

Adopted	Rejected
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COMMITTEE REPORT

YES:	7
NO:	2

MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred Senate Bill 23, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning labor
- 3 and safety and to make an appropriation.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 6-1.1-20-3.5, AS AMENDED BY
- 7 P.L.182-2009(ss), SECTION 145, IS AMENDED TO READ AS
- 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) This
- 9 section applies only to a controlled project that meets the following
- 10 conditions:
- 11 (1) The controlled project is described in one (1) of the following
- 12 categories:
- 13 (A) An elementary school building, middle school building, or
- 14 other school building for academic instruction that:

- 1 (i) will be used for any combination of kindergarten through
 2 grade 8;
- 3 (ii) will not be used for any combination of grade 9 through
 4 grade 12; and
- 5 (iii) will cost more than ten million dollars (\$10,000,000),
 6 **or fifteen million dollars (\$15,000,000), whenever the**
 7 **statewide average unemployment rate in the previous**
 8 **calendar year for the construction industry is ten percent**
 9 **(10%) or higher.**
- 10 (B) A high school building or other school building for
 11 academic instruction that:
- 12 (i) will be used for any combination of grade 9 through
 13 grade 12;
- 14 (ii) will not be used for any combination of kindergarten
 15 through grade 8; and
- 16 (iii) will cost more than twenty million dollars
 17 (\$20,000,000), **or thirty million dollars (\$30,000,000),**
 18 **whenever the statewide average unemployment rate in**
 19 **the previous calendar year for the construction industry**
 20 **is ten percent (10%) or higher.**
- 21 (C) Any other controlled project that:
- 22 (i) is not a controlled project described in clause (A) or (B);
 23 and
- 24 (ii) **except as provided in subsection (d)**, will cost the
 25 political subdivision more than the lesser of twelve million
 26 dollars (\$12,000,000) or an amount equal to one percent
 27 (1%) of the total gross assessed value of property within the
 28 political subdivision on the last assessment date (if that
 29 amount is at least one million dollars (\$1,000,000)).
- 30 (2) The proper officers of the political subdivision make a
 31 preliminary determination after June 30, 2008, in the manner
 32 described in subsection (b) to issue bonds or enter into a lease for
 33 the controlled project.
- 34 (b) A political subdivision may not impose property taxes to pay
 35 debt service on bonds or lease rentals on a lease for a controlled project
 36 without completing the following procedures:
- 37 (1) The proper officers of a political subdivision shall publish
 38 notice in accordance with IC 5-3-1 and send notice by first class

1 mail to any organization that delivers to the officers, before
2 January 1 of that year, an annual written request for notices of any
3 meeting to consider the adoption of an ordinance or a resolution
4 making a preliminary determination to issue bonds or enter into
5 a lease and shall conduct a public hearing on the preliminary
6 determination before adoption of the ordinance or resolution. The
7 political subdivision must make the following information
8 available to the public at the public hearing on the preliminary
9 determination, in addition to any other information required by
10 law:

11 (A) The result of the political subdivision's current and
12 projected annual debt service payments divided by the net
13 assessed value of taxable property within the political
14 subdivision.

15 (B) The result of:

16 (i) the sum of the political subdivision's outstanding long
17 term debt plus the outstanding long term debt of other taxing
18 units that include any of the territory of the political
19 subdivision; divided by

20 (ii) the net assessed value of taxable property within the
21 political subdivision.

22 (C) The information specified in subdivision (3)(A) through
23 (3)(G).

24 (2) If the proper officers of a political subdivision make a
25 preliminary determination to issue bonds or enter into a lease, the
26 officers shall give notice of the preliminary determination by:

27 (A) publication in accordance with IC 5-3-1; and

28 (B) first class mail to the organizations described in
29 subdivision (1).

30 (3) A notice under subdivision (2) of the preliminary
31 determination of the political subdivision to issue bonds or enter
32 into a lease must include the following information:

33 (A) The maximum term of the bonds or lease.

34 (B) The maximum principal amount of the bonds or the
35 maximum lease rental for the lease.

36 (C) The estimated interest rates that will be paid and the total
37 interest costs associated with the bonds or lease.

38 (D) The purpose of the bonds or lease.

- 1 (E) A statement that the proposed debt service or lease
 2 payments must be approved in an election on a local public
 3 question held under section 3.6 of this chapter.
- 4 (F) With respect to bonds issued or a lease entered into to
 5 open:
 6 (i) a new school facility; or
 7 (ii) an existing facility that has not been used for at least
 8 three (3) years and that is being reopened to provide
 9 additional classroom space;
 10 the estimated costs the school corporation expects to annually
 11 incur to operate the facility.
- 12 (G) The political subdivision's current debt service levy and
 13 rate and the estimated increase to the political subdivision's
 14 debt service levy and rate that will result if the political
 15 subdivision issues the bonds or enters into the lease.
- 16 (H) The information specified in subdivision (1)(A) through
 17 (1)(B).
- 18 (4) After notice is given, a petition requesting the application of
 19 the local public question process under section 3.6 of this chapter
 20 may be filed by the lesser of:
 21 (A) one hundred (100) persons who are either owners of real
 22 property within the political subdivision or registered voters
 23 residing within the political subdivision; or
 24 (B) five percent (5%) of the registered voters residing within
 25 the political subdivision.
- 26 (5) The state board of accounts shall design and, upon request by
 27 the county voter registration office, deliver to the county voter
 28 registration office or the county voter registration office's
 29 designated printer the petition forms to be used solely in the
 30 petition process described in this section. The county voter
 31 registration office shall issue to an owner or owners of real
 32 property within the political subdivision or a registered voter
 33 residing within the political subdivision the number of petition
 34 forms requested by the owner or owners or the registered voter.
 35 Each form must be accompanied by instructions detailing the
 36 requirements that:
 37 (A) the carrier and signers must be owners of real property or
 38 registered voters;

- 1 (B) the carrier must be a signatory on at least one (1) petition;
2 (C) after the signatures have been collected, the carrier must
3 swear or affirm before a notary public that the carrier
4 witnessed each signature; and
5 (D) govern the closing date for the petition period.

6 Persons requesting forms may be required to identify themselves
7 as owners of real property or registered voters and may be
8 allowed to pick up additional copies to distribute to other property
9 owners or registered voters. Each person signing a petition must
10 indicate whether the person is signing the petition as a registered
11 voter within the political subdivision or is signing the petition as
12 the owner of real property within the political subdivision. A
13 person who signs a petition as a registered voter must indicate the
14 address at which the person is registered to vote. A person who
15 signs a petition as a real property owner must indicate the address
16 of the real property owned by the person in the political
17 subdivision.

18 (6) Each petition must be verified under oath by at least one (1)
19 qualified petitioner in a manner prescribed by the state board of
20 accounts before the petition is filed with the county voter
21 registration office under subdivision (7).

22 (7) Each petition must be filed with the county voter registration
23 office not more than thirty (30) days after publication under
24 subdivision (2) of the notice of the preliminary determination.

