

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 23 be amended to read as follows:

- 1           Page 21, between lines 13 and 14, begin a new paragraph and insert:
- 2           "SECTION 9. IC 22-4-2-32, AS AMENDED BY P.L.175-2009,
- 3           SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4           UPON PASSAGE]: Sec. 32. "Payment in lieu of contributions" means
- 5           the required reimbursements by employers of benefits paid attributable
- 6           to services performed for such employers which are liable to make
- 7           these payments as provided in IC 22-4-10-1. These payments shall
- 8           equal the full amount of regular benefits and **fifty percent (50%) of**
- 9           the ~~part of~~ **extended** benefits ~~not reimbursed by the federal government~~
- 10           ~~under the Federal-State Extended Unemployment Compensation Act~~
- 11           ~~of 1970~~ paid that are attributable to services in the employ of such
- 12           liable employers.
- 13           SECTION 10. IC 22-4-2-34, AS AMENDED BY P.L.175-2009,
- 14           SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15           UPON PASSAGE]: Sec. 34. (a) With respect to benefits for weeks of
- 16           unemployment beginning after August 13, 1981, "extended benefit
- 17           period" means a period which begins with the third week after a week
- 18           for which there is a state "on" indicator and ends with the later of the
- 19           following:
- 20           (1) The third week after the first week for which there is a state
- 21           "off" indicator.
- 22           (2) The thirteenth consecutive week of such period.
- 23           (b) However, no extended benefit period may begin by reason of a

1 state "on" indicator before the fourteenth week following the end of a  
 2 prior extended benefit period which was in effect with respect to this  
 3 state.

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

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

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

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

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

33 There is a state "off" indicator for a week if either of the requirements  
 34 in subdivisions (1) and (2) are not satisfied. However, any week for  
 35 which there would otherwise be a state "on" indicator under this section  
 36 continues to be subject to the "on" indicator and shall not be considered  
 37 a week for which there is a state "off" indicator. This subsection expires  
 38 on the later of December 5, 2009, or the week ending four (4) weeks  
 39 before the last week for which federal sharing is authorized by Section  
 40 2005(a) of Division B, Title H (the federal Assistance to Unemployed  
 41 Workers and Struggling Families Act) of the federal American  
 42 Recovery and Reinvestment Act of 2009 (P.L. 111-5).

43 (e) (d) There is a state "off" indicator for this state for a week if the  
 44 commissioner determines, in accordance with the regulations of the  
 45 United States Secretary of Labor, that for the period consisting of such  
 46 week and the immediately preceding twelve (12) weeks, the

1 requirements of subsection (c) have not been met.

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

5 (1) the average weekly number of individuals filing claims for  
6 regular compensation in this state for weeks of unemployment  
7 with respect to the most recent 13 consecutive week period (as  
8 determined by the board on the basis of this state's reports to the  
9 United States Secretary of Labor); by

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

13 ~~(g)~~ (f) "Regular benefits" means benefits payable to an individual  
14 under this article or under the law of any other state (including benefits  
15 payable to federal civilian employees and to ex-servicemen pursuant to  
16 5 U.S.C. 8501 through 8525) other than extended benefits. "Additional  
17 benefits" means benefits other than extended benefits and which are  
18 totally financed by a state payable to exhaustees by reason of  
19 conditions of high unemployment or by reason of other special factors  
20 under the provisions of any state law. If extended compensation is  
21 payable to an individual by this state and additional compensation is  
22 payable to the individual for the same week by any state, the individual  
23 may elect which of the two (2) types of compensation to claim.

24 ~~(h)~~ (g) "Extended benefits" means benefits (including benefits  
25 payable to federal civilian employees and to ex-servicemen pursuant to  
26 5 U.S.C. 8501 through 8525) payable to an individual under the  
27 provisions of this article for weeks of unemployment in the individual's  
28 "eligibility period". Pursuant to Section 3304 of the Internal Revenue  
29 Code extended benefits are not payable to interstate claimants filing  
30 claims in an agent state which is not in an extended benefit period,  
31 against the liable state of Indiana when the state of Indiana is in an  
32 extended benefit period. This prohibition does not apply to the first two  
33 (2) weeks claimed that would, but for this prohibition, otherwise be  
34 payable. However, only one such two (2) week period will be granted  
35 on an extended claim. Notwithstanding any other provisions of this  
36 chapter, with respect to benefits for weeks of unemployment beginning  
37 after October 31, 1981, if the benefit year of any individual ends within  
38 an extended benefit period, the remaining balance of extended benefits  
39 that the individual would, but for this clause, be entitled to receive in  
40 that extended benefit period, with respect to weeks of unemployment  
41 beginning after the end of the benefit year, shall be reduced (but not  
42 below zero) by the product of the number of weeks for which the  
43 individual received any amounts as trade readjustment allowances  
44 within that benefit year, multiplied by the individual's weekly benefit  
45 amount for extended benefits.

46 ~~(i)~~ (h) "Eligibility period" of an individual means the period

1 consisting of the weeks in the individual's benefit period which begin  
 2 in an extended benefit period and, if the individual's benefit period  
 3 ends within such extended benefit period, any weeks thereafter which  
 4 begin in such extended benefit period. ~~For any weeks of unemployment~~  
 5 ~~beginning after February 17, 2009, and before January 1, 2010, an~~  
 6 ~~individual's eligibility period (as described in Section 203(c) of the~~  
 7 ~~Federal-State Unemployment Compensation Act of 1970) is, for~~  
 8 ~~purposes of any determination of eligibility for extended compensation~~  
 9 ~~under state law, considered to include any week that begins:~~

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

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

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

16 (1) has received, prior to such week, all of the regular benefits  
 17 including dependent's allowances that were available to the  
 18 individual under this article or under the law of any other state  
 19 (including benefits payable to federal civilian employees and  
 20 ex-servicemen under 5 U.S.C. 8501 through 8525) in the  
 21 individual's current benefit period that includes such week.  
 22 However, for the purposes of this subsection, an individual shall  
 23 be deemed to have received all of the regular benefits that were  
 24 available to the individual although as a result of a pending appeal  
 25 with respect to wages that were not considered in the original  
 26 monetary determination in the individual's benefit period or  
 27 although a nonmonetary decision denying benefits is pending, the  
 28 individual may subsequently be determined to be entitled to  
 29 added regular benefits;

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

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

38 and has no right to unemployment benefits or allowances, as the case  
 39 may be, under the Railroad Unemployment Insurance Act, the Trade  
 40 Act of 1974, the Automotive Products Trade Act of 1965 and such  
 41 other federal laws as are specified in regulations issued by the United  
 42 States Secretary of Labor, and has not received and is not seeking  
 43 unemployment benefits under the unemployment compensation law of  
 44 Canada; but if the individual is seeking such benefits and the  
 45 appropriate agency finally determines that the individual is not entitled  
 46 to benefits under such law, the individual is considered an exhaustee.

1           ~~(k)~~ (j) "State law" means the unemployment insurance law of any  
 2 state, approved by the United States Secretary of Labor under Section  
 3 3304 of the Internal Revenue Code."

4           Page 21, line 33, strike "the following:".

5           Page 21, line 34, strike "(1)".

6           Page 21, line 35, strike "(A)".

7           Page 21, line 38, strike "and before".

8           Page 21, line 39, strike, "January 1, 2010,".

9           Page 21, line 39, delete "2011;".

10          Page 21, line 39, strike "or".

11          Page 21, strike, lines 40 through 42.

12          Page 22, line 1, strike "that begins after December 31, 2009;".

13          Page 22, line 1, delete "2010;".

14          Page 27, between lines 14 and 15, begin a new paragraph and insert:

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

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

36          SECTION 14. IC 22-4-6-3, AS AMENDED BY P.L.175-2009,  
 37 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 UPON PASSAGE]: Sec. 3. (a) If two (2) or more related ~~entities~~;  
 39 ~~including partnerships; limited liability partnerships; associations;~~  
 40 ~~trusts; joint ventures; estates; joint stock companies; limited liability~~  
 41 ~~companies; insurance companies; or corporations, or a combination of~~  
 42 these entities, concurrently employ the same individual and  
 43 compensate that individual through a common paymaster that is one (1)  
 44 of the ~~entities; corporations~~, those ~~entities corporations~~ shall be  
 45 considered to be one (1) employing unit.

46          (b) For purposes of this section, ~~entities corporations~~ shall be

1 considered related ~~entities~~ **corporations** if they satisfy any one (1) of  
 2 the following tests at any time during the calendar quarter:

3 (1) The corporations are members of a "controlled group of  
 4 corporations", as defined in Section 1563 of the Internal Revenue  
 5 Code (generally parent-subsidiary or brother-sister controlled  
 6 groups), or would be members if Section 1563(a)(4) and 1563(b)  
 7 of the Internal Revenue Code did not apply and if the phrase  
 8 "more than fifty percent (50%)" were substituted for the phrase  
 9 "at least eighty percent (80%)" wherever it appears in Section  
 10 1563(a) of the Internal Revenue Code.

11 (2) In the case of ~~an entity a~~ **corporation** that does not issue  
 12 stock, either fifty percent (50%) or more of the members of one  
 13 (1) ~~entity's corporation's~~ board of directors (or other governing  
 14 body) are members of the other ~~entity's corporation's~~ board of  
 15 directors (or other governing body), or the holders of fifty percent  
 16 (50%) or more of the voting power to select these members are  
 17 concurrently the holders of fifty percent (50%) or more of that  
 18 power with respect to the other ~~entity~~ **corporation**.

19 (3) Fifty percent (50%) or more of one (1) ~~entity's corporation's~~  
 20 officers are concurrently officers of the other ~~entity~~ **corporation**.

