such
 41 records are located or kept, to compel obedience of and by such
 42 witness.

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

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29 SECTION 42. IC 22-4-22-5 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. In order that the
 31 administration of this article and the unemployment ~~compensation~~
 32 **insurance** laws of other states or jurisdictions or of the United States
 33 of America will be promoted by cooperation between this state and
 34 such other states or jurisdictions or the appropriate agencies of the
 35 United States in exchanging services and making available facilities
 36 and information, the board **is and the department are** authorized to
 37 make such investigations, secure and transmit such information, make
 38 available such services and facilities, and exercise such of the other
 39 powers provided in this article with respect to the administration of this
 40 article as ~~it deems~~ **deemed** necessary or appropriate to facilitate the
 41 administration of any unemployment ~~compensation~~ **insurance** law and
 42 in like manner to accept and utilize information, services, and facilities



1 made available to this state by the agency or jurisdiction charged with
2 the administration of any such other unemployment ~~compensation~~
3 **insurance** law.

4 SECTION 43. IC 22-4-22-6 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) On request of an
6 agency which administers an employment security law of another state
7 or of a foreign government, and which has found in accordance with
8 the provisions of such law that a claimant is liable to repay benefits
9 received under such law by reason of having knowingly made a false
10 statement or misrepresentation of a material fact, or who has knowingly
11 failed to disclose a material fact, with respect to a claim taken in this
12 state as an agent for such agency, the **board department** may collect
13 from such claimant for the liable state the amount of such benefits to
14 be refunded to such agency.

15 (b) In any case in which under this subsection a claimant is liable to
16 repay any amount to the agency of another state, or of a foreign
17 government, such amounts may be collected without interest by civil
18 action in the name of the **board department** acting as agent for such
19 agency.

20 SECTION 44. IC 22-4-23-1 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The department
22 shall establish and maintain free public employment and training
23 offices in such number and in such places as may be necessary for the
24 proper administration of this article and for the purpose of performing
25 such duties as are within the purview of 29 U.S.C. 49 et seq. and 38
26 U.S.C. 2000 through 2014 and any amendments thereto. The provisions
27 of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014 are hereby
28 declared accepted by the state in conformity with the terms of 29
29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014, and the state
30 commits itself to the observation of and compliance with the
31 requirements of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014,
32 and the department is constituted the agency of the state for all
33 purposes of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014. All
34 duties and powers conferred upon any other department, agency, or
35 officer of the state relating to the establishment, maintenance, and
36 operation of free public employment offices shall be vested in the
37 ~~board.~~ **department.** The **board department** being charged with the
38 duty to cooperate with any official or agency of the United States
39 having powers or duties under the provisions of 29 U.S.C. 49 et seq.
40 and 38 U.S.C. 2000 through 2014, shall be and is authorized and
41 empowered to do and perform all things necessary to secure to this
42 state the benefits of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through

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1 2014. The department may cooperate with or enter into agreements
 2 with the railroad retirement board with respect to the establishment,
 3 maintenance, and use of free employment service facilities.

4 (b) The department may do all acts and things necessary or proper
 5 to carry out the powers expressly granted under this article.

6 SECTION 45. IC 22-4-26-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The fund shall be
 8 administered exclusively for the purpose of this article, and money
 9 withdrawn therefrom, except for deposit in the unemployment
 10 insurance benefit fund and for refund, as provided in this article, and
 11 except for amounts credited to the account of this state pursuant to 42
 12 U.S.C. 1103, as amended, which shall be used exclusively as provided
 13 in section 5 of this chapter, shall be used solely for the payment of
 14 benefits. Payment of benefits and refunds shall be made in accordance
 15 with the rules prescribed by the ~~board~~ **department** consistent with the
 16 provisions of this article. Withdrawals from the fund except as
 17 provided in section 5 of this chapter shall not be subject to any
 18 provisions of law requiring specific appropriations or other formal
 19 release by state officers of money in their custody.