25 (8) The county voter registration office shall determine whether
26 each person who signed the petition is a registered voter.
27 However, after the county voter registration office has determined
28 that at least one hundred twenty-five (125) persons who signed
29 the petition are registered voters within the political subdivision,
30 the county voter registration office is not required to verify
31 whether the remaining persons who signed the petition are
32 registered voters. If the county voter registration office does not
33 determine that at least one hundred twenty-five (125) persons who
34 signed the petition are registered voters, the county voter
35 registration office, not more than fifteen (15) business days after
36 receiving a petition, shall forward a copy of the petition to the
37 county auditor. Not more than ten (10) business days after
38 receiving the copy of the petition, the county auditor shall provide

1 to the county voter registration office a statement verifying:
2 (A) whether a person who signed the petition as a registered
3 voter but is not a registered voter, as determined by the county
4 voter registration office, is the owner of real property in the
5 political subdivision; and
6 (B) whether a person who signed the petition as an owner of
7 real property within the political subdivision does in fact own
8 real property within the political subdivision.
9 (9) The county voter registration office, not more than ten (10)
10 business days after determining that at least one hundred
11 twenty-five (125) persons who signed the petition are registered
12 voters or after receiving the statement from the county auditor
13 under subdivision (8) (as applicable), shall make the final
14 determination of whether a sufficient number of persons have
15 signed the petition. Whenever the name of an individual who
16 signs a petition form as a registered voter contains a minor
17 variation from the name of the registered voter as set forth in the
18 records of the county voter registration office, the signature is
19 presumed to be valid, and there is a presumption that the
20 individual is entitled to sign the petition under this section. Except
21 as otherwise provided in this chapter, in determining whether an
22 individual is a registered voter, the county voter registration office
23 shall apply the requirements and procedures used under IC 3 to
24 determine whether a person is a registered voter for purposes of
25 voting in an election governed by IC 3. However, an individual is
26 not required to comply with the provisions concerning providing
27 proof of identification to be considered a registered voter for
28 purposes of this chapter. A person is entitled to sign a petition
29 only one (1) time in a particular referendum process under this
30 chapter, regardless of whether the person owns more than one (1)
31 parcel of real property within the political subdivision and
32 regardless of whether the person is both a registered voter in the
33 political subdivision and the owner of real property within the
34 political subdivision. Notwithstanding any other provision of this
35 section, if a petition is presented to the county voter registration
36 office within forty-five (45) days before an election, the county
37 voter registration office may defer acting on the petition, and the
38 time requirements under this section for action by the county

1 voter registration office do not begin to run until five (5) days
2 after the date of the election.

3 (10) The county voter registration office must file a certificate and
4 each petition with:

5 (A) the township trustee, if the political subdivision is a
6 township, who shall present the petition or petitions to the
7 township board; or

8 (B) the body that has the authority to authorize the issuance of
9 the bonds or the execution of a lease, if the political
10 subdivision is not a township;

11 within thirty-five (35) business days of the filing of the petition
12 requesting the referendum process. The certificate must state the
13 number of petitioners who are owners of real property within the
14 political subdivision and the number of petitioners who are
15 registered voters residing within the political subdivision.

16 (11) If a sufficient petition requesting the local public question
17 process is not filed by owners of real property or registered voters
18 as set forth in this section, the political subdivision may issue
19 bonds or enter into a lease by following the provisions of law
20 relating to the bonds to be issued or lease to be entered into.

21 (c) If the proper officers of a political subdivision make a
22 preliminary determination to issue bonds or enter into a lease, the
23 officers shall provide to the county auditor:

24 (1) a copy of the notice required by subsection (b)(2); and

25 (2) any other information the county auditor requires to fulfill the
26 county auditor's duties under section 3.6 of this chapter.

27 **(d) This subsection applies to a controlled project described in**
28 **subsection (a)(1)(C) whenever the statewide average**
29 **unemployment rate in the previous calendar year for the**
30 **construction industry is ten percent (10%) or higher. The amounts**
31 **listed in subsection (a)(1)(C)(ii) are increased as follows:**

32 **(1) Twelve million dollars (\$12,000,000) is increased to**
33 **eighteen million dollars (\$18,000,000).**

34 **(2) An amount equal to one percent (1%) of the total gross**
35 **assessed value of property within the political subdivision on**
36 **the last assessment date (if that amount is at least one million**
37 **dollars (\$1,000,000)) is increased to an amount equal to one**
38 **and one-half percent (1.5%) of the total gross assessed value**

1 **of property within the political subdivision on the last**
 2 **assessment date (if that amount is at least one million dollars**
 3 **(\$1,000,000)).**

4 SECTION 2. IC 6-3-7-5 IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) As used in this section,
 6 "independent contractor" refers to a person described in
 7 IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5).

8 (b) As used in this section, "person" means an individual, a
 9 proprietorship, a partnership, a joint venture, a firm, an association, a
 10 corporation, or other legal entity.

11 (c) An independent contractor who does not make an election under:

12 (1) IC 22-3-6-1(b)(4) or IC 22-3-6-1(b)(5) is not subject to the
 13 compensation provisions of IC 22-3-2 through IC 22-3-6; or

14 (2) IC 22-3-7-9(b)(2) or IC 22-3-7-9(b)(3) is not subject to the
 15 compensation provisions of IC 22-3-7;

16 and must file a statement with the department with supporting
 17 documentation of independent contractor status and obtain a certificate
 18 of exemption under this section.

19 (d) An independent contractor shall file with the department, in the
 20 form prescribed by the department, a statement providing the following
 21 information:

22 (1) The independent contractor's name, trade name, address, and
 23 telephone number.

24 (2) The independent contractor's federal identification number or
 25 Social Security number.

26 (3) The name and:

27 (A) Social Security number;

28 (B) federal employer identification number (FEIN); or

29 (C) taxpayer identification number (TIN);

30 of each person or entity with whom the independent contractor
 31 has contracted.

32 (e) Along with the statement required in subsection (d), an
 33 independent contractor shall file annually with the department
 34 documentation in support of independent contractor status before being
 35 granted a certificate of exemption. The independent contractor must
 36 obtain clearance from the department of state revenue before issuance
 37 of the certificate.

38 (f) An independent contractor shall pay a filing fee of ~~five~~

1 **twenty-five** dollars ~~(\$5)~~ **(\$25)** with the statement required in
2 subsection (d). The fees collected under this subsection shall be
3 deposited into a special account in the state general fund known as the
4 independent contractor information account. Money in the independent
5 contractor information account is annually appropriated to the
6 department for its use in carrying out the purposes of this section.

7 (g) The department shall keep each statement and supporting
8 documentation received under this section on file and on request may
9 verify that a certificate of exemption is on file.

10 (h) The certificate of exemption required by this section must be on
11 a form prescribed and provided by the department. A certificate issued
12 under this section is valid for one (1) year. The department shall
13 maintain the original certificate on file.

14 (i) A certificate of exemption must certify the following
15 information:

16 (1) That the independent contractor has worker's compensation
17 coverage for the independent contractor's employees in
18 accordance with IC 22-3-2 through IC 22-3-7.

19 (2) That the independent contractor desires to be exempt from
20 being able to recover under the worker's compensation policy or
21 self-insurance of a person for whom the independent contractor
22 will perform work only as an independent contractor.

23 (j) The department shall provide the certificate of exemption to the
24 person requesting it not less than seven (7) business days after
25 verifying the accuracy of the supporting documentation. To be given
26 effect, a certificate of exemption must be filed with the worker's
27 compensation board of Indiana in accordance with IC 22-3-2-14.5(f)
28 and IC 22-3-7-34.5(g).

29 (k) Not more than thirty (30) days after the department receives an
30 independent contractor's statement and supporting documentation and
31 issues a certificate of exemption, the department shall provide the
32 independent contractor with an explanation of the department's tax
33 treatment of independent contractors and the duty of the independent
34 contractor to remit any taxes owed.

35 (l) The information received from an independent contractor's
36 statement and supporting documentation is to be treated as confidential
37 by the department and is to be used solely for the purposes of this
38 section.

1 (m) A contractor who knowingly or intentionally causes or assists
2 employees, including temporary employees, to file a false statement
3 and supporting documentation of independent contractor status
4 commits a Class D felony.

5 SECTION 3. IC 6-8.1-9-14, AS AMENDED BY P.L.103-2007,
6 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2010]: Sec. 14. (a) Except as provided in subsection (n), the
8 department shall establish, administer, and make available a
9 centralized debt collection program for use by state agencies to collect
10 delinquent accounts, charges, fees, loans, taxes, **civil penalties**
11 **assessed by agencies**, or other indebtedness owed to or being collected
12 by state agencies. The department's collection facilities shall be
13 available for use by other state agencies only when resources are
14 available to the department.

15 (b) The commissioner shall prescribe the appropriate form and
16 manner in which collection information is to be submitted to the
17 department.

18 (c) The debt must be delinquent and not subject to litigation, claim,
19 appeal, or review under the appropriate remedies of a state agency.

20 (d) The department has the authority to collect for the state or
21 claimant agency (as defined in IC 6-8.1-9.5-1) delinquent accounts,
22 charges, fees, loans, taxes, or other indebtedness due the state or
23 claimant agency that has a formal agreement with the department for
24 central debt collection.