21 (4) Thirty percent (30%) or more of one (1) ~~entity's corporation's~~  
 22 employees are concurrently employees of the other ~~entity~~ **corporation**.

23 (5) The ~~entities~~ are part of an affiliated group, as defined in  
 24 Section 1504 of the Internal Revenue Code, except that the  
 25 ownership percentage in Section 1504(a)(2) of the Internal  
 26 Revenue Code shall be determined using fifty percent (50%)  
 27 instead of eighty percent (80%).

28 **Entities Corporation's** shall be considered related ~~entities~~  
 29 **corporations** for an entire calendar quarter if they satisfy the  
 30 requirements of this subsection at any time during the calendar quarter.

31 (c) For purposes of this section, "concurrent employment" means the  
 32 contemporaneous existence of an employment relationship between an  
 33 individual and two (2) or more ~~entities~~ **corporations**.

34 SECTION 15. IC 22-4-8-2, AS AMENDED BY P.L.175-2009,  
 35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 UPON PASSAGE]: Sec. 2. The term "employment" shall include:

37 (a) An individual's entire service performed within or both within  
 38 and without Indiana if the service is localized in Indiana.

39 (b) An individual's entire service performed within or both within  
 40 and without Indiana if the service is not localized in any state, but some  
 41 of the service is performed in Indiana and:

42 (1) the base of operations, or, if there is no base of operations,  
 43 then the place from which such service is directed or controlled  
 44 is in Indiana;

45 (2) the base of operations or place from which such service is  
 46

- 1 directed or controlled is not in any state in which some part of the  
2 service is performed but the individual's residence is in Indiana;  
3 or  
4 (3) such service is not covered under the unemployment  
5 compensation law of any other state or Canada, and the place  
6 from which the service is directed or controlled is in Indiana.
- 7 (c) Services not covered under subsections (a) and (b) and  
8 performed entirely without Indiana, with respect to no part of which  
9 contributions are required and paid under an unemployment  
10 compensation law of any other state or of the United States, shall be  
11 deemed to be employment subject to this article if the department  
12 approves the election of the individual performing such services and  
13 the employing unit for which such services are performed, that the  
14 entire services of such individual shall be deemed to be employment  
15 subject to this article.
- 16 (d) Services covered by an election duly approved by the  
17 department, in accordance with an agreement pursuant to IC 22-4-22-1  
18 through IC 22-4-22-5, shall be deemed to be employment during the  
19 effective period of such election.
- 20 (e) Service shall be deemed to be localized within a state if:  
21 (1) the service is performed entirely within such state; or  
22 (2) the service is performed both within and without such state,  
23 but the service performed without such state is incidental to the  
24 individual's service within the state, such as is temporary or  
25 transitory in nature or consists of isolated transactions.
- 26 (f) Periods of vacation with pay or leave with pay, other than  
27 military leave granted or given to an individual by an employer.
- 28 (g) Notwithstanding any other provisions of this article, the term  
29 employment shall also include all services performed by an officer or  
30 member of the crew of an American vessel or American aircraft, on or  
31 in connection with such vessel or such aircraft, provided that the  
32 operating office, from which the operations of such vessel operating on  
33 navigable waters within or the operations of such aircraft within, or the  
34 operation of such vessel or aircraft within and without the United States  
35 are ordinarily and regularly supervised, managed, directed, and  
36 controlled, is within this state.
- 37 (h) Services performed for an employer which is subject to  
38 contribution solely by reason of liability for any federal tax against  
39 which credit may be taken for contributions paid into a state  
40 unemployment compensation fund.
- 41 (i) The following:  
42 (1) Service performed after December 31, 1971, by an individual  
43 in the employ of this state or any of its instrumentalities (or in the  
44 employ of this state and one (1) or more other states or their  
45 instrumentalities) for a hospital or eligible postsecondary  
46 educational institution located in Indiana.

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

10 (A) An elected official.

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

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

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

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

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

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

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

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

31 (1) The service is excluded from "employment" as defined in the  
 32 Federal Unemployment Tax Act solely by reason of Section  
 33 3306(c)(8) of that act (26 U.S.C. 3306(c)(8)).

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

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

41 (A) In the employ of:

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

43 (ii) an organization which is operated primarily for religious  
 44 purposes and which is operated, supervised, controlled, or  
 45 principally supported by a church or convention or  
 46 association of churches.

- 1 (B) By a duly ordained, commissioned, or licensed minister of  
 2 a church in the exercise of ~~his~~ **the minister's** ministry or by a  
 3 member of a religious order in the exercise of duties required  
 4 by such order.
- 5 (C) Before January 1, 1978, in the employ of a school which  
 6 is not an eligible postsecondary educational institution.
- 7 (D) In a facility conducted for the purpose of carrying out a  
 8 program of rehabilitation for individuals whose earning  
 9 capacity is impaired by age or physical or mental deficiency or  
 10 injury or providing remunerative work for individuals who  
 11 because of their impaired physical or mental capacity cannot  
 12 be readily absorbed in the competitive labor market by an  
 13 individual receiving such rehabilitation or remunerative work.
- 14 (E) As part of an unemployment work relief or work training  
 15 program assisted or financed in whole or in part by any federal  
 16 agency or an agency of a state or political subdivision thereof,  
 17 by an individual receiving such work relief or work training.
- 18 (k) The service of an individual who is a citizen of the United  
 19 States, performed outside the United States (except in Canada), after  
 20 December 31, 1971, in the employ of an American employer (other  
 21 than service which is deemed "employment" under the provisions of  
 22 subsection (a), (b), or (e) or the parallel provisions of another state's  
 23 law), if the following apply:
- 24 (1) The employer's principal place of business in the United States  
 25 is located in this state.
- 26 (2) The employer has no place of business in the United States,  
 27 but the employer is:
- 28 (A) an individual who is a resident of this state;  
 29 (B) a corporation which is organized under the laws of this  
 30 state; **or**
- 31 (C) a partnership, ~~limited liability partnership~~, or a trust and  
 32 the number of the partners or trustees who are residents of this  
 33 state is greater than the number who are residents of any one  
 34 (1) other state. ~~or~~
- 35 ~~(D) an association; a joint venture; an estate; a limited liability~~  
 36 ~~company; a joint stock company; or an insurance company~~  
 37 ~~(referred to as an "entity" in this clause); and either:~~
- 38 (i) the entity is organized under the laws of this state; or  
 39 (ii) the number of owners, members, or beneficiaries who  
 40 are residents of this state is greater than the number who are  
 41 residents of any one (1) other state.
- 42 (3) None of the criteria of subdivisions (1) and (2) is met but the  
 43 employer has elected coverage in this state or, the employer  
 44 having failed to elect coverage in any state, the individual has  
 45 filed a claim for benefits, based on such service, under the law of  
 46 this state.

- 1 (4) An "American employer," for purposes of this subsection,  
 2 means:
- 3 (A) an individual who is a resident of the United States;
  - 4 (B) a partnership, ~~or limited liability partnership~~, if two-thirds  
 5 (2/3) or more of the partners are residents of the United States;
  - 6 (C) a trust, if all of the trustees are residents of the United  
 7 States; or
  - 8 (D) a corporation ~~an association, a joint venture, an estate, a~~  
 9 ~~limited liability company, a joint stock company, or an~~  
 10 ~~insurance company~~ organized ~~or established~~ under the laws of  
 11 the United States or of any state.
- 12 (l) The term "employment" also includes the following:
- 13 (1) Service performed after December 31, 1977, by an individual  
 14 in agricultural labor (as defined in section 3(c) of this chapter)  
 15 when the service is performed for an employing unit which:
    - 16 (A) during any calendar quarter in either the current or  
 17 preceding calendar year paid cash remuneration of twenty  
 18 thousand dollars (\$20,000) or more to individuals employed in  
 19 agricultural labor; or
    - 20 (B) for some portion of a day in each of twenty (20) different  
 21 calendar weeks, whether or not the weeks were consecutive, in  
 22 either the current or the preceding calendar year, employed in  
 23 agricultural labor ten (10) or more individuals, regardless of  
 24 whether they were employed at the same time.
  - 25 (2) For the purposes of this subsection, any individual who is a  
 26 member of a crew furnished by a crew leader to perform service  
 27 in agricultural labor for any other person shall be treated as an  
 28 employee of the crew leader:
    - 29 (A) if the crew leader holds a valid certificate of registration  
 30 under the Farm Labor Contractor Registration Act of 1963, or  
 31 substantially all the members of the crew operate or maintain  
 32 tractors, mechanized harvesting or crop dusting equipment, or  
 33 any other mechanized equipment, which is provided by the  
 34 crew leader; and
    - 35 (B) if the individual is not an employee of another person  
 36 within the meaning of section 1 of this chapter.
  - 37 (3) For the purposes of subdivision (1), in the case of an  
 38 individual who is furnished by a crew leader to perform service  
 39 in agricultural labor for any other person and who is not treated as  
 40 an employee of the crew leader under subdivision (2):
    - 41 (A) the other person and not the crew leader shall be treated as  
 42 the employer of the individual; and
    - 43 (B) the other person shall be treated as having paid cash  
 44 remuneration to the individual in an amount equal to the  
 45 amount of cash remuneration paid to the individual by the  
 46 crew leader (either on the individual's own behalf or on behalf

1 of the other person) for the service in agricultural labor  
 2 performed for the other person.

3 (4) For the purposes of this subsection, the term "crew leader"  
 4 means an individual who:

5 (A) furnishes individuals to perform service in agricultural  
 6 labor for any other person;

7 (B) pays (either on the individual's own behalf or on behalf of  
 8 the other person) the agricultural laborers furnished by the  
 9 individual for the service in agricultural labor performed by  
 10 them; and

11 (C) has not entered into a written agreement with the other  
 12 person under which the individual is designated as an  
 13 employee of the other person.