20 SECTION 46. IC 22-4-29-4 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. If the employing unit
 22 protests such assessment, upon written request it shall have an
 23 opportunity to be heard, and such hearing shall be conducted by a
 24 liability administrative law judge pursuant to the provisions of
 25 IC 22-4-32-1 through IC 22-4-32-15. After the hearing the liability
 26 administrative law judge shall immediately notify the employing unit
 27 in writing of the finding, and the assessment, if any, so made shall be
 28 final, in the absence of judicial review proceedings as provided in this
 29 article, ~~fifteen (15)~~ **thirty (30)** days after such notice ~~of appeal~~ **is**
 30 issued.

31 SECTION 47. IC 22-4-29-5 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The finality of such
 33 decision of the liability administrative law judge may be stayed for a
 34 period of thirty (30) days from the date of service of notice on the ~~board~~
 35 ~~of intention to seek a judicial review~~ **department of the appeal** of said
 36 decision as provided in this article. ~~provided~~ Such notice is **must be**
 37 served within ~~fifteen (15)~~ **thirty (30)** days after notice of the decision
 38 of the liability administrative law judge is issued. If judicial review
 39 proceedings are not instituted within the time provided for in this
 40 article, the finality of said decision shall not be further stayed.

41 SECTION 48. IC 22-4-30-1 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Any employer

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1 against whom contributions shall be assessed as provided in this article
 2 shall be restrained and enjoined upon the order of the ~~board~~
 3 **department** by proper proceedings instituted in the name of the state
 4 of Indiana, brought by the attorney general for the state of Indiana
 5 ~~and/or or~~ any prosecuting attorney at the request of the ~~board~~
 6 **department**, from engaging ~~and/or or~~ continuing in business in this
 7 state until the contributions, interest, penalties, and damages shall have
 8 been paid and until such employer shall have complied with the
 9 provisions of this article; and such attorneys shall prosecute violations
 10 of criminal provisions of this article upon request of the ~~board~~
 11 **department**.

12 SECTION 49. IC 22-4-31-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) If any
 14 contributions, interest, penalties, or damages assessed under this
 15 article, or any portion thereof, be not paid within one hundred twenty
 16 (120) days after the same is found to be due, a receiver may be
 17 appointed by the circuit or superior court of the county in which such
 18 employer resides or in which he is doing business or in which its
 19 resident agent is located in a proceeding requesting such appointment
 20 instituted against the said employer in the name of the state of Indiana,
 21 brought by the attorney general for the state of Indiana at the request of
 22 the ~~board~~ **department**.

23 (b) The court shall appoint a receiver when it finds that the
 24 employer has not paid the contributions or amounts due imposed by
 25 this article within one hundred twenty (120) days after the same is
 26 found to be due, and that contributions, interest, penalties, or damages,
 27 or any portion thereof, is unpaid and delinquent. Such cause for the
 28 appointment of a receiver shall be in addition to all other causes or
 29 grounds provided by law for the appointment of receivers and shall be
 30 in addition to all other methods for the enforcement of this article.

31 (c) Each such receiver shall give bond and be sworn as provided for
 32 by law and shall have power under the control of the court to bring and
 33 defend actions, to take and keep possession of the property of the
 34 employer, to receive all funds and collect any debts due to the
 35 employer, in the receiver's name, and generally to do such acts
 36 respecting the property as the court shall authorize, and shall have all
 37 the powers granted to, or shall be subject to all the duties of, receivers
 38 under the laws of this state.

39 SECTION 50. IC 22-4-31-6 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) If, after due
 41 notice, any employing unit defaults in the payment of any contributions
 42 or other money payments required by this article, the amount due may

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1 be collected by civil action in the name of the state of Indiana on the
 2 relation of the ~~commissioner~~ **department**. Such civil action is not to
 3 be considered as the exclusive method for collection of the
 4 contributions or money payments but is in addition to the method
 5 provided in IC 22-4-29-2 through IC 22-4-29-12 and is to be brought
 6 only in such cases as the ~~board~~ **department** may deem advisable in the
 7 interest of necessity and convenience.