25 (e) The formal agreement must provide that the information
26 provided to the department be sufficient to establish the obligation in
27 court and to render the agreement as a legal judgment on behalf of the
28 state. After transferring a file for collection to the department for
29 collection, the claimant agency shall terminate all collection procedures
30 and be available to provide assistance to the department. Upon receipt
31 of a file for collection, the department shall comply with all applicable
32 state and federal laws governing collection of the debt.

33 (f) The department may use a claimant agency's statutory authority
34 to collect the claimant agency's delinquent accounts, charges, fees,
35 loans, taxes, or other indebtedness owed to the claimant agency.

36 (g) The department's right to credit against taxes due may not be
37 impaired by any right granted the department or other state agency
38 under this section.

1 (h) The department of state revenue may charge the claimant agency
 2 a fee not to exceed fifteen percent (15%) of any funds the department
 3 collects for a claimant agency. Notwithstanding any law concerning
 4 delinquent accounts, charges, fees, loans, taxes, or other indebtedness,
 5 the fifteen percent (15%) fee shall be added to the amount due to the
 6 state or claimant agency when the collection is made.

7 (i) Fees collected under subsection (h) shall be retained by the
 8 department after the debt is collected for the claimant agency and are
 9 appropriated to the department for use by the department in
 10 administering this section.

11 (j) The department shall transfer any funds collected from a debtor
 12 to the claimant agency within thirty (30) days after the end of the
 13 month in which the funds were collected.

14 (k) When a claimant agency requests collection by the department,
 15 the claimant agency shall provide the department with:

16 (1) the full name;

17 (2) the Social Security number or federal identification number,
 18 or both;

19 (3) the last known mailing address; and

20 (4) additional information that the department may request;

21 concerning the debtor.

22 (l) The department shall establish a minimum amount that the
 23 department will attempt to collect for the claimant agency.

24 (m) The commissioner shall report, not later than March 1 for the
 25 previous calendar year, to the governor, the budget director, and the
 26 legislative council concerning the implementation of the centralized
 27 debt collection program, the number of debts, the dollar amounts of
 28 debts collected, and an estimate of the future costs and benefits that
 29 may be associated with the collection program. A report to the
 30 legislative council under this subsection must be in an electronic
 31 format under IC 5-14-6.

32 (n) The department may not assess a fee to a state agency or a
 33 custodial parent for seeking a setoff to a state or federal income tax
 34 refund for past due child support.

35 SECTION 4. IC 22-1-1-16 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. The commissioner
 37 of labor and ~~his~~ **an** authorized representative **of the commissioner of**
 38 **labor** shall have the power and the authority to enter any place of

1 employment for the purpose of collecting facts and statistics relating to
 2 the employment of workers and of making inspections for the proper
 3 enforcement of all of the labor laws of this state, including IC 5-16-7
 4 **and IC 22-2-15**. No employer or owner shall refuse to admit the
 5 commissioner of labor or ~~his~~ authorized representatives **of the**
 6 **commissioner of labor** to ~~his~~ **the employer's or owner's** place of
 7 employment.

8 SECTION 5. IC 22-2-15 IS ADDED TO THE INDIANA CODE AS
 9 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 10 1, 2010]:

11 **Chapter 15. Employee Defined Classification Act**

12 **Sec. 1. This chapter applies after December 31, 2010.**

13 **Sec. 2. This chapter is intended to address the proper**
 14 **classification of employees and independent contractors.**

15 **Sec. 3. As used in this chapter, "agent of the contractor" means:**

- 16 **(1) an individual having management authority or**
 17 **enforcement powers with respect to a practice or policy of the**
 18 **contractor regarding the classification of an employee of the**
 19 **contractor;**
- 20 **(2) a corporate officer of the contractor; or**
- 21 **(3) a member of the board of directors of the contractor.**

22 **Sec. 4. (a) As used in this chapter, "board" refers to the**
 23 **worker's compensation board of Indiana created by IC 22-3-1-1(a).**

24 **(b) The term includes the board, the secretary of the board,**
 25 **employees of the board, and agents authorized by the board to act**
 26 **on behalf of the board.**

27 **Sec. 5. (a) As used in this chapter, "construction" means any**
 28 **constructing, altering, reconstructing, repairing, rehabilitating,**
 29 **refinishing, refurbishing, remodeling, remediating, renovating,**
 30 **custom fabricating, maintaining, landscaping, improving,**
 31 **wrecking, painting, decorating, demolishing, and adding to or**
 32 **subtracting from any building, structure, airport facility, highway,**
 33 **roadway, street, bridge, alley, sewer, drain, ditch, sewage disposal**
 34 **plant, waterworks, parking facility, railroad, excavation, or other**
 35 **project, development, real property or improvement, or doing any**
 36 **part of these actions.**

37 **(b) For purposes of subsection (a), it is immaterial whether or**
 38 **not the performance of the work described involves the addition of**

1 any material or article of merchandise to, or fabrication into, a
2 structure, project, development, real property, or improvement
3 described in this section.

4 (c) The term defined in subsection (a) includes moving
5 construction related materials to or from the job site.

6 Sec. 6. (a) As used in this chapter, "contractor" means any sole
7 proprietor, partnership, firm, corporation, limited liability
8 company, association, or other legal entity that engages in
9 construction authorized by law to do business within Indiana.

10 (b) The term includes a general contractor, a subcontractor, and
11 a lower tiered contractor.

12 (c) The term does not include the state, the federal government,
13 or a political subdivision.

14 Sec. 7. (a) As used in this chapter, "department" refers to the
15 department of labor created by IC 22-1-1-1.

16 (b) The term includes the commissioner, employees of the
17 department of labor, and agents authorized by the commissioner
18 to act on behalf of the department of labor.

19 Sec. 8. (a) As used in this chapter, "department of revenue"
20 refers to the department of state revenue established by
21 IC 6-8.1-2-1.

22 (b) The term includes the commissioner, employees of the
23 department of revenue, and agents authorized by the commissioner
24 to act on behalf of the department of revenue.

25 Sec. 9. (a) As used in this chapter, "department of workforce
26 development" refers to the department of workforce development
27 established by IC 22-4.1-2-1.

28 (b) The term includes the commissioner, employees of the
29 department of workforce development, and agents authorized by
30 the commissioner to act on behalf of the department of workforce
31 development.

32 Sec. 10. (a) As used in this chapter, "interested party" means a
33 person with an interest in compliance with this chapter, including
34 the state or a political subdivision.

35 (b) This section does not require that a person be aggrieved in
36 order to be considered an interested party.

37 Sec. 11. As used in this chapter, "performing services" means
38 performing construction services.

1 **Sec. 12. As used in this chapter, "political subdivision" has the**
2 **meaning set forth in IC 36-1-2-13.**

3 **Sec. 13. As used in this chapter, "subcontractor" has the**
4 **meaning set forth in IC 36-1-12-1.2(3).**

5 **Sec. 14. An individual performing services for a contractor is**
6 **considered to be an employee of the contractor unless:**

7 **(1) the individual:**

8 **(A) has been and will continue to be free from control or**
9 **direction over the performance of the service for the**
10 **contractor, both under the individual's contract of service**
11 **and in fact; and**

12 **(B) is engaged in an independently established trade,**
13 **occupation, profession, or business;**

14 **(2) the individual is determined to be a legitimate sole**
15 **proprietor or partnership because:**

16 **(A) the sole proprietor or partnership is performing the**
17 **service without substantial direction and control as to the**
18 **means and manner of providing the services, subject only**
19 **to the right of the contractor, for whom the service is**
20 **provided, to specify the desired result;**

21 **(B) the sole proprietor or partnership has a substantial**
22 **investment of capital in the sole proprietorship;**

23 **(C) the sole proprietor or partnership owns the capital**
24 **goods, gains the profits, and bears the losses of the sole**
25 **proprietorship or partnership;**

26 **(D) the sole proprietor or partnership makes its services**
27 **available to the general public or the business community**
28 **on a continuing basis;**