14 (m) The term "employment" includes domestic service after  
 15 December 31, 1977, in a private home, local college club, or local  
 16 chapter of a college fraternity or sorority performed for a person who  
 17 paid cash remuneration of one thousand dollars (\$1,000) or more after  
 18 December 31, 1977, in the current calendar year or the preceding  
 19 calendar year to individuals employed in the domestic service in any  
 20 calendar quarter.

21 SECTION 16. IC 22-4-10-1, AS AMENDED BY P.L.175-2009,  
 22 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 UPON PASSAGE]: Sec. 1. (a) Contributions shall accrue and become  
 24 payable from each employer for each calendar year in which it is  
 25 subject to this article with respect to wages paid during such calendar  
 26 year. Where the status of an employer is changed by cessation or  
 27 disposition of business or appointment of a receiver, trustees, trustee  
 28 in bankruptcy, or other fiduciary, contributions shall immediately  
 29 become due and payable on the basis of wages paid or payable by such  
 30 employer as of the date of the change of status. Such contributions shall  
 31 be paid to the department in such manner as the department may  
 32 prescribe, and shall not be deducted, in whole or in part, from the  
 33 remuneration of individuals in an employer's employ. When  
 34 contributions are determined in accordance with Schedule A as  
 35 provided in IC 22-4-11-3, the department may prescribe rules to require  
 36 an estimated advance payment of contributions in whole or in part, if  
 37 in the judgment of the department such advance payments will avoid  
 38 a debit balance in the fund during the calendar quarter to which the  
 39 advance payment applies. An adjustment shall be made following the  
 40 quarter in which an advance payment has been made to reflect the  
 41 difference between the estimated contribution and the contribution  
 42 actually payable. Advance payment of contributions shall not be  
 43 required for more than one (1) calendar quarter in any calendar year.

44 (b) Any employer which is, or becomes, subject to this article by  
 45 reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions as  
 46 provided under this article unless it elects to become liable for

- 1 "payments in lieu of contributions" (as defined in IC 22-4-2-32).
- 2 (c) Except as provided in subsection (e), the election to become  
3 liable for "payments in lieu of contributions" must be filed with the  
4 department on a form prescribed by the department not later than  
5 thirty-one (31) days following the date upon which such entity qualifies  
6 as an employer under this article, and shall be for a period of not less  
7 than two (2) calendar years.
- 8 (d) Any employer that makes an election in accordance with  
9 subsections (b) and (c) will continue to be liable for "payments in lieu  
10 of contributions" until it files with the department a written notice  
11 terminating its election. The notice filed by an employer to terminate  
12 its election must be filed not later than thirty (30) days prior to the  
13 beginning of the taxable year for which such termination shall first be  
14 effective.
- 15 (e) Any employer that qualifies to elect to become liable for  
16 "payments in lieu of contributions" and has been paying contributions  
17 under this article, may change to a reimbursable basis by filing with the  
18 department not later than thirty (30) days prior to the beginning of any  
19 taxable year a written notice of election to become liable for payments  
20 in lieu of contributions. Such election shall not be terminable by the  
21 organization for that and the next year.
- 22 (f) Employers making "payments in lieu of contributions" under  
23 subsections (b) and (c) shall make reimbursement payments monthly.  
24 At the end of each calendar month the department shall bill each such  
25 employer (or group of employers) for an amount equal to the full  
26 amount of regular benefits plus **fifty percent (50%) of the part**  
27 **amount of extended** ~~benefits not reimbursed by the federal~~  
28 ~~government under the Federal-State Extended Unemployment~~  
29 ~~Compensation Act of 1970~~ paid during such month that is attributable  
30 to services in the employ of such employers or group of employers.  
31 Governmental entities of this state and its political subdivisions  
32 electing to make "payments in lieu of contributions" shall be billed by  
33 the department at the end of each calendar month for an amount equal  
34 to the full amount of regular benefits plus the **part full amount** of  
35 **extended** ~~benefits not reimbursed by the federal government under the~~  
36 ~~Federal-State Extended Unemployment Compensation Act of 1970~~  
37 paid during the month that is attributable to service in the employ of  
38 the governmental entities.
- 39 (g) Payment of any bill rendered under subsection (f) shall be made  
40 not later than thirty (30) days after such bill was mailed to the last  
41 known address of the employer or was otherwise delivered to it, unless  
42 there has been an application for review and redetermination filed  
43 under subsection (i).
- 44 (h) Payments made by any employer under the provisions of  
45 subsections (f) through (j) shall not be deducted or deductible, in whole  
46 or in part, from the remuneration of individuals in the employ of the

1 employer.

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

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

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

23 Page 27, line 17, strike "(a) This subsection".

24 Page 27, line 18, strike "applies before January 1, 2010".

25 Page 27, line 18, delete "2011".

26 Page 27, line 23, strike "(b) This subsection applies after December  
 27 31, 2009".

28 Page 27, line 23, delete "2010".

29 Page 27, strike lines 24 and 25.

30 Page 27, line 26, strike, "as otherwise provided in IC 22-4-11-2,  
 31 IC 22-4-11-3.5, 22-4-11-5,".

32 Page 27, line 26, delete "IC".

33 Page 27, strike line 27.

34 Page 27, between lines 27 and 28, begin a new paragraph and insert:

35 "SECTION 18. IC 22-4-11-1, AS AMENDED BY P.L.175-2009,  
 36 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 UPON PASSAGE]: Sec. 1. (a) For the purpose of charging employers'  
 38 experience or reimbursable accounts with regular benefits paid  
 39 subsequent to July 3, 1971, to any eligible individual but except as  
 40 provided in IC 22-4-22 and subsection (f), such benefits paid shall be  
 41 charged proportionately against the experience or reimbursable  
 42 accounts of the individual's employers in the individual's base period  
 43 (on the basis of total wage credits established in such base period)  
 44 against whose accounts the maximum charges specified in this section  
 45 shall not have been previously made. Such charges shall be made in the  
 46 inverse chronological order in which the wage credits of such

1 individuals were established. However, when an individual's claim has  
 2 been computed for the purpose of determining the individual's regular  
 3 benefit rights, maximum regular benefit amount, and the proportion of  
 4 such maximum amount to be charged to the experience or reimbursable  
 5 accounts of respective chargeable employers in the base period, the  
 6 experience or reimbursable account of any employer charged with  
 7 regular benefits paid shall not be credited or reccredited with any  
 8 portion of such maximum amount because of any portion of such  
 9 individual's wage credits remaining uncharged at the expiration of the  
 10 individual's benefit period. The maximum so charged against the  
 11 account of any employer shall not exceed twenty-eight percent (28%)  
 12 of the total wage credits of such individual with each such employer  
 13 with which wage credits were established during such individual's base  
 14 period. Benefits paid under provisions of IC 22-4-22-3 in excess of the  
 15 amount that the claimant would have been monetarily eligible for under  
 16 other provisions of this article shall be paid from the fund and not  
 17 charged to the experience account of any employer. This exception  
 18 shall not apply to those employers electing to make payments in lieu of  
 19 contributions who shall be charged for ~~the full amount of regular all~~  
 20 ~~benefit payments and the part of benefits not reimbursed by the federal~~  
 21 ~~government under the Federal-State Extended Unemployment~~  
 22 ~~Compensation Act of 1970~~ that are attributable to service in their  
 23 employ. Irrespective of the twenty-eight percent (28%) maximum  
 24 limitation provided for in this section, ~~the part of any extended~~  
 25 ~~benefits not reimbursed by the federal government under the~~  
 26 ~~Federal-State Extended Unemployment Compensation Act of 1970~~  
 27 paid to an eligible individual based on service with a governmental  
 28 entity of this state or its political subdivisions shall be charged to the  
 29 experience or reimbursable accounts of the employers, and ~~the part of~~  
 30 **fifty percent (50%) of any extended** benefits not reimbursed by the  
 31 ~~federal government under the Federal-State Extended Unemployment~~  
 32 ~~Compensation Act of 1970~~ paid to an eligible individual shall be  
 33 charged to the experience or reimbursable accounts of the individual's  
 34 employers in the individual's base period, other than governmental  
 35 entities of this state or its political subdivisions, in the same proportion  
 36 and sequence as are provided in this section for regular benefits paid.  
 37 Additional benefits paid under IC 22-4-12-4(c) and benefits paid under  
 38 IC 22-4-15-1(c)(8) shall:

39 (1) be paid from the fund; and

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

42 (b) If the aggregate of wages paid to an individual by two (2) or  
 43 more employers during the same calendar quarter exceeds the  
 44 maximum wage credits (as defined in IC 22-4-4-3) then the experience  
 45 or reimbursable account of each such employer shall be charged in the  
 46 ratio which the amount of wage credits from such employer bears to the