8 (b) Unless the employing unit prevails in a civil action brought
 9 under this chapter, the court may award costs, including reasonable
 10 attorney's fees, incurred by the state in bringing the action.

11 SECTION 51. IC 22-4-31-7 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. It is expressly
 13 provided that the foregoing remedies shall be cumulative and shall be
 14 in addition to all other existing remedies, and that no action taken by
 15 the ~~board~~ **department** or its duly authorized representative, the
 16 attorney-general for the state of Indiana, or any other officer shall be
 17 construed to be an election on the part of the state or any of its officers
 18 to pursue any remedy to the exclusion of any other remedy.

19 SECTION 52. IC 22-4-32-1 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A **liability**
 21 **administrative law judge shall hear** all matters pertaining to:

- 22 (1) the assessment of contributions, penalties, and interest;
 23 (2) which accounts, if any, benefits paid, or finally ordered to be
 24 paid, should be charged;
 25 (3) successorships, and related matters arising therefrom,
 26 including but not limited to:
 27 (A) the transfer of accounts; ~~and~~
 28 (B) the determination of rates of contribution; and
 29 (C) **determinations under IC 22-4-11.5; and**
 30 (4) claims for refunds of contributions, skills 2016 training
 31 assessments, or adjustments thereon in connection with
 32 subsequent contribution payments and skills 2016 training
 33 assessments;

34 shall be heard by a liability administrative law judge upon proper
 35 application for such hearing: **for which an employing unit has timely**
 36 **filed a protest under section 4 of this chapter.**

37 SECTION 53. IC 22-4-32-3 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The proceedings
 39 before a liability administrative law judge shall be conducted in
 40 accordance with such rules of practice and procedure as the ~~board~~
 41 **department** may ~~prescribe~~ **adopt** under its rulemaking authority as
 42 contained in ~~IC 22-4-19-2~~ **under IC 22-4-18-1**. Any person

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1 representing any interested party in the prosecution or defense of any
 2 proceedings before a liability administrative law judge must be
 3 admitted to practice law in the courts of the state of Indiana, except that
 4 persons admitted to practice before the courts of other states may on
 5 special order be permitted to appear in any proceeding before the
 6 liability administrative law judge. ~~provided; however; that nothing in~~
 7 This section shall ~~so~~ **not** be construed as to prohibit an interested party
 8 from electing to be heard in his own cause without counsel.

9 SECTION 54. IC 22-4-32-4 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. An employing unit
 11 shall have fifteen (15) **calendar days, beginning on the date an initial**
 12 **determination is mailed to the employing unit**, within which to
 13 protest in writing ~~an initial determinations~~ **determination** of the
 14 ~~commissioner~~ **department** with respect to:

- 15 (1) the assessments of contributions, penalties, and interest;
- 16 (2) the transfer of charges from an employer's account;
- 17 (3) merit rate calculations;
- 18 (4) successorships;
- 19 (5) the denial of claims for refunds and adjustments; and
- 20 (6) ~~a protest arising from an initial determination of the director~~
 21 ~~relating to any matter listed in subdivisions (1) through (5):~~
 22 **(6) a determination under IC 22-4-11.5.**

23 The ~~fifteen (15) day~~ period shall commence with the day following the
 24 day upon which the initial determination or denial of claim for refund
 25 or adjustment is mailed to the employing unit.

26 SECTION 55. IC 22-4-32-7 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. After the hearing the
 28 liability administrative law judge shall as soon as practicable notify the
 29 interested parties in writing of the finding and decision of the liability
 30 administrative law judge, which shall become final ~~fifteen (15)~~ **thirty**
 31 **(30)** days thereafter in the absence of ~~judicial review proceedings~~ **the**
 32 **filing of a notice of appeal** as provided in this chapter.