29 **(E) the sole proprietor or partnership includes services**
30 **rendered on a federal income tax schedule as an**
31 **independent business or profession;**

32 **(F) the sole proprietor or partnership performs services**
33 **for the contractor under the sole proprietor's or**
34 **partnership's name and the contractor pays the sole**
35 **proprietor or partnership a flat fee or other agreed**
36 **amount of compensation that is not based on an established**
37 **rate for any time period of work;**

38 **(G) the sole proprietor or partnership obtains and pays for**

- 1 the license or permit in the sole proprietor's or
2 partnership's name when the services being provided
3 require a license or permit;
- 4 (H) the sole proprietor or partnership furnishes the tools
5 and equipment necessary to provide the service;
- 6 (I) if necessary, the sole proprietor or partnership hires its
7 own employees, pays the employees without
8 reimbursement from the contractor, and reports the
9 employees' income to the Internal Revenue Service;
- 10 (J) the contractor does not:
- 11 (i) represent the sole proprietor or partnership as an
12 employee of the contractor to its customers; or
- 13 (ii) reimburse the sole proprietor or partnership for its
14 business expenses;
- 15 (K) the sole proprietor or partnership has the right to
16 choose to perform similar services for others; and
- 17 (L) the sole proprietorship or partnership has a written
18 agreement with the contractor describing the intended
19 business relationship; or
- 20 (3) the individual is an owner-operator that provides a motor
21 vehicle and the services of a driver under a written contract
22 that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR
23 376, to a motor carrier.

24 **Sec. 15.** It is a violation of this chapter for a contractor, an agent
25 of a contractor, or a subcontractor to classify an individual as an
26 independent contractor unless the relationship between the
27 individual and the contractor or subcontractor is excluded under
28 section 14 of this chapter.

29 **Sec. 16. (a)** A contractor or subcontractor shall maintain
30 records for a period as required in IC 6-3-6-10 and IC 6-8.1-5-4 for
31 an individual performing services for the contractor or
32 subcontractor, regardless whether the individual is classified as:

- 33 (1) an employee;
- 34 (2) an independent contractor;
- 35 (3) a sole proprietor; or
- 36 (4) a partnership.

37 **(b)** Records to be maintained by the contractor or subcontractor
38 must include all documents related to, or tending to establish the

1 nature of, the relationship between the contractor or subcontractor
2 and an individual performing services for the contractor or
3 subcontractor. Records that must be maintained under this section
4 for an individual performing services for the contractor or
5 subcontractor include, but are not limited to:

6 (1) the:

7 (A) name;

8 (B) address;

9 (C) phone number; and

10 (D) Social Security number, individual taxpayer
11 identification number, or federal tax identification
12 number;

13 (2) the type of work performed and the total number of days
14 and hours worked;

15 (3) the method, frequency, and basis on which wages were
16 paid or payments were made;

17 (4) all invoices, billing statements, or other payment records,
18 including the dates of payments, and any miscellaneous
19 income paid or deductions made;

20 (5) copies of all contracts with the individual, agreements with
21 the individual, applications for employment by the individual
22 with the contractor or subcontractor, and policy or
23 employment manuals of the employer for the period that the
24 individual performed services for the contractor or
25 subcontractor; and

26 (6) any federal and state tax documents or other information
27 the department considers relevant or necessary.

28 Sec. 17. (a) An interested party may file a complaint with the
29 department against a contractor or a subcontractor if the
30 interested party has a reasonable belief that the contractor or
31 subcontractor is in violation of this chapter. The department may
32 not investigate a complaint for a violation alleged to have occurred
33 before January 1, 2011.

34 (b) Upon receiving a complaint under subsection (a), the
35 department immediately shall commence an investigation to
36 ascertain the facts relating to the violation alleged in the complaint
37 and determine whether a violation under this chapter has
38 occurred. The investigation may be made by written or oral

1 **inquiry, field visit, conference, or any method or combination of**
 2 **methods the department considers suitable. The department:**

3 **(1) shall conduct investigations, including random inspections,**
 4 **in connection with the administration and enforcement of this**
 5 **chapter;**

6 **(2) shall enforce this chapter; and**

7 **(3) may hire investigators and other personnel necessary to**
 8 **carry out the purpose of this chapter.**

9 **(c) The department has authority to visit and inspect, at all**
 10 **reasonable times, a worksite subject to the provisions of this**
 11 **chapter and has authority to inspect, at all reasonable times,**
 12 **documents related to the determination of whether an individual**
 13 **is an independent contractor under section 14 of this chapter.**

14 **(d) The department may:**

15 **(1) compel, by subpoena, the attendance and testimony of**
 16 **witnesses and the production of books, payrolls, records,**
 17 **papers, and other evidence in an investigation; and**

18 **(2) administer oaths to witnesses.**

19 **Sec. 18. (a) The department, the department of workforce**
 20 **development, the department of revenue, and the board shall**
 21 **cooperate under this chapter by sharing information concerning**
 22 **suspected failure to properly classify an independent contractor as**
 23 **an employee by a contractor, an agent of a contractor, or a**
 24 **subcontractor.**

25 **(b) Before January 1, 2011, the department, the department of**
 26 **workforce development, the department of revenue, and the board**
 27 **shall develop a joint computer system in order to share**
 28 **information. For purposes of IC 5-14-3-4, information exchanged**
 29 **under this section is confidential.**

30 **Sec. 19. (a) Whenever the department determines, after**
 31 **investigation, that a violation of this chapter has occurred, the**
 32 **department shall issue and cause to be served on the contractor or**
 33 **the subcontractor, by posting at the site in a location visible to the**
 34 **workers, if construction is still occurring, an order to cease and**
 35 **desist from further violation of this chapter. The department also**
 36 **shall order the contractor or subcontractor to make all workers**
 37 **whole who were misclassified as independent contractors,**
 38 **including appropriate contributions to unemployment insurance,**

1 **Federal Insurance Contributions Act, and Medicare on behalf of**
2 **the workers. If construction has ceased, the notice shall be sent by**
3 **first class mail to the business address of the contractor as shown**
4 **in the records of the secretary of state. If a subcontractor has**
5 **committed the violation, the department shall notify the contractor**
6 **either at the job site or by first class mail sent to the business**
7 **address of the contractor as shown in the records of the secretary**
8 **of state, and to the subcontractor, either at the job site or by first**
9 **class mail sent to the business address of the subcontractor as**
10 **shown in the records of the secretary of state. An order issued**
11 **under this section is a matter of public record.**

12 **(b) Upon determining that a contractor, an agent of a**
13 **contractor, or a subcontractor has classified an employee as an**
14 **independent contractor in violation of this chapter, the department**
15 **shall notify:**

16 **(1) the department of workforce development, which shall**
17 **investigate the contractor's compliance with laws under**
18 **IC 22-4 and IC 22-4.1;**

19 **(2) the department of revenue, which shall investigate the**
20 **contractor's compliance with laws under IC 6; and**

21 **(3) the board, which shall investigate the contractor's**
22 **compliance with laws under IC 22-3.**

23 **The department of workforce development, the department of**
24 **revenue, and the board have the option to join in the investigation**
25 **with the department or to commence a separate investigation.**

26 **Sec. 20. Seven (7) business days after the department serves a**
27 **cease and desist order upon a violator under section 19 of this**
28 **chapter, if services are continuing to be performed, the**
29 **investigating department shall return to the job site and continue**
30 **investigation of the classification of employees. If the department**
31 **concludes that the improper classification of employees is**
32 **continuing, the department shall impose a civil penalty of one**
33 **thousand dollars (\$1,000) per improperly classified employee**
34 **against the contractor. The civil penalty shall be deposited in the**
35 **employee classification fund established by section 23 of this**
36 **chapter. A civil penalty imposed under this section is a matter of**
37 **public record.**