- 1 total amount of wage credits during the base period.
- 2 (c) When wage records show that an individual has been employed  
3 by two (2) or more employers during the same calendar quarter of the  
4 base period but do not indicate both that such employment was  
5 consecutive and the order of sequence thereof, then and in such cases  
6 it shall be deemed that the employer with whom the individual  
7 established a plurality of wage credits in such calendar quarter is the  
8 most recent employer in such quarter and its experience or  
9 reimbursable account shall be first charged with benefits paid to such  
10 individual. The experience or reimbursable account of the employer  
11 with whom the next highest amount of wage credits were established  
12 shall be charged secondly and the experience or reimbursable accounts  
13 of other employers during such quarters, if any, shall likewise be  
14 charged in order according to plurality of wage credits established by  
15 such individual.
- 16 (d) Except as provided in subsection (f), if an individual:
- 17 (1) voluntarily leaves an employer without good cause in  
18 connection with the work; or
- 19 (2) is discharged from an employer for just cause;
- 20 wage credits earned with the employer from whom the employee has  
21 separated under these conditions shall be used to compute the  
22 claimant's eligibility for benefits, but charges based on such wage  
23 credits shall be paid from the fund and not charged to the experience  
24 account of any employer. However, this exception shall not apply to  
25 those employers who elect to make payments in lieu of contributions,  
26 who shall be charged for all benefit payments which are attributable to  
27 service in their employ.
- 28 (e) Any nonprofit organization which elects to make payments in  
29 lieu of contributions into the unemployment compensation fund as  
30 provided in this article is not liable to make the payments with respect  
31 to the benefits paid to any individual whose base period wages include  
32 wages for previously uncovered services as defined in IC 22-4-4-4, nor  
33 is the experience account of any other employer liable for charges for  
34 benefits paid the individual to the extent that the unemployment  
35 compensation fund is reimbursed for these benefits pursuant to Section  
36 121 of P.L.94-566. Payments which otherwise would have been  
37 chargeable to the reimbursable or contributing employers shall be  
38 charged to the fund.
- 39 (f) If an individual:
- 40 (1) earns wages during the individual's base period through  
41 employment with two (2) or more employers concurrently;
- 42 (2) is separated from work by one (1) of the employers for reasons  
43 that would not result in disqualification under IC 22-4-15-1; and
- 44 (3) continues to work for one (1) or more of the other employers  
45 after the end of the base period and continues to work during the  
46 applicable benefit year on substantially the same basis as during

1           the base period;  
2           wage credits earned with the base period employers shall be used to  
3           compute the claimant's eligibility for benefits, but charges based on the  
4           wage credits from the employer who continues to employ the individual  
5           shall be charged to the experience or reimbursable account of the  
6           separating employer.

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

9           (h) Unemployment benefits paid shall not be charged to the  
10          experience account of a base period employer when the claimant's  
11          unemployment from the employer was a direct result of the  
12          condemnation of property by a municipal corporation (as defined in  
13          IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an  
14          act of nature, when at least fifty percent (50%) of the employer's  
15          employees, including the claimant, became unemployed as a result.  
16          This exception does not apply when the unemployment was an  
17          intentional result of the employer or a person acting on behalf of the  
18          employer."

19          Page 27, line 40, after "section" insert "**3 or**".

20          Page 27, line 40, strike "or 3.5".

21          Page 28, line 1, after "(2.7%)" insert ",".

22          Page 28, line 1, strike "before January 1, 2010,".

23          Page 28, line 1, delete "2011,".

24          Page 28, line 1, after "2011," strike "and".

25          Page 28, strike line 2.

26          Page 28, line 3, delete "2010,".

27          Page 28, line 11, strike "This subsection applies before January 1,  
28          2010."

29          Page 28, line 11, delete "2011."

30          Page 28, line 31, strike "This subsection applies after December 31,  
31          2009."

32          Page 28, line 31, delete "2010."

33          Page 28, strike lines 32 through 36.

34          Page 28, line 37, delete "owing".

35          Page 28, line 37, strike "by the employer or the employer's  
36          predecessor for".

37          Page 28, strike lines 38 through 42.

38          Page 29, strike lines 1 through 7.

39          Page 29, line 8, strike "(c)" and insert "**(d)**".

40          Page 29, line 12, after "of" delete ":".

41          Page 29, line 13, strike "(1)".

42          Page 29, line 13, delete ",".

43          Page 29, line 13, strike "before January 1, 2010,".

44          Page 29, line 13, delete "2011;".

45          Page 29, line 13, strike "or".

46          Page 29, strike line 14.

- 1 Page 29, delete line 15.  
2 Page 29, run in lines 14 and 16.  
3 Page 29, line 19, strike "(f)" and insert "(e)".  
4 Page 29, line 30, strike "(g)" and insert "(f)".  
5 Page 30, line 1, strike "years before January , 2010,".  
6 Page 30, line 1, delete "2011," and insert "**year 1983 and**  
7 **thereafter**".  
8 Page 30, strike line 23.  
9 Page 30, line 24, strike "rates for calendar years after December 31,  
10 2009,".  
11 Page 30, line 24, delete "2010,".  
12 Page 30, line 24, strike "shall be".  
13 Page 30, strike lines 25 through 42.  
14 Page 31, strike lines 1 through 8.  
15 Page 31, line 9, strike "(c) For calendar year 2010".  
16 Page 31, line 9, delete "2011".  
17 Page 31, line 9, strike "only. Schedule B applies to".  
18 Page 31, strike line 10.  
19 Page 31, line 11, strike "(d)" and insert "(b)".  
20 Page 31, line 18, after "2001" insert ",".  
21 Page 31, line 18, strike "and before 2010,".  
22 Page 31, line 18, delete "2011,".  
23 Page 32, line 6, after "2001" insert ",".  
24 Page 32, line 6, strike "and before 2010,".  
25 Page 32, line 6, delete "2011,".  
26 Page 32, delete lines 25 through 42.  
27 Delete page 33.  
28 Page 34, delete lines 1, through 35.  
29 Page 34, between lines 35 and 36, begin a new paragraph and insert:  
30 "SECTION 22. IC 22-4-11.5-8, AS AMENDED BY P.L.175-2009,  
31 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 UPON PASSAGE]: Sec. 8. (a) If the department determines that an  
33 employing unit or other person that is not an employer under IC 22-4-7  
34 at the time of the acquisition has acquired an employer's trade or  
35 business solely or primarily for the purpose of obtaining a lower  
36 employer contribution rate, the employing unit or other person:  
37 (1) may not assume the experience account balance of the  
38 predecessor employer for the resources and liabilities of the  
39 predecessor employer's experience account that are attributable to  
40 the acquisition; and  
41 (2) shall pay the applicable contribution rate as determined under  
42 this article.  
43 (b) In determining whether an employing unit or other person  
44 acquired a trade or business solely or primarily for the purpose of  
45 obtaining a lower employer contribution rate under subsection (a), the  
46 department shall consider the following factors:

- 1 (1) The cost of acquiring the trade or business.
- 2 (2) Whether the employing unit or other person continued the  
3 business enterprise of the acquired trade or business. **including**  
4 **whether the predecessor employer is no longer performing the**  
5 **same trade or business and the trade or business is performed by**  
6 **the employing unit to whom the workforce is transferred. An**  
7 **employing unit is considered to continue the business enterprise**  
8 **if any one (1) of the following applies:**
- 9 (A) The predecessor employer and the employing unit are  
10 corporations that are members of a "controlled group of  
11 corporations"; as defined in Section 1563 of the Internal  
12 Revenue Code (generally parent-subsidiary or brother-sister  
13 controlled groups); or would be members if Section 1563(a)(4)  
14 and 1563(b) of the Internal Revenue Code did not apply and  
15 if the phrase "more than fifty percent (50%)" were substituted  
16 for the phrase "at least eighty percent (80%)" wherever it  
17 appears in Section 1563(a) of the Internal Revenue Code.
- 18 (B) The predecessor employer and the employing unit are  
19 entities that are part of an affiliated group, as defined in  
20 Section 1504 of the Internal Revenue Code; except that the  
21 ownership percentage in Section 1504(a)(2) of the Internal  
22 Revenue Code shall be determined using fifty percent (50%)  
23 instead of eighty percent (80%).
- 24 (C) A predecessor employer and an employing unit are entities  
25 that do not issue stock; either fifty percent (50%) or more of  
26 the members of one (1) entity's board of directors (or other  
27 governing body) are members of the other entity's board of  
28 directors (or other governing body); or the holders of fifty  
29 percent (50%) or more of the voting power to select these  
30 members are concurrently the holders of fifty percent (50%) or  
31 more of that power with respect to the other entity.
- 32 (D) Fifty percent (50%) or more of one (1) entity's officers are  
33 concurrently officers of the other entity.
- 34 (E) Thirty percent (30%) or more of one (1) entity's employees  
35 are concurrently employees of the other entity.
- 36 (3) The length of time the employing unit or other person  
37 continued the business enterprise of the acquired trade or  
38 business.
- 39 (4) Whether a substantial number of new employees were hired  
40 to perform duties unrelated to the business enterprise that the  
41 trade or business conducted before the trade or business was  
42 acquired.
- 43 (5) Whether the predecessor employer and the employing unit are  
44 united by factors of control; operation; or use.
- 45 (6) Whether a new employing unit is being created solely to  
46 obtain a lower contribution rate.

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

12 Page 39, between lines 27 and 28, begin a new paragraph and insert:

13 "SECTION 24. IC 22-4-12-4, AS AMENDED BY P.L.175-2009,  
 14 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 UPON PASSAGE]: Sec. 4. (a) Benefits shall be computed upon the  
 16 basis of wage credits of an individual in the individual's base period.  
 17 Wage credits shall be reported by the employer and credited to the  
 18 individual in the manner prescribed by the board. With respect to initial  
 19 claims filed for any week beginning on and after July 7, 1991, the  
 20 maximum total amount of benefits payable to any eligible individual  
 21 during any benefit period shall not exceed twenty-six (26) times the  
 22 individual's weekly benefit, or twenty-eight percent (28%) of the  
 23 individual's wage credits with respect to the individual's base period,  
 24 whichever is less. If such maximum total amount of benefits is not a  
 25 multiple of one dollar (\$1), it shall be computed to the next lower  
 26 multiple of one dollar (\$1).