33 SECTION 56. IC 22-4-32-8 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. A notice of ~~intention~~
 35 ~~to institute judicial review proceedings~~ **appeal** shall be a ~~prerequisite~~
 36 ~~to such action; shall be~~ served on the adverse party at any time before
 37 ~~said the~~ decision of the liability administrative law judge becomes
 38 final, and shall stay the finality of ~~said the~~ decision for a ~~period of~~
 39 thirty (30) days from the service of such notice. ~~and~~ If such appeal is
 40 perfected, further proceedings shall be stayed pending the final
 41 determination of said appeal. ~~provided; further; that~~ If an appeal from
 42 ~~such the~~ decision of the liability administrative law judge is not

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1 perfected within the time provided for by this article, no action or
2 proceeding shall be further stayed.

3 SECTION 57. IC 22-4-32-11 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. The ~~board;~~
5 **department**, by rule, may require the appellant to deposit with the
6 department an amount sufficient to pay the actual costs of preparing the
7 transcript of the record of the proceedings before the liability
8 administrative law judge before preparing the same.

9 SECTION 58. IC 22-4-32-19, AS AMENDED BY P.L.202-2005,
10 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2006]: Sec. 19. **(a) The department may grant an
12 application for adjustment of refund, make an adjustment or
13 refund, or set off a refund as follows:**

14 **(1)** ~~(a) At any time within~~ **Not later than** four (4) years after the
15 date upon which any contributions, skills 2016 training
16 assessments under IC 22-4-10.5-3, or interest thereon were paid,
17 an employing unit which has paid such contributions, skills 2016
18 training assessments, or interest thereon may make application for
19 **an adjustment or** a refund of such contributions, skills 2016
20 training assessments, or an adjustment thereon in connection with
21 subsequent contribution payments or skills 2016 training
22 assessments. The ~~commissioner~~ **department** shall thereupon
23 determine whether or not such contribution or skills 2016 training
24 assessment, or interest or any portion thereof was erroneously
25 paid or wrongfully assessed. ~~and notify the employing unit in~~
26 ~~writing of its decision.~~

27 ~~(b) Such decision shall constitute the initial determination referred~~
28 ~~to in section 4 of this chapter and shall be subject to hearing and review~~
29 ~~as provided in sections 1 through 15 of this chapter.~~

30 ~~(c)~~ **(2)** The ~~commissioner~~ **department** may grant such application
31 in whole or in part and may ~~allow the employing unit to make an~~
32 ~~adjustment, thereof~~ without interest, in connection with
33 subsequent contribution payments or skills 2016 training
34 assessments, ~~if such adjustment cannot be made; the~~
35 ~~commissioner may or~~ refund such amounts, without interest, from
36 the fund. ~~For like cause and within the same period,~~ Adjustments
37 or refund may be made on the commissioner's own initiative.

38 **(3)** Any adjustments or refunds of interest or penalties collected
39 for contributions due under IC 22-4-10-1 shall be charged to and
40 paid from the special employment and training services fund
41 created by IC 22-4-25. Any adjustments or refunds of interest or
42 penalties collected for skills 2016 training assessments due under

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1 IC 22-4-10.5-3 shall be charged to and paid from the skills 2016
2 training fund established by IC 5-28-27-3.

3 **(4) The department may set off any refund available to an**
4 **employer under this section against any delinquent**
5 **contributions, payments in lieu of contributions, skills 2016**
6 **training assessments, and the interest and penalties, if any,**
7 **related to the delinquent payments and assessments.**

8 **(b) Any decision by the department to:**

- 9 **(1) grant an application for adjustment or refund;**
- 10 **(2) make an adjustment or refund on its own initiative; or**
- 11 **(3) set off a refund;**

12 **constitutes the initial determination referred to in section 4 of this**
13 **chapter and is subject to hearing and review as provided in**
14 **sections 1 through 15 of this chapter.**

15 ~~(d)~~ **(c)** If any assessment has become final by virtue of a decision of
16 a liability administrative law judge with the result that no proceeding
17 for judicial review as provided in this article was instituted, no refund
18 or adjustment with respect to such assessment shall be made.

19 SECTION 59. IC 22-4-32-24 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. (a) This section
21 applies to notices given under sections 4, 7, 8, and 9 of this chapter.