38 **Sec. 21. (a) A contractor, agent of a contractor, or subcontractor**

- 1 **that receives:**
- 2 **(1) a cease and desist order;**
- 3 **(2) a civil penalty assessment; or**
- 4 **(3) a determination that money is due an employee due to**
- 5 **misclassification;**
- 6 **from the department may seek a hearing on the determination by**
- 7 **filing a written petition for review with the department within ten**
- 8 **(10) business days after receipt of the determination and in**
- 9 **accordance with IC 4-21.5-3-2. The petition for review must**
- 10 **contain a statement of the basis for contesting the determination of**
- 11 **the department. The department shall mail a copy of the petition**
- 12 **for review to the complainant and to any interested party**
- 13 **designated on the complaint. The contractor or subcontractor shall**
- 14 **post a copy of the petition for review contemporaneously with the**
- 15 **filing of the petition at or near the place where the alleged violation**
- 16 **occurred or, if the contractor or subcontractor is no longer**
- 17 **performing services at the place where the alleged violation**
- 18 **occurred, at the contractor's or subcontractor's principal place of**
- 19 **business in a conspicuous place where labor notices regularly are**
- 20 **posted. Further, the contractor or subcontractor, when filing the**
- 21 **petition, shall post a bond in an amount sufficient to pay wages,**
- 22 **salary, employment benefits, or other compensation lost or denied**
- 23 **to the individual as determined by the department and civil**
- 24 **penalties assessed by the department. If the contractor, agent of the**
- 25 **contractor, or subcontractor does not file a petition for review and**
- 26 **post a bond within the ten (10) business day period, the**
- 27 **department's determination is final.**
- 28 **(b) If the contractor, agent of the contractor, or subcontractor**
- 29 **files a petition for review of an action under this section within ten**
- 30 **(10) business days after notification of the proposed action by the**
- 31 **department, the commissioner shall set a hearing on the proposed**
- 32 **action. The hearing must take place not more than forty-five (45)**
- 33 **calendar days after the receipt of the request for the hearing by the**
- 34 **department. The hearing must be held in accordance with**
- 35 **IC 4-21.5.**
- 36 **Sec. 22. If a contractor or subcontractor does not:**
- 37 **(1) file a written petition for review within ten (10) business**
- 38 **days after receipt of the determination in accordance with**

1 **IC 4-21.5-3-2 as required by section 21(a) of this chapter; or**
 2 **(2) prevail in an appeal under IC 4-21.5-3-2;**
 3 **the department may additionally order the contractor or**
 4 **subcontractor to cease work on all projects where the contractor**
 5 **or subcontractor has been found to have misclassified employees**
 6 **under this chapter. This order must remain in effect until the**
 7 **department determines that the contractor or subcontractor has**
 8 **remedied fully the misclassification, including making all**
 9 **employees whole for the misclassification.**

10 **Sec. 23. (a) The employee classification fund is established to**
 11 **provide funds for:**

- 12 **(1) administering this chapter;**
 13 **(2) investigating contractors, agents of contractors, and**
 14 **subcontractors;**
 15 **(3) determining whether there is proof to substantiate**
 16 **allegations of failure to properly classify employees; and**
 17 **(4) meeting other expenses incurred in carrying out the duties**
 18 **of the department under this chapter.**

19 **The fund consists of civil penalties collected by the department**
 20 **under this chapter. The fund shall be administered by the**
 21 **department.**

22 **(b) The expenses of administering the fund shall be paid from**
 23 **money in the fund.**

24 **(c) The treasurer of state shall invest the money in the fund not**
 25 **currently needed to meet the obligations of the fund in the same**
 26 **manner as other public money may be invested. The interest that**
 27 **accrues from these investments shall be deposited in the fund.**

28 **(d) Money in the fund at the end of a state fiscal year does not**
 29 **revert to the state general fund.**

30 **(e) Money in the fund is continuously appropriated for the**
 31 **purposes of this chapter.**

32 **Sec. 24. IC 22-1-1-18 applies to a violation of this chapter. When**
 33 **it appears to the department that a contractor, an agent of a**
 34 **contractor, or a subcontractor has violated a valid order of the**
 35 **department issued under this chapter, the department may:**

- 36 **(1) commence an action through the attorney general; and**
 37 **(2) seek an order from the superior or circuit court in the**
 38 **county in which the contractor or subcontractor does**

1 **business;**
 2 **mandating the contractor or the subcontractor to obey the order**
 3 **of the department. The failure of the contractor or the**
 4 **subcontractor to obey a court order obtained under this section is**
 5 **contempt of court.**

6 **Sec. 25. (a) The department shall post a summary of the**
 7 **requirements of this chapter on the Internet web site of the**
 8 **department.**

9 **(b) After the second subsequent violation determined by the**
 10 **department that occurs within five (5) years of an earlier violation,**
 11 **the department shall place the contractor's or subcontractor's**
 12 **name on a list maintained on the Internet web site of the**
 13 **department. A contract for a public work may not be awarded by**
 14 **a department of the state or a political subdivision to:**

15 **(1) a contractor or subcontractor whose name appears on the**
 16 **list; or**

17 **(2) a firm, a corporation, a partnership, or an association in**
 18 **which the contractor or subcontractor has an interest;**

19 **until four (4) years after the posting of the contractor's or**
 20 **subcontractor's name on the list. If a contractor, agent of the**
 21 **contractor, or subcontractor files a timely petition for review**
 22 **under section 21(b) of this chapter, the contractor's or**
 23 **subcontractor's name shall not be added to the list until the**
 24 **department's determination that the contractor or subcontractor**
 25 **has violated this chapter is final.**

26 **Sec. 26. (a) It is a violation of this chapter for a contractor, an**
 27 **agent of a contractor, or a subcontractor to retaliate through**
 28 **discharge or in any other manner against a person for exercising**
 29 **a right granted under this chapter.**

30 **(b) It is a violation of this chapter for a contractor, an agent of**
 31 **a contractor, or a subcontractor to retaliate against a person for:**

32 **(1) making a complaint to a contractor or an agent of a**
 33 **contractor, to a coworker, to a community organization, to a**
 34 **state or federal agency, or within a public hearing that rights**
 35 **guaranteed under this chapter have been violated;**

36 **(2) causing a proceeding under or related to this chapter to be**
 37 **instituted; or**

38 **(3) testifying or preparing to testify in an investigation or**

1 proceeding under this chapter.

2 (c) Retaliation through discharge or in any other manner
3 subjects a contractor, an agent of a contractor, or a subcontractor
4 to a private civil action brought by the aggrieved person.

5 (d) In a civil action for unlawful retaliation, the court may
6 award:

7 (1) all legal or equitable relief, or both, as appropriate; and

8 (2) attorney's fees and costs.

9 (e) The right of an aggrieved person to bring a civil action under
10 this section terminates three (3) years after the final date of
11 performing services for the contractor or subcontractor by the
12 affected employee. However, the period of limitation established by
13 this subsection is tolled if the contractor, an agent of the
14 contractor, or a subcontractor has deterred a person's exercise of
15 rights under this chapter.

16 Sec. 27. A person may not waive any provision of this chapter.

17 Sec. 28. All statutory provisions and penalties existing before
18 July 1, 2010, including fines, that apply to the improper
19 classification of employees as independent contractors remain in
20 effect after June 30, 2010.

21 Sec. 29. A finding made under this chapter:

22 (1) is for the purpose of enforcing this chapter; and

23 (2) is not admissible or binding against a party in a
24 proceeding other than a proceeding under this chapter.

25 SECTION 6. IC 22-4-2-12 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) Except as
27 provided in subsection (b), "base period" means the first four (4) of
28 the last five (5) completed calendar quarters immediately preceding the
29 first day of an individual's benefit period. ~~Provided, however, That~~

30 (b) If an individual does not establish a benefit period because
31 the wage requirements of IC 22-4-14-5 are not met when
32 determining the base period under subsection (a), the base period
33 means the most recent four (4) completed calendar quarters
34 immediately preceding the first day of an individual's benefit
35 period.

36 (c) For a claim computed in accordance with ~~IC 1971, 22-4-22,~~
37 IC 22-4-22-1, the base period shall be the base period as outlined in
38 the paying state's law.