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

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

41 (1) the individual has established:

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

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

46 (2) all regular benefits and all disaster unemployment assistance

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

7 (d) For purposes of this subsection, "high unemployment period"  
8 means a period during which an extended benefit period would be in  
9 effect if IC 22-4-2-34(d)(1) were applied by substituting "eight percent  
10 (8%)" for "six and five-tenths percent (6.5%)". Effective with respect  
11 to weeks beginning in a high unemployment period; the total extended  
12 benefit amount payable to an eligible individual with respect to the  
13 applicable benefit year is equal to the least of the following amounts:

- 14 (1) Eighty percent (80%) of the total amount of regular benefits  
15 that were payable to the eligible individual under this article in  
16 the applicable benefit year;
- 17 (2) Twenty (20) times the weekly benefit amount that was payable  
18 to the eligible individual under this article for a week of total  
19 unemployment in the applicable benefit year;
- 20 (3) Forty-six (46) times the weekly benefit amount that was  
21 payable to the eligible individual under this article for a week of  
22 total unemployment in the applicable benefit year; reduced by the  
23 regular unemployment compensation benefits paid (or deemed  
24 paid) during the benefit year.

25 This subsection expires on the later of December 5, 2009; or the week  
26 ending four (4) weeks before the last week for which federal sharing is  
27 authorized by Section 2005(a) of Division B, Title H (the federal  
28 Assistance to Unemployed Workers and Struggling Families Act) of  
29 the federal American Recovery and Reinvestment Act of 2009 (P.L.  
30 111-5);

31 SECTION 25. IC 22-4-13-1.1, AS AMENDED BY P.L.175-2009,  
32 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 UPON PASSAGE]: Sec. 1.1. (a) Notwithstanding any other provisions  
34 of this article, if an individual knowingly:

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

38 (2) fails to disclose or has falsified any fact;  
39 that would disqualify the individual for benefits, reduce the individual's  
40 benefits, or render the individual ineligible for benefits or extended  
41 benefits, the individual forfeits any wage credits earned or any benefits  
42 or extended benefits that might otherwise be payable to the individual  
43 for the period in which the failure to disclose or falsification occurs.

44 (b) In addition to amounts forfeited under subsection (a), an  
45 individual is subject to the following civil penalties for each instance  
46 in which the individual knowingly fails to disclose or falsifies any fact

1 that if accurately reported to the department would disqualify the  
 2 individual for benefits, reduce the individual's benefits, or render the  
 3 individual ineligible for benefits or extended benefits:

4 (1) For the first instance, an amount equal to twenty-five percent  
 5 (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 equal  
 9 to one hundred percent (100%) of the benefit overpayment.

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

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

17 SECTION 26. IC 22-4-14-2, AS AMENDED BY P.L.175-2009,  
 18 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 UPON PASSAGE]: Sec. 2. (a) An unemployed individual is eligible to  
 20 receive benefits with respect to any week only if the individual has:

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

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

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

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

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

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

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

- 1 (2) The individual is a job-attached worker with a specific recall  
 2 date that is not more than sixty (60) days after the individual's  
 3 separation date:  
 4 (3) The individual is using:  
 5 (A) a hiring service;  
 6 (B) a referral service; or  
 7 (C) another job placement service as determined by the  
 8 department.  
 9 (4) Any other situation exists for which the department considers  
 10 requiring compliance by the individual with this section to be  
 11 inconsistent with the purposes of this article."  
 12 Page 40, line 15, strike "department" and insert "**board**".  
 13 Page 40, line 17, after "unemployment" strike "," and insert ".".  
 14 Page 40, line 17, strike "but must include".  
 15 Page 40, strike lines 18 through 20.  
 16 Page 40, line 21, strike "Internet web site complies with this  
 17 condition."  
 18 Page 40, line 21, delete "Notwithstanding any".  
 19 Page 40, delete lines 22 through 26.  
 20 Page 41, between lines 34 and 35, begin a new paragraph and insert:  
 21 "SECTION 28. IC 22-4-14-5, AS AMENDED BY P.L.175-2009,  
 22 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 UPON PASSAGE]: Sec. 5. (a) As further conditions precedent to the  
 24 payment of benefits to an individual with respect to benefit periods  
 25 established on and after July 1, 1995: ~~but before January 1, 2010:~~  
 26 (1) the individual must have established, after the last day of the  
 27 individual's last base period, if any, wage credits (as defined in  
 28 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at  
 29 least one and one-quarter (1.25) times the wages paid to the  
 30 individual in the calendar quarter in which the individual's wages  
 31 were highest; and  
 32 (2) the individual must have established wage credits in the last  
 33 two (2) calendar quarters of the individual's base period in a total  
 34 amount of not less than one thousand six hundred fifty dollars  
 35 (\$1,650) and an aggregate in the four (4) calendar quarters of the  
 36 individual's base period of not less than two thousand seven  
 37 hundred fifty dollars (\$2,750).  
 38 (b) As a further condition precedent to the payment of benefits to an  
 39 individual with respect to a benefit year established on and after July  
 40 1, 1995, an insured worker may not receive benefits in a benefit year  
 41 unless after the beginning of the immediately preceding benefit year  
 42 during which the individual received benefits, the individual performed  
 43 insured work and earned wages in employment under IC 22-4-8 in an  
 44 amount not less than the individual's weekly benefit amount established  
 45 for the individual in the preceding benefit year in each of eight (8)  
 46 weeks.

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

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

10 (2) the individual must have established wage credits in the last  
 11 two (2) calendar quarters of the individual's base period in a total  
 12 amount of not less than two thousand five hundred dollars  
 13 (\$2,500) and a total amount in the four (4) calendar quarters of  
 14 the individual's base period of not less than four thousand two  
 15 hundred dollars (\$4,200).

16 SECTION 29. IC 22-4-14-6, AS AMENDED BY P.L.175-2009,  
 17 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 UPON PASSAGE]: Sec. 6. (a) An individual shall be eligible to  
 19 receive extended benefits with respect to any week of unemployment  
 20 in the individual's eligibility period only if the commissioner finds that  
 21 with respect to such week:

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

24 (2) the individual has satisfied the requirements of this article for  
 25 the receipt of regular benefits that are applicable to extended  
 26 benefits, including not being subject to a disqualification for the  
 27 receipt of benefits.

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

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

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

41 (c) For claims for extended benefits established after September 25,  
 42 1982, notwithstanding any other provision of this article, an individual  
 43 shall be eligible to receive extended benefits only if the individual's  
 44 insured wages in the base period with respect to which the individual  
 45 exhausted all rights to regular compensation were equal to or exceeded  
 46 one and one-half (1 1/2) times the individual's insured wages in that

- 1 calendar quarter of the base period in which the individual's insured  
2 wages were the highest."
- 3 Page 43, line 30, strike "an amount".
- 4 Page 43, strike lines 31 through 42.
- 5 Page 44, strike lines 1 through 13, begin a new line blocked left and  
6 insert:
- 7 **"twenty-five percent (25%). If twenty-five percent (25%) of the**  
8 **maximum benefit amount is not an even dollar amount, the amount**  
9 **of the reduction is increased to the next higher even dollar amount.**  
10 **The maximum benefit amount may not be reduced by more than**  
11 **twenty-five percent (25%) during any benefit period of extended**  
12 **benefit period."**
- 13 Page 46, line 20, after "employer" delete "," and insert ";".
- 14 Page 46, line 20, strike "including a rule regarding attendance;".
- 15 Page 46, line 21, strike "If an employer does not have a rule  
16 regarding attendance, an".
- 17 Page 46, line 22, strike "individual's".
- 18 Page 47, delete lines 14 through 42, begin a new paragraph and  
19 insert:
- 20 "SECTION 32. IC 22-4-15-2, AS AMENDED BY P.L.175-2009,  
21 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 UPON PASSAGE]: Sec. 2. (a) With respect to benefit periods  
23 established on and after July 3, 1977, an individual is ineligible for  
24 waiting period or benefit rights, or extended benefit rights, if the  
25 department finds that, being totally, partially, or part-totally  
26 unemployed at the time when the work offer is effective or when the  
27 individual is directed to apply for work, the individual fails without  
28 good cause:
- 29 (1) to apply for available, suitable work when directed by the  
30 commissioner, the deputy, or an authorized representative of the  
31 department of workforce development or the United States  
32 training and employment service;
- 33 (2) to accept, at any time after the individual is notified of a  
34 separation, suitable work when found for and offered to the  
35 individual by the commissioner, the deputy, or an authorized  
36 representative of the department of workforce development or the  
37 United States training and employment service, or an employment  
38 unit; or
- 39 (3) to return to the individual's customary self-employment when  
40 directed by the commissioner or the deputy.
- 41 (b) With respect to benefit periods established on and after July 6,  
42 1980, the ineligibility shall continue for the week in which the failure  
43 occurs and until the individual earns remuneration in employment  
44 equal to or exceeding the weekly benefit amount of the individual's  
45 claim in each of eight (8) weeks. If the qualification amount has not  
46 been earned at the expiration of an individual's benefit period, the

1 unearned amount shall be carried forward to an extended benefit period  
2 or to the benefit period of a subsequent claim.

3 (c) With respect to extended benefit periods established on and after  
4 July 5, 1981, the ineligibility shall continue for the week in which the  
5 failure occurs and until the individual earns remuneration in  
6 employment equal to or exceeding the weekly benefit amount of the  
7 individual's claim in each of four (4) weeks.

8 (d) If an individual failed to apply for or accept suitable work as  
9 outlined in this section, the maximum benefit amount of the  
10 individual's current claim, as initially determined, shall be reduced by  
11 an amount determined as follows:

12 (1) For the first failure to apply for or accept suitable work, the  
13 maximum benefit amount of the individual's current claim is  
14 equal to the result of:

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

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

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

20 (2) For the second failure to apply for or accept suitable work, the  
21 maximum benefit amount of the individual's current claim is  
22 equal to the result of:

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

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

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

28 (3) For the third and any subsequent failure to apply for or accept  
29 suitable work, the maximum benefit amount of the individual's  
30 current claim is equal to the result of:

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

33 (B) ninety percent (90%);

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

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

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

44 (1) the degree of risk involved to such individual's health, safety,  
45 and morals;

46 (2) the individual's physical fitness and prior training and

- 1           experience;  
 2           (3) the individual's length of unemployment and prospects for  
 3           securing local work in the individual's customary occupation; and  
 4           (4) the distance of the available work from the individual's  
 5           residence.