22 (b) As used in this section, "notices" includes mailings pertaining to:

- 23 (1) the assessment of contributions, skills 2016 training
- 24 assessments under IC 22-4-10.5-3, penalties, and interest;
- 25 (2) the transfer of charges from an employer's account;
- 26 (3) successorships and related matters arising from
- 27 successorships;
- 28 (4) claims for refunds and adjustments;
- 29 **(5) violations under IC 22-4-11.5;**
- 30 ~~(5)~~ **(6)** decisions; and
- 31 ~~(6)~~ **(7)** notices of intention to appeal or seek judicial review.

32 (c) If a notice under this chapter is served through the United States
33 Postal Service, three (3) days must be added to a period that
34 commences upon service of that notice.

35 (d) The filing of a document with the ~~appellate~~ **unemployment**
36 **insurance appeals** division or review board is complete on the earliest
37 of the following dates that apply to the filing:

- 38 (1) The date on which the document is delivered to the ~~appellate~~
39 **unemployment insurance appeals** division or review board.
- 40 (2) The date of the postmark on the envelope containing the
41 document if the document is mailed to the ~~appellate~~
42 **unemployment insurance appeals** division or review board by

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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~~ **unemployment insurance appeals** division or review board by a private carrier.

SECTION 60. IC 22-4-34-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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 61. IC 22-4-35-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. All criminal actions for violations of this article shall be prosecuted by the prosecuting attorney of any county, or with the assistance of the attorney general **or a United States attorney**, if requested by the commissioner, in which the employer has a place of business or the alleged violator resides.

SECTION 60. IC 22-4-37-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. It is declared to be the purpose of this article to secure to the state of Indiana and to employers and employees therein all the rights and benefits which are conferred under the provisions of 42 U.S.C. 501 through 504, 42 U.S.C. 1101 through 1109, 26 U.S.C. 3301 through 3311, and 29 U.S.C. 49 et seq., and the amendments thereto. Whenever the ~~board~~ **department** shall find it necessary, it shall have power to formulate rules after public hearing and opportunity to be heard whereof due notice is given as is provided in this article for the adoption of rules pursuant to ~~IC 22-4-19-2~~, **IC 4-22-2**, and with the approval of the governor of Indiana, to adopt such rules as shall effectuate the declared purposes of this article.

SECTION 61. IC 22-4-37-3, AS AMENDED BY P.L.214-2005, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) Should:

(1) the Congress of the United States amend, repeal, or authorize the implementation of a demonstration project under 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of said statutes, or should any or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of

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1 funds by the said Congress and grants thereof to the state for the
 2 payment of costs of administration of the department of ~~workforce~~
 3 ~~development~~ are or no longer shall be available for such purposes;
 4 ~~or should~~
 5 (2) the primary responsibility for the administration of 26 U.S.C.
 6 3301 through 26 U.S.C. 3311 be transferred to the state as a
 7 demonstration project authorized by Congress; or ~~should~~
 8 (3) employers in Indiana subject to the payment of tax under 26
 9 U.S.C. 3301 through 3311 be granted full credit upon such tax for
 10 contributions or taxes paid to the department; ~~of workforce~~
 11 ~~development~~

12 then, beginning with the effective date of such change in liability for
 13 payment of such federal tax and for each year thereafter, the normal
 14 contribution rate under this article shall be established by the
 15 department of ~~workforce development~~ and may not exceed three and
 16 one-half percent (3.5%) per year of each employer's payroll subject to
 17 contribution. With respect to each employer having a rate of
 18 contribution for such year pursuant to terms of IC 22-4-11-2(b)(2)(A),
 19 IC 22-4-11-2(b)(2)(B), **IC 22-4-11-2(c)**, IC 22-4-11-3, ~~and~~
 20 IC 22-4-11-3.3, **and IC 22-4-11.5**, to the rate of contribution, as
 21 determined for such year in which such change occurs, shall be added
 22 not more than eight-tenths percent (0.8%) as prescribed by the
 23 department. ~~of workforce development~~.

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

39 SECTION 62. **An emergency is declared for this act.**
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