1 SECTION 7. IC 22-4-2-12.5 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12.5. Notwithstanding
 3 section 12 of this chapter, for an individual who during the "base
 4 period" as defined in that section has received worker's compensation
 5 benefits under IC 22-3-3 for a period of fifty-two (52) weeks or less,
 6 and as a result has not earned sufficient wage credits to meet the
 7 requirements of IC 22-4-14-5, "base period" means the **first most**
 8 **recent** four (4) ~~of the last five (5)~~ completed calendar quarters
 9 immediately preceding the last day that the individual was able to
 10 work, as a result of the individual's injury.

11 SECTION 8. IC 22-4-2-30.5 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2010]: **Sec. 30.5. "Illness or disability", for purposes of**
 14 **IC 22-4-14 and IC 22-4-15, means a verified illness or disability**
 15 **that necessitates treatment or care for a longer period than the**
 16 **period for which an individual's employer is willing to grant paid**
 17 **or unpaid leave to the individual. The term includes a disability**
 18 **without regard to whether the disability is:**

- 19 (1) **physical or mental;**
 20 (2) **permanent or temporary; or**
 21 (3) **partial or total."**

22 Page 3, between lines 28 and 29, begin a new paragraph and insert:
 23 "SECTION 10. IC 22-4-4-3 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) For calendar
 25 quarters beginning on and after April 1, 1979, and before April 1,
 26 1984, "wage credits" means remuneration paid for employment by an
 27 employer to an individual. Wage credits may not exceed three thousand
 28 six hundred sixty-six dollars (\$3,666) and may not include payments
 29 specified in section 2(b) of this chapter.

30 (b) For calendar quarters beginning on and after April 1, 1984, and
 31 before April 1, 1985, "wage credits" means remuneration paid for
 32 employment by an employer to an individual. Wage credits may not
 33 exceed three thousand nine hundred twenty-six dollars (\$3,926) and
 34 may not include payments specified in section 2(b) of this chapter.

35 (c) For calendar quarters beginning on and after April 1, 1985, and
 36 before January 1, 1991, "wage credits" means remuneration paid for
 37 employment by an employer to an individual. Wage credits may not
 38 exceed four thousand one hundred eighty-six dollars (\$4,186) and may

1 not include payments specified in section 2(b) of this chapter.

2 (d) For calendar quarters beginning on and after January 1, 1991,
3 and before July 1, 1995, "wage credits" means remuneration paid for
4 employment by an employer to an individual. Wage credits may not
5 exceed four thousand eight hundred ten dollars (\$4,810) and may not
6 include payments specified in section 2(b) of this chapter.

7 (e) For calendar quarters beginning on and after July 1, 1995, and
8 before July 1, 1997, "wage credits" means remuneration paid for
9 employment by an employer to an individual and remuneration
10 received as tips or gratuities in accordance with Sections 3102 and
11 3301 et seq. of the Internal Revenue Code. Wage credits may not
12 exceed five thousand dollars (\$5,000) and may not include payments
13 specified in section 2(b) of this chapter.

14 (f) For calendar quarters beginning on and after July 1, 1997, and
15 before July 1, 1998, "wage credits" means remuneration paid for
16 employment by an employer to an individual and remuneration
17 received as tips or gratuities in accordance with Sections 3102 and
18 3301 et seq. of the Internal Revenue Code. Wage credits may not
19 exceed five thousand four hundred dollars (\$5,400) and may not
20 include payments specified in section 2(b) of this chapter.

21 (g) For calendar quarters beginning on and after July 1, 1998, and
22 before July 1, 1999, "wage credits" means remuneration paid for
23 employment by an employer to an individual and remuneration
24 received as tips or gratuities in accordance with Sections 3102 and
25 3301 et seq. of the Internal Revenue Code. Wage credits may not
26 exceed five thousand six hundred dollars (\$5,600) and may not include
27 payments that are excluded from the definition of wages under section
28 2(b) of this chapter.

29 (h) For calendar quarters beginning on and after July 1, 1999, and
30 before July 1, 2000, "wage credits" means remuneration paid for
31 employment by an employer to an individual and remuneration
32 received as tips or gratuities in accordance with Sections 3102 and
33 3301 et seq. of the Internal Revenue Code. Wage credits may not
34 exceed five thousand eight hundred dollars (\$5,800) and may not
35 include payments that are excluded from the definition of wages under
36 section 2(b) of this chapter.

37 (i) For calendar quarters beginning on and after July 1, 2000, and
38 before July 1, 2001, "wage credits" means remuneration paid for

1 employment by an employer to an individual and remuneration
2 received as tips or gratuities in accordance with Sections 3102 and
3 3301 et seq. of the Internal Revenue Code. Wage credits may not
4 exceed six thousand seven hundred dollars (\$6,700) and may not
5 include payments that are excluded from the definition of wages under
6 section 2(b) of this chapter.

7 (j) For calendar quarters beginning on and after July 1, 2001, and
8 before July 1, 2002, "wage credits" means remuneration paid for
9 employment by an employer to an individual and remuneration
10 received as tips or gratuities in accordance with Sections 3102 and
11 3301 et seq. of the Internal Revenue Code. Wage credits may not
12 exceed seven thousand three hundred dollars (\$7,300) and may not
13 include payments that are excluded from the definition of wages under
14 section 2(b) of this chapter.

15 (k) For calendar quarters beginning on and after July 1, 2002, and
16 before July 1, 2003, "wage credits" means remuneration paid for
17 employment by an employer to an individual and remuneration
18 received as tips or gratuities in accordance with Sections 3102 and
19 3301 et seq. of the Internal Revenue Code. Wage credits may not
20 exceed seven thousand nine hundred dollars (\$7,900) and may not
21 include payments that are excluded from the definition of wages under
22 section 2(b) of this chapter.

23 (l) For calendar quarters beginning on and after July 1, 2003, and
24 before July 1, 2004, "wage credits" means remuneration paid for
25 employment by an employer to an individual and remuneration
26 received as tips or gratuities in accordance with Sections 3102 and
27 3301 et seq. of the Internal Revenue Code. Wage credits may not
28 exceed eight thousand two hundred sixteen dollars (\$8,216) and may
29 not include payments that are excluded from the definition of wages
30 under section 2(b) of this chapter.

31 (m) For calendar quarters beginning on and after July 1, 2004, and
32 before July 1, 2005, "wage credits" means remuneration paid for
33 employment by an employer to an individual and remuneration
34 received as tips or gratuities in accordance with Sections 3102 and
35 3301 et seq. of the Internal Revenue Code. Wage credits may not
36 exceed eight thousand seven hundred thirty-three dollars (\$8,733) and
37 may not include payments that are excluded from the definition of
38 wages under section 2(b) of this chapter.

1 (n) For calendar quarters beginning on and after July 1, 2005, **and**
 2 **before January 1, 2011, "wage credits" means remuneration paid for**
 3 **employment by an employer to an individual and remuneration**
 4 **received as tips or gratuities in accordance with Sections 3102 and**
 5 **3301 et seq. of the Internal Revenue Code. Wage credits may not**
 6 **exceed nine thousand two hundred fifty dollars (\$9,250) and may not**
 7 **include payments that are excluded from the definition of wages under**
 8 **section 2(b) of this chapter.**

9 (o) **For calendar quarters beginning on and after January 1,**
 10 **2011, "wage credits" means remuneration paid for employment by**
 11 **an employer to an individual and remuneration received as tips or**
 12 **gratuities in accordance with Sections 3102 and 3301 et seq. of the**
 13 **Internal Revenue Code. Wage credits may not include payments**
 14 **that are excluded from the definition of wages under section 2(b)**
 15 **of this chapter.**

16 SECTION 11. IC 22-4-5-1, AS AMENDED BY P.L.138-2008,
 17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 UPON PASSAGE]: Sec. 1. (a) "Deductible income" wherever used in
 19 this article, means income deductible from the weekly benefit amount
 20 of an individual in any week, and shall include, but shall not be limited
 21 to:

- 22 (1) remuneration for services from employing units, whether or
 23 not such remuneration is subject to contribution under this article,
 24 except as provided in subsection (c);
- 25 (2) dismissal pay;
- 26 (3) vacation pay;
- 27 (4) pay for idle time;
- 28 (5) holiday pay;
- 29 (6) sick pay;
- 30 (7) traveling expenses granted to an individual by an employing
 31 unit and not fully accounted for by such individual;
- 32 (8) net earnings from self-employment;
- 33 (9) payments in lieu of compensation for services;
- 34 (10) awards by the national labor relations board of additional
 35 pay, back pay, or for loss of employment, or any such payments
 36 made under an agreement entered into by an employer, a union,
 37 and the National Labor Relations Board;
- 38 (11) payments made to an individual by an employing unit

- 1 pursuant to the terms of the Fair Labor Standards Act (Federal
2 Wage and Hour Law, 29 U.S.C. 201 et seq.);
- 3 (12) for a week in which a payment is actually received by an
4 individual, payments made by an employer to an individual who
5 accepts an offer from the employer in connection with a layoff or
6 a plant closure; or
- 7 (13) except as provided in subsection (c)(2), the part of a payment
8 made by an employer to an individual who accepts an offer from
9 the employer in connection with a layoff or a plant closure if that
10 part is attributable to a week and the week:
- 11 (A) occurs after an individual receives the payment; and
- 12 (B) was used under the terms of a written agreement to
13 compute the payment.
- 14 **(14) training allowances or stipends that are:**
- 15 **(A) cash-in-hand payments under federal or state law to an**
16 **individual for an individual's discretionary use; and**
- 17 **(B) not direct or indirect compensation for training costs,**
18 **such as tuition, books, and supplies.**
- 19 (b) Deductible income shall not include the first three dollars (\$3),
20 or twenty percent (20%) of the claimant's weekly benefit amount
21 rounded to the next lowest dollar, whichever is the larger, of
22 remuneration paid or payable to an individual with respect to any week
23 by other than the individual's base period employer or employers.
- 24 (c) For the purpose of deductible income only, remuneration for
25 services from employing units does not include:
- 26 (1) bonuses, gifts, or prizes awarded to an employee by an
27 employing unit; or
- 28 (2) compensation made under a valid negotiated contract or
29 agreement in connection with a layoff or plant closure, without
30 regard to how the compensation is characterized by the contract
31 or agreement.
- 32 (d) Deductible income does not include a supplemental
33 unemployment insurance benefit made under a valid negotiated
34 contract or agreement.
- 35 **(e) Deductible income does not include any payments made to**
36 **an individual by a court system under a summons for jury**
37 **service."**
- 38 Page 3, line 40, after "IC 22-4-11-3.5," insert "IC".

1 Page 11, delete lines 8 through 42, begin a new paragraph and
2 insert:

3 "SECTION 17. IC 22-4-12-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) With respect to
5 initial claims filed for any week beginning on and after July 6, 1980,
6 and before July 7, 1985, each eligible individual who is totally
7 unemployed (as defined in IC 22-4-3-1) in any week in the individual's
8 benefit period shall be paid for the week, if properly claimed, benefits
9 at the rate of four and three-tenths percent (4.3%) of the individual's
10 wage credits in the calendar quarter during the individual's base period
11 in which the wage credits were highest. However, the weekly benefit
12 amount may not exceed:

- 13 (1) eighty-four dollars (\$84) if the eligible and qualified
14 individual has no dependents;
- 15 (2) ninety-nine dollars (\$99) if the eligible and qualified
16 individual has one (1) dependent;
- 17 (3) one hundred thirteen dollars (\$113) if the eligible and
18 qualified individual has two (2) dependents;
- 19 (4) one hundred twenty-eight dollars (\$128) if the eligible and
20 qualified individual has three (3) dependents; or
- 21 (5) one hundred forty-one dollars (\$141) if the eligible and
22 qualified individual has four (4) or more dependents.

23 With respect to initial claims filed for any week beginning on and
24 after July 7, 1985, and before July 6, 1986, each eligible individual who
25 is totally unemployed (as defined in IC 22-4-3-1) in any week in the
26 individual's benefit period shall be paid for the week, if properly
27 claimed, benefits at the rate of four and three-tenths percent (4.3%) of
28 the individual's wage credits in the calendar quarter during the
29 individual's base period in which the wage credits were highest.
30 However, the weekly benefit amount may not exceed:

- 31 (1) ninety dollars (\$90) if the eligible and qualified individual has
32 no dependents;
- 33 (2) one hundred six dollars (\$106) if the eligible and qualified
34 individual has one (1) dependent;
- 35 (3) one hundred twenty-one dollars (\$121) if the eligible and
36 qualified individual has two (2) dependents;
- 37 (4) one hundred thirty-seven dollars (\$137) if the eligible and
38 qualified individual has three (3) dependents; or

1 (5) one hundred fifty-one dollars (\$151) if the eligible and
2 qualified individual has four (4) or more dependents.

3 With respect to initial claims filed for any week beginning on and
4 after July 6, 1986, and before July 7, 1991, each eligible individual who
5 is totally unemployed (as defined in IC 22-4-3-1) in any week in the
6 individual's benefit period shall be paid for the week, if properly
7 claimed, benefits at the rate of four and three-tenths percent (4.3%) of
8 the individual's wage credits in the calendar quarter during the
9 individual's base period in which the wage credits were highest.
10 However, the weekly benefit amount may not exceed:

11 (1) ninety-six dollars (\$96) if the eligible and qualified individual
12 has no dependents;

13 (2) one hundred thirteen dollars (\$113) if the eligible and
14 qualified individual has one (1) dependent;

15 (3) one hundred twenty-nine dollars (\$129) if the eligible and
16 qualified individual has two (2) dependents;

17 (4) one hundred forty-seven dollars (\$147) if the eligible and
18 qualified individual has three (3) dependents; or

19 (5) one hundred sixty-one dollars (\$161) if the eligible and
20 qualified individual has four (4) or more dependents.

21 With respect to initial claims filed for any week beginning on and
22 after July 7, 1991, benefits shall be paid in accordance with subsections
23 (d) through (k).

24 For the purpose of this subsection and subsections (e) through (g),
25 the term "dependent" means lawful husband or wife, natural child,
26 adopted child, stepchild, if such stepchild is not receiving aid to
27 dependent children under the welfare program, or child placed in the
28 claimant's home for adoption by an authorized placement agency or a
29 court of law, provided such child is under eighteen (18) years of age
30 and that such dependent claimed has received more than one-half (1/2)
31 the cost of support from the claimant during ninety (90) days (or for
32 duration of relationship, if less) immediately preceding the claimant's
33 benefit year beginning date, but only if such dependent who is the
34 lawful husband or wife is unemployed and currently ineligible for
35 Indiana benefits because of insufficient base period wages. The number
36 and status of dependents shall be determined as of the beginning of the
37 claimant's benefit period and shall not be changed during that benefit
38 period.

1 With respect to initial claims filed for any week beginning on and
2 after July 6, 1980, the term "dependent" shall include a person with a
3 disability over eighteen (18) years of age who is a child of the claimant
4 and who receives more than one-half (1/2) the cost of his support from
5 the claimant during the ninety (90) day period immediately preceding
6 the claimant's benefit year beginning date. "Child" includes a natural
7 child, an adopted child, a stepchild of claimant, if the stepchild is not
8 receiving aid to dependent children under the welfare program, or a
9 child placed in the claimant's home for adoption by an authorized
10 placement agency or a court of law. The term "disabled" means an
11 individual who by reason of physical or mental defect or infirmity,
12 whether congenital or acquired by accident, injury, or disease, is totally
13 or partially prevented from achieving the fullest attainable physical,
14 social, economic, mental, and vocational participation in the normal
15 process of living.

16 For the purpose of this subsection, the term "dependent" includes a
17 child for whom claimant is the court appointed legal guardian.

18 On and after July 6, 1980, and before July 7, 1991, if the weekly
19 benefit amount is less than forty dollars (\$40), the board, through the
20 commissioner, shall pay benefits at the rate of forty dollars (\$40) per
21 week. On and after July 7, 1991, if the weekly benefit amount is less
22 than fifty dollars (\$50), the board, through the commissioner, shall pay
23 benefits at the rate of fifty dollars (\$50) per week. If such weekly
24 benefit amount is not a multiple of one dollar (\$1), it shall be computed
25 to the next lower multiple of one dollar (\$1).