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

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

- 28                 (1) If the position offered is vacant due directly to a strike,  
 29                 lockout, or other labor dispute.  
 30                 (2) If the remuneration, hours, or other conditions of the work  
 31                 offered are substantially less favorable to the individual than  
 32                 those prevailing for similar work in the locality.  
 33                 (3) If as a condition of being employed the individual would be  
 34                 required to join a company union or to resign from or refrain from  
 35                 joining a bona fide labor organization.  
 36                 (4) If as a condition of being employed the individual would be  
 37                 required to discontinue training into which the individual had  
 38                 entered with the approval of the department.

39          (g) Notwithstanding subsection (e), with respect to extended benefit  
 40          periods established on and after July 5, 1981, "suitable work" means  
 41          any work which is within an individual's capabilities. However, if the  
 42          individual furnishes evidence satisfactory to the department that the  
 43          individual's prospects for obtaining work in the individual's customary  
 44          occupation within a reasonably short period are good, the  
 45          determination of whether any work is suitable work shall be made as  
 46          provided in subsection (e).

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

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

8 (A) the individual's average weekly benefit amount for the  
 9 individual's benefit year; plus

10 (B) the amount (if any) of supplemental unemployment  
 11 compensation benefits (as defined in Section 501(c)(17)(D) of  
 12 the Internal Revenue Code) payable to the individual for such  
 13 week.

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

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

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

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

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

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

27 SECTION 33. IC 22-4-15-6.1, AS AMENDED BY P.L.175-2009,  
 28 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 UPON PASSAGE]: Sec. 6.1. ~~(a)~~ Notwithstanding any other provisions  
 30 of this article, all of the individual's wage credits established prior to  
 31 the day upon which the individual was discharged for gross misconduct  
 32 in connection with work are canceled.

33 ~~(b) As used in this section, "Gross misconduct" means any of the~~  
 34 ~~following committed in connection with work, as determined by the~~  
 35 ~~department by a preponderance of the evidence: includes~~

36 ~~(1) a felony or~~

37 ~~(2) a Class A misdemeanor~~

38 ~~(3) Working, or reporting for work, in a state of intoxication~~  
 39 ~~caused by the individual's use of alcohol or a controlled substance~~  
 40 ~~(as defined in IC 35-48-1-9):~~

41 ~~(4) Battery on another individual while on the employer's property~~  
 42 ~~or during working hours.~~

43 ~~(5) Theft or embezzlement.~~

44 ~~(6) Fraud.~~

45 ~~(c) An employer:~~

46 ~~(1) has the burden of proving by a preponderance of the evidence~~

1 that a discharged employee's conduct was gross misconduct; and  
 2 (2) may present evidence that the employer filled or maintained  
 3 the position or job held by the discharged employee after the  
 4 employee's discharge.

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

6 (1) a prosecution for an offense; or

7 (2) a conviction of an offense;

8 may be presented.

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

13 (f) ~~Lawful conduct not otherwise prohibited by an employer is not~~  
 14 ~~gross misconduct under this section.~~

15 **committed in connection with work, but only if the felony or**  
 16 **misdemeanor is admitted by the individual or has resulted in a**  
 17 **conviction.**

18 SECTION 34. IC 22-4-17-1, AS AMENDED BY P.L.175-2009,  
 19 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 UPON PASSAGE]: Sec. 1. (a) Claims for benefits shall be made in  
 21 accordance with rules adopted by the department. The department shall  
 22 adopt reasonable procedures consistent with the provisions of this  
 23 article for the expediting of the taking of claims of individuals for  
 24 benefits in instances of mass layoffs by employers, the purpose of  
 25 which shall be to minimize the amount of time required for such  
 26 individuals to file claims upon becoming unemployed as the result of  
 27 such mass layoffs.

28 (b) Except when the result would be inconsistent with the other  
 29 provisions of this article, as provided in the rules of the department, the  
 30 provisions of this article which apply to claims for, or the payment of,  
 31 regular benefits shall apply to claims for, and the payment of, extended  
 32 benefits.

33 (c) Whenever an extended benefit period is to become effective in  
 34 this state as a result of a state "on" indicator, or an extended benefit  
 35 period is to be terminated in this state as a result of a state "off"  
 36 indicator, the commissioner shall make an appropriate public  
 37 announcement.

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

41 (e) Each employer shall display and maintain in places readily  
 42 accessible to all employees posters concerning its regulations and shall  
 43 make available to each such individual at the time the individual  
 44 becomes unemployed printed benefit rights information furnished by  
 45 the department.

46 SECTION 35. IC 22-4-17-2, AS AMENDED BY P.L.175-2009,

1 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 2 UPON PASSAGE]: Sec. 2. (a) When an individual files an initial  
 3 claim, the department shall promptly follow the procedure described in  
 4 subsections (b) through (e) to make a determination of the individual's  
 5 status as an insured worker in a form prescribed by the department. A  
 6 written notice of the determination of insured status shall be furnished  
 7 to the individual promptly. The notice must include the time by which  
 8 the employer is required to respond to the department's notice of the  
 9 individual's claim, and complete information about the rules of  
 10 evidence and standards of proof that the department will apply to  
 11 determine the validity of the individual's claim, if the employer  
 12 disputes the claim. Each such determination shall be based on and  
 13 include a written statement showing the amount of wages paid to the  
 14 individual for insured work by each employer during the individual's  
 15 base period and shall include a finding as to whether such wages meet  
 16 the requirements for the individual to be an insured worker, and, if so,  
 17 the week ending date of the first week of the individual's benefit period,  
 18 the individual's weekly benefit amount, and the maximum amount of  
 19 benefits that may be paid to the individual for weeks of unemployment  
 20 in the individual's benefit period. For the individual who is not insured,  
 21 the notice shall include the reason for the determination. Unless the  
 22 individual, within ten (10) days after such determination was mailed to  
 23 the individual's last known address, or otherwise delivered to the  
 24 individual, asks a hearing thereon before an administrative law judge,  
 25 such determination shall be final and benefits shall be paid or denied  
 26 in accordance therewith.

27 (b) Not later than January 1, 2010, the department shall establish an  
 28 unemployment claims compliance center. When an individual files an  
 29 initial claim after the unemployment claims compliance center is  
 30 established, the department, before making a determination that the  
 31 individual is eligible for benefits, shall compare the information  
 32 provided by the individual making the claim with information from the  
 33 separating employer concerning the individual's eligibility for benefits.  
 34 If the information provided by the individual making the claim does not  
 35 match the information from the separating employer, the department  
 36 may not pay the individual benefits and shall refer the individual's  
 37 claim to the department's unemployment claims compliance center for  
 38 investigation. The department shall provide a written notice to the  
 39 individual who filed the claim that the individual's claim is being  
 40 referred to the unemployment claims compliance center, including the  
 41 reason for the referral.

42 (c) After receiving a claim from the department, the unemployment  
 43 claims compliance center shall contact the separating employer that  
 44 provided information that does not match information provided by the  
 45 individual making the claim to obtain information about the claim that  
 46 is accurate and sufficient for the department to determine whether the

1 individual is eligible for benefits. The center shall also obtain from the  
2 employer the name and address of a person to receive without delay  
3 notices served on the employer concerning the claim.

4 (d) Except as provided in subsection (e), the department may not  
5 pay the individual benefits under this article as long as the discrepancy  
6 between the information provided by the individual and the information  
7 provided by the individual's separating employer is unresolved. If the  
8 information provided by an individual and the information provided by  
9 the individual's separating employer does not match, the department  
10 shall notify both the separating employer and the individual that they  
11 have forty-eight (48) hours to resolve the discrepancy. If the  
12 discrepancy is not resolved at the end of the forty-eighth hour, the  
13 department shall use the information provided by the employer to  
14 determine the individual's eligibility for benefits.

15 (e) If the employer does not respond to the inquiry from the  
16 unemployment claims compliance center within five (5) days after the  
17 date of the inquiry, the center shall report to the department that the  
18 employer has not responded, and the department shall use the  
19 information provided by the individual to determine the individual's  
20 eligibility for benefits.

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

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

1           (h) If, after the department determines that additional information  
2 is necessary to make a determination under this chapter:

3           (1) the department makes a request in writing for additional  
4 information from an employing unit, including an employer, on  
5 a form prescribed by the department; and

6           (2) the employing unit fails to respond within ten (10) days after  
7 the date the request is delivered to the employing unit;  
8 the department shall make the determination with the information  
9 available:

10          (i) If:

11           (1) an employer subsequently obtains a determination by the  
12 department that the employee is not eligible for benefits; and

13           (2) the determination is at least in part based on information that  
14 the department requested from the employer under subsection (h),  
15 but which the employer failed to provide within ten (10) days  
16 after the department's request was delivered to the employer;

17 the employer's experience account shall be charged an amount equal to  
18 fifty percent (50%) of the benefits paid to the employee to which the  
19 employee was not entitled:

20          (j) If:

21           (1) the employer's experience account is charged under subsection  
22 (i); and

23           (2) the employee repays all or a part of the benefits on which the  
24 charge under subsection (i) is based;

25 the employer shall receive a credit to the employer's experience  
26 account that is equal to the amount of the employee's repayment up to  
27 the amount charged to the employer's experience account under  
28 subsection (i):

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

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

45          (m) ~~(f)~~ Except as otherwise hereinafter provided in this section  
46 regarding parties located in Alaska, Hawaii, and Puerto Rico, unless

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

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

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

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

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

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

44 ~~(s)~~ (l) If an allegation of the applicability of IC 22-4-15-1(c)(8) is  
 45 made by the individual at the time of the claim for benefits, the  
 46 department shall not notify the employer of the claimant's current

1 address or physical location.

2 SECTION 36. IC 22-4-17-3, AS AMENDED BY P.L.175-2009,  
3 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 UPON PASSAGE]: Sec. 3. (a) Unless such request for hearing is  
5 withdrawn, an administrative law judge, after providing the notice  
6 required under section 6 of this chapter and affording the parties a  
7 reasonable opportunity for fair hearing, shall affirm, modify, or reverse  
8 the findings of fact and decision of the deputy.

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

15 SECTION 37. IC 22-4-17-4, AS AMENDED BY P.L.175-2009,  
16 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 UPON PASSAGE]: Sec. 4. (a) The department shall employ one (1) or  
18 more administrative law judges to hear and decide disputed claims.  
19 Administrative law judges employed under this section are not subject  
20 to IC 4-21.5 or any other statute regulating administrative law judges,  
21 unless specifically provided.

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

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

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

35 (d) An individual who does not strictly comply with the law and the  
36 rules described in subsection (b); including the rules of conduct for  
37 administrative law judges, review board members, and other  
38 individuals who adjudicate claims during a hearing or other  
39 adjudicative process; is subject to disciplinary action by the  
40 department; up to and including suspension from or termination of  
41 employment.

42 SECTION 38. IC 22-4-17-5, AS AMENDED BY P.L.175-2009,  
43 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
44 UPON PASSAGE]: Sec. 5. (a) The governor shall appoint a review  
45 board composed of three (3) members, not more than two (2) of whom  
46 shall be members of the same political party, with salaries to be fixed

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

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

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

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

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

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

31 SECTION 39. IC 22-4-17-6, AS AMENDED BY P.L.175-2009,  
32 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 UPON PASSAGE]: Sec. 6. (a) The manner in which disputed claims  
34 shall be presented and the conduct of hearings and appeals ~~including~~  
35 ~~the conduct of administrative law judges, review board members, and~~  
36 ~~other individuals who adjudicate claims during a hearing or other~~  
37 ~~adjudicative process,~~ shall be in accordance with rules adopted by the  
38 department for determining the rights of the parties, whether or not the  
39 rules conform to common law or statutory rules of evidence and other  
40 technical rules of procedure.

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

45 (c) Each party to a hearing before an administrative law judge held  
46 under section 3 of this chapter shall be mailed a notice of the hearing

1 at least ten (10) days before the date of the hearing specifying the ~~date,~~  
 2 place and time of the hearing **and** identifying the issues to be decided.  
 3 ~~and providing complete information about the rules of evidence and~~  
 4 ~~standards of proof that the administrative law judge will use to~~  
 5 ~~determine the validity of the claim.~~

6 (d) If a hearing so scheduled has not commenced within at least  
 7 sixty (60) minutes of the time for which it was scheduled, then a party  
 8 involved in the hearing may request a continuance of the hearing. Upon  
 9 submission of a request for continuance of a hearing under  
 10 circumstances provided in this section, the continuance shall be  
 11 granted unless the party requesting the continuance was responsible for  
 12 the delay in the commencement of the hearing as originally scheduled.  
 13 In the latter instance, the continuance shall be discretionary with the  
 14 administrative law judge. Testimony or other evidence introduced by  
 15 a party at a hearing before an administrative law judge or the review  
 16 board that another party to the hearing:

17 (1) is not prepared to meet; and

18 (2) by ordinary prudence could not be expected to have  
 19 anticipated;

20 shall be good cause for continuance of the hearing and upon motion  
 21 such continuance shall be granted.

22 SECTION 40. IC 22-4-17-10.3 IS ADDED TO THE INDIANA  
 23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 24 [EFFECTIVE JULY 1, 2010]: **Sec. 10.3. Witnesses subpoenaed**  
 25 **pursuant to the provisions of this article shall be allowed fees at a**  
 26 **rate fixed by the board, and such fees shall be deemed a part of the**  
 27 **expense of administering this article.**

28 SECTION 41. IC 22-4-19-6, AS AMENDED BY P.L.182-2009(ss),  
 29 SECTION 367, IS AMENDED TO READ AS FOLLOWS  
 30 [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Each employing unit shall  
 31 keep true and accurate records containing information the department  
 32 considers necessary. These records are:

33 (1) open to inspection; and

34 (2) subject to being copied;

35 by an authorized representative of the department at any reasonable  
 36 time and as often as may be necessary. The department, the review  
 37 board, or an administrative law judge may require from any employing  
 38 unit any verified or unverified report, with respect to persons employed  
 39 by it, which is considered necessary for the effective administration of  
 40 this article.

41 (b) Except as provided in subsections (d) and (f), information  
 42 obtained or obtained from any person in the administration of this  
 43 article and the records of the department relating to the unemployment  
 44 tax or the payment of benefits is confidential and may not be published  
 45 or be open to public inspection in any manner revealing the individual's  
 46 or the employing unit's identity, except in obedience to an order of a

1 court or as provided in this section.

2 (c) A claimant or an employer at a hearing before an administrative  
3 law judge or the review board shall be supplied with information from  
4 the records referred to in this section to the extent necessary for the  
5 proper presentation of the subject matter of the appearance. The  
6 department may make the information necessary for a proper  
7 presentation of a subject matter before an administrative law judge or  
8 the review board available to an agency of the United States or an  
9 Indiana state agency.

10 (d) The department may release the following information:

11 (1) Summary statistical data may be released to the public.

12 (2) Employer specific information known as ES 202 data and data  
13 resulting from enhancements made through the business  
14 establishment list improvement project may be released to the  
15 Indiana economic development corporation only for the following  
16 purposes:

17 (A) The purpose of conducting a survey.

18 (B) The purpose of aiding the officers or employees of the  
19 Indiana economic development corporation in providing  
20 economic development assistance through program  
21 development, research, or other methods.

22 (C) Other purposes consistent with the goals of the Indiana  
23 economic development corporation and not inconsistent with  
24 those of the department.

25 (3) Employer specific information known as ES 202 data and data  
26 resulting from enhancements made through the business  
27 establishment list improvement project may be released to the  
28 budget agency and the legislative services agency only for aiding  
29 the employees of the budget agency or the legislative services  
30 agency in forecasting tax revenues.

31 (4) Information obtained from any person in the administration of  
32 this article and the records of the department relating to the  
33 unemployment tax or the payment of benefits for use by the  
34 following governmental entities:

35 (A) department of state revenue; or

36 (B) state or local law enforcement agencies;

37 only if there is an agreement that the information will be kept  
38 confidential and used for legitimate governmental purposes.

39 (e) The department may make information available under  
40 subsection (d)(1), (d)(2), or (d)(3) only:

41 (1) if:

42 (A) data provided in summary form cannot be used to identify  
43 information relating to a specific employer or specific  
44 employee; or

45 (B) there is an agreement that the employer specific  
46 information released to the Indiana economic development

- 1 corporation, the budget agency, or the legislative services  
 2 agency will be treated as confidential and will be released only  
 3 in summary form that cannot be used to identify information  
 4 relating to a specific employer or a specific employee; and  
 5 (2) after the cost of making the information available to the  
 6 person requesting the information is paid under IC 5-14-3.
- 7 (f) In addition to the confidentiality provisions of subsection (b), the  
 8 fact that a claim has been made under IC 22-4-15-1(c)(8) and any  
 9 information furnished by the claimant or an agent to the department to  
 10 verify a claim of domestic or family violence are confidential.  
 11 Information concerning the claimant's current address or physical  
 12 location shall not be disclosed to the employer or any other person.  
 13 Disclosure is subject to the following additional restrictions:
- 14 (1) The claimant must be notified before any release of  
 15 information.  
 16 (2) Any disclosure is subject to redaction of unnecessary  
 17 identifying information, including the claimant's address.
- 18 (g) An employee:  
 19 (1) of the department who recklessly violates subsection (a), (c),  
 20 (d), (e), or (f); or  
 21 (2) of any governmental entity listed in subsection (d)(4) who  
 22 recklessly violates subsection (d)(4);  
 23 commits a Class B misdemeanor.
- 24 (h) An employee of the Indiana economic development corporation,  
 25 the budget agency, or the legislative services agency who violates  
 26 subsection (d) or (e) commits a Class B misdemeanor.
- 27 (i) An employer or agent of an employer that becomes aware that a  
 28 claim has been made under IC 22-4-15-1(c)(8) shall maintain that  
 29 information as confidential.
- 30 ~~(j) The department may charge a reasonable processing fee not to~~  
 31 ~~exceed two dollars (\$2) for each record that provides information about~~  
 32 ~~an individual's last known employer released in compliance with a~~  
 33 ~~court order under subsection (b).~~
- 34 SECTION 42. IC 22-4-25-1, AS AMENDED BY P.L.182-2009(ss),  
 35 SECTION 368, IS AMENDED TO READ AS FOLLOWS  
 36 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) There is created in the  
 37 state treasury a special fund to be known as the special employment  
 38 and training services fund. All interest on delinquent contributions and  
 39 penalties collected under this article, together with any voluntary  
 40 contributions tendered as a contribution to this fund, shall be paid into  
 41 this fund. The money shall not be expended or available for  
 42 expenditure in any manner which would permit their substitution for  
 43 (or a corresponding reduction in) federal funds which would in the  
 44 absence of said money be available to finance expenditures for the  
 45 administration of this article, but nothing in this section shall prevent  
 46 said money from being used as a revolving fund to cover expenditures

1 necessary and proper under the law for which federal funds have been  
 2 duly requested but not yet received, subject to the charging of such  
 3 expenditures against such funds when received. The money in this fund  
 4 shall be used by the board for the payment of refunds of interest on  
 5 delinquent contributions and penalties so collected, for the payment of  
 6 costs of administration which are found not to have been properly and  
 7 validly chargeable against federal grants or other funds received for or  
 8 in the employment and training services administration fund, on and  
 9 after July 1, 1945. Such money shall be available either to satisfy the  
 10 obligations incurred by the board directly, or by transfer by the board  
 11 of the required amount from the special employment and training  
 12 services fund to the employment and training services administration  
 13 fund. The board shall order the transfer of such funds or the payment  
 14 of any such obligation or expenditure and such funds shall be paid by  
 15 the treasurer of state on requisition drawn by the board directing the  
 16 auditor of state to issue the auditor's warrant therefor. Any such warrant  
 17 shall be drawn by the state auditor based upon vouchers certified by the  
 18 board or the commissioner. The money in this fund is hereby  
 19 specifically made available to replace within a reasonable time any  
 20 money received by this state pursuant to 42 U.S.C. 502, as amended,  
 21 which, because of any action or contingency, has been lost or has been  
 22 expended for purposes other than or in amounts in excess of those  
 23 approved by the bureau of employment security. The money in this  
 24 fund shall be continuously available to the board for expenditures in  
 25 accordance with the provisions of this section and shall not lapse at any  
 26 time or be transferred to any other fund, except as provided in this  
 27 article. Nothing in this section shall be construed to limit, alter, or  
 28 amend the liability of the state assumed and created by IC 22-4-28, or  
 29 to change the procedure prescribed in IC 22-4-28 for the satisfaction of  
 30 such liability, except to the extent that such liability may be satisfied by  
 31 and out of the funds of such special employment and training services  
 32 fund created by this section.

33 (b) Whenever the balance in the special employment and training  
 34 services fund ~~exceeds eight million five hundred thousand dollars~~  
 35 ~~(\$8,500,000)~~, **is deemed excessive by the board**, the board shall order  
 36 payment of the amount that ~~exceeds eight million five hundred~~  
 37 ~~thousand dollars (\$8,500,000)~~ into the unemployment insurance benefit  
 38 fund **of the amount of the special employment and training services**  
 39 **fund deemed to be excessive.**

40 (c) Subject to the approval of the board and the availability of funds,  
 41 on July 1, 2008, and each subsequent July 1, the commissioner shall  
 42 release:

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

- 1 Training;
- 2 (2) four million dollars (\$4,000,000) to the state educational
- 3 institution instituted and incorporated under IC 21-22-2-1 for
- 4 training provided to participants in joint labor and management
- 5 apprenticeship programs approved by the United States
- 6 Department of Labor, Bureau of Apprenticeship and Training;
- 7 (3) two hundred fifty thousand dollars (\$250,000) for journeyman
- 8 upgrade training to each of the state educational institutions
- 9 described in subdivisions (1) and (2);
- 10 (4) four hundred thousand dollars (\$400,000) annually for
- 11 training and counseling assistance:
- 12 (A) provided by Hometown Plans under 41 CFR 60-4.5; and
- 13 (B) approved by the United States Department of Labor,
- 14 Bureau of Apprenticeship and Training;
- 15 to individuals who have been unemployed for at least four (4)
- 16 weeks or whose annual income is less than twenty thousand
- 17 dollars (\$20,000); and
- 18 (5) three hundred thousand dollars (\$300,000) annually for
- 19 training and counseling assistance provided by the state
- 20 institution established under IC 21-25-2-1 to individuals who
- 21 have been unemployed for at least four (4) weeks or whose annual
- 22 income is less than twenty thousand dollars (\$20,000) for the
- 23 purpose of enabling those individuals to apply for admission to
- 24 apprenticeship programs offered by providers approved by the
- 25 United States Department of Labor, Bureau of Apprenticeship and
- 26 Training.
- 27 (d) The funds released under subsection (c)(4) through (c)(5):
- 28 (1) shall be considered part of the amount allocated under section
- 29 2.5 of this chapter; and
- 30 (2) do not limit the amount that an entity may receive under
- 31 section 2.5 of this chapter.
- 32 (e) Each state educational institution described in subsection (c) is
- 33 entitled to keep ten percent (10%) of the funds released under
- 34 subsection (c) for the payment of costs of administering the funds. On
- 35 each June 30 following the release of the funds, any funds released
- 36 under subsection (c) not used by the state educational institutions under
- 37 subsection (c) shall be returned to the special employment and training
- 38 services fund.
- 39 SECTION 43. IC 22-4-32-23, AS AMENDED BY P.L.175-2009,
- 40 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 41 UPON PASSAGE]: Sec. 23. (a) As used in this section:
- 42 (1) "Dissolution" refers to dissolution of a corporation under
- 43 IC 23-1-45 through IC 23-1-48. ~~or dissolution under Indiana law~~
- 44 ~~of an association, a joint venture, an estate, a partnership, a~~
- 45 ~~limited liability partnership, a limited liability company, a joint~~
- 46 ~~stock company, or an insurance company (referred to as a~~

- 1           ~~"noncorporate entity" in this section):~~
- 2           (2) "Liquidation" means the operation or act of winding up a
- 3           corporation's ~~or entity's~~ affairs, when normal business activities
- 4           have ceased, by settling its debts and realizing upon and
- 5           distributing its assets.
- 6           (3) "Withdrawal" refers to the withdrawal of a foreign corporation
- 7           from Indiana under IC 23-1-50.
- 8           (b) The officers and directors of a corporation effecting dissolution,
- 9           liquidation, or withdrawal ~~or the appropriate individuals of a~~
- 10          ~~noncorporate entity~~ shall do the following:
- 11          (1) File all necessary documents with the department in a timely
- 12          manner as required by this article.
- 13          (2) Make all payments of contributions to the department in a
- 14          timely manner as required by this article.
- 15          (3) File with the department a form of notification within thirty
- 16          (30) days of the adoption of a resolution or plan. The form of
- 17          notification shall be prescribed by the department and may
- 18          require information concerning:
- 19               (A) the corporation's ~~or noncorporate entity's~~ assets;
- 20               (B) the corporation's ~~or noncorporate entity's~~ liabilities;
- 21               (C) details of the plan or resolution;
- 22               (D) the names and addresses of corporate officers, directors,
- 23               and shareholders; ~~or the noncorporate entity's owners,~~
- 24               ~~members, or trustees;~~
- 25               (E) a copy of the minutes of the shareholders' meeting ~~or the~~
- 26               ~~noncorporate entity's meeting~~ at which the plan or resolution
- 27               was formally adopted; and
- 28               (F) such other information as the board may require.
- 29          The commissioner may accept, in lieu of the department's form of
- 30          notification, a copy of Form 966 that the corporation filed with
- 31          the Internal Revenue Service.
- 32          (c) Unless a clearance is issued under subsection (g), for a period of
- 33          one (1) year following the filing of the form of notification with the
- 34          department, the corporate officers and directors ~~of a corporation and~~
- 35          ~~the chief executive of a noncorporate entity~~ remain personally liable,
- 36          subject to IC 23-1-35-1(e), for any acts or omissions that result in the
- 37          distribution of corporate ~~or noncorporate entity~~ assets in violation of
- 38          the interests of the state. An officer or director ~~of a corporation or a~~
- 39          ~~chief executive of a noncorporate entity~~ held liable for an unlawful
- 40          distribution under this subsection is entitled to contribution:
- 41               (1) from every other director who voted for or assented to the
- 42               distribution, subject to IC 23-1-35-1(e); and
- 43               (2) from each shareholder ~~owner, member, or trustee~~ for the
- 44               amount the shareholder ~~owner, member, or trustee~~ accepted.
- 45          (d) The corporation's officers' and directors' ~~and the noncorporate~~
- 46          ~~entity's chief executive's~~ personal liability includes all contributions,

1 penalties, interest, and fees associated with the collection of the  
 2 liability due the department. In addition to the penalties provided  
 3 elsewhere in this article, a penalty of up to thirty percent (30%) of the  
 4 unpaid contributions and skills 2016 training assessments may be  
 5 imposed on the corporate officers and directors ~~and the noncorporate~~  
 6 ~~entity's chief executive~~ for failure to take reasonable steps to set aside  
 7 corporate assets to meet the liability due the department.

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

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

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

26 (1) the

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

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

29 met the requirements of subsection (b); and

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

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

38 SECTION 44. IC 22-4-37-3, AS AMENDED BY P.L.175-2009,  
 39 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 UPON PASSAGE]: Sec. 3. (a) Should:

41 (1) the Congress of the United States amend, repeal, or authorize  
 42 the implementation of a demonstration project under 29 U.S.C. 49  
 43 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26  
 44 U.S.C. 3101 through 3504, or any statute or statutes supplemental  
 45 to or in lieu thereof or any part or parts of said statutes, or should  
 46 any or all of said statutes or any part or parts thereof be held

1           invalid, to the end and with such effect that appropriations of  
 2           funds by the said Congress and grants thereof to the state for the  
 3           payment of costs of administration of the department are or no  
 4           longer shall be available for such purposes;  
 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  
 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;

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

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

37           Delete pages 48 through 50.

38           Page 51, delete lines 1 through 32.

39           Page 52, delete lines 31 through 32, begin a new paragraph and  
 40           insert:

41           "SECTION 47. THE FOLLOWING ARE REPEALED  
 42           [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: IC 22-4-10-5.5;  
 43           IC 22-4-11-3.5.

44           SECTION 48. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 45           UPON PASSAGE]: IC 2-5-30; IC 22-4-43; P.L.175-2009, SECTION  
 46           49."

- 1 Renumber all SECTIONS consecutively.  
(Reference is to ESB 23 as printed February 19, 2010.)

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Representative Goodin