26 (b) Each eligible individual who is partially or part-totally
27 unemployed in any week shall be paid with respect to such week a
28 benefit in an amount equal to his weekly benefit amount, less his
29 deductible income, if any, for such week. If such partial benefit is not
30 a multiple of one dollar (\$1), it shall be computed to the next lower
31 multiple of one dollar (\$1). Except for an individual who is totally
32 unemployed, an individual who is not partially or part-totally
33 unemployed is not eligible for any benefit. The board may prescribe
34 rules governing the payment of such partial benefits, and may provide,
35 with respect to individuals whose earnings cannot reasonably be
36 computed on a weekly basis, that such benefits may be computed and
37 paid on other than a weekly basis; however, such rules shall secure
38 results reasonably equivalent to those provided in the analogous

1 provisions of this section.

2 (c) The weekly extended benefit amount payable to an individual for
3 a week of total unemployment in the individual's eligibility period shall
4 be an amount equal to the weekly benefit amount payable to the
5 individual during the individual's applicable benefit period, prior to any
6 reduction of such weekly benefit amount.

7 (d) With respect to initial claims filed for any week beginning on
8 and after July 7, 1991, and before July 1, 1995, each eligible individual
9 who is totally unemployed (as defined in IC 22-4-3-1) in any week in
10 the individual's benefit period shall be paid for the week, if properly
11 claimed, benefits at the rate of:

12 (1) five percent (5%) of the first one thousand dollars (\$1,000) of
13 the individual's wage credits in the calendar quarter during the
14 individual's base period in which the wage credits were highest;
15 and

16 (2) four percent (4%) of the individual's remaining wage credits
17 in the calendar quarter during the individual's base period in
18 which the wage credits were highest.

19 However, the weekly benefit amount may not exceed the amount
20 specified in subsections (e) through (i).

21 (e) With respect to initial claims filed for any week beginning on
22 and after July 7, 1991, and before July 5, 1992, the weekly benefit
23 amount may not exceed:

24 (1) one hundred sixteen dollars (\$116) if the eligible and qualified
25 individual has no dependents;

26 (2) one hundred thirty-four dollars (\$134) if the eligible and
27 qualified individual has one (1) dependent;

28 (3) one hundred fifty-three dollars (\$153) if the eligible and
29 qualified individual has two (2) dependents; or

30 (4) one hundred seventy-one dollars (\$171) if the eligible and
31 qualified individual has three (3) or more dependents.

32 (f) With respect to initial claims filed for any week beginning on
33 and after July 5, 1992, and before July 4, 1993, the weekly benefit
34 amount may not exceed:

35 (1) one hundred forty dollars (\$140) if the eligible and qualified
36 individual has no dependents;

37 (2) one hundred sixty dollars (\$160) if the eligible and qualified
38 individual has one (1) dependent; or

1 (3) one hundred eighty-one dollars (\$181) if the eligible and
2 qualified individual has two (2) or more dependents.

3 (g) With respect to initial claims filed for any week beginning on
4 and after July 4, 1993, and before July 3, 1994, the weekly benefit
5 amount may not exceed:

6 (1) one hundred seventy dollars (\$170) if the eligible and
7 qualified individual has no dependents; or

8 (2) one hundred ninety-two dollars (\$192) if the eligible and
9 qualified individual has one (1) or more dependents.

10 (h) With respect to initial claims filed for any week beginning on or
11 after July 3, 1994, and before July 1, 1995, the weekly benefit amount
12 may not exceed two hundred two dollars (\$202).

13 (i) With respect to initial claims filed for any week on or after July
14 1, 1995, the weekly benefit amount will equal the amount that results
15 from applying the percentages provided in subsections (j) through (k)
16 to the applicable maximum wage credits under IC 22-4-4-3.

17 (j) With respect to initial claims filed for any week beginning on and
18 after July 1, 1995, and before July 1, 1997, each eligible individual who
19 is totally unemployed (as defined in IC 22-4-3-1) in any week in the
20 individual's benefit period shall be paid for the week, if properly
21 claimed, benefits at the rate of:

22 (1) five percent (5%) of the first one thousand seven hundred fifty
23 dollars (\$1,750) of the individual's wage credits in the calendar
24 quarter during the individual's base period in which the wage
25 credits were highest; and

26 (2) four percent (4%) of the individual's remaining wage credits
27 in the calendar quarter during the individual's base period in
28 which the wage credits were highest.

29 However, the weekly benefit amount may not exceed the amount
30 specified in subsection (i).

31 (k) With respect to initial claims filed for any week beginning on
32 and after July 1, 1997, each eligible individual who is totally
33 unemployed (as defined in IC 22-4-3-1) in any week in the individual's
34 benefit period shall be paid for the week, if properly claimed, benefits
35 at the rate of:

36 (1) five percent (5%) of the first two thousand dollars (\$2,000) of
37 the individual's wage credits in the calendar quarter during the
38 individual's base period in which the wage credits were highest;

1 and
 2 (2) four percent (4%) of the individual's remaining wage credits
 3 in the calendar quarter during the individual's base period in
 4 which the wage credits were highest.

5 **(l) This subsection applies after December 31, 2010, to benefits**
 6 **computed and paid under subsection (k). A weekly benefit amount**
 7 **may not exceed fifty-five percent (55%) of the state average weekly**
 8 **wage, determined annually by the department not later than**
 9 **October 1 each year for the twelve (12) month period ending June**
 10 **30 of that year. The state average weekly wage determined in a**
 11 **year shall be used in determining the maximum weekly benefit**
 12 **amount paid during the following calendar year. However, the**
 13 **maximum weekly benefit amount must be at least three hundred**
 14 **ninety dollars (\$390).**

15 SECTION 18. IC 22-4-14-3, AS AMENDED BY P.L.175-2009,
 16 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2010]: Sec. 3. (a) An individual who is receiving benefits as
 18 determined under IC 22-4-15-1(c)(8) may restrict the individual's
 19 availability because of the individual's need to address:

20 **(1) the physical, psychological, or legal effects of being a victim**
 21 **of domestic or family violence (as defined in IC 31-9-2-42)**
 22 **against the individual or the individual's spouse, minor child,**
 23 **or parent; or**

24 **(2) matters that qualify as illness or disability (as defined in**
 25 **IC 22-4-2-30.5) of an individual or the individual's spouse,**
 26 **minor child, or parent.**

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

29 (1) is physically and mentally able to work;
 30 (2) is available for work;
 31 (3) is found by the department to be making an effort to secure
 32 full-time work; and

33 (4) participates in reemployment services, such as job search
 34 assistance services, if the individual has been determined to be
 35 likely to exhaust regular benefits and to need reemployment
 36 services under a profiling system established by the department,
 37 unless the department determines that:

38 (A) the individual has completed the reemployment services;

1 or
 2 (B) failure by the individual to participate in or complete the
 3 reemployment services is excused by the director under
 4 IC 22-4-14-2(b).

5 The term "effort to secure full-time work" shall be defined by the
 6 department through rule which shall take into consideration whether
 7 such individual has a reasonable assurance of reemployment and, if so,
 8 the length of the prospective period of unemployment, but must include
 9 as a condition the individual's submission of at least one (1) application
 10 for work in each week for which the individual is claiming benefits. An
 11 individual who submits an application for work online through an
 12 Internet web site complies with this condition. **Notwithstanding any**
 13 **other provision of this article, the condition that an individual**
 14 **submit at least one (1) application for work in each week for which**
 15 **the individual is claiming benefits is suspended for a calendar year**
 16 **whenever the statewide unemployment rate for the previous**
 17 **calendar year is seven and one-half percent (7.5%) or higher.**
 18 However, if an otherwise eligible individual is unable to work or
 19 unavailable for work on any normal work day of the week the
 20 individual shall be eligible to receive benefits with respect to such
 21 week reduced by one-third (1/3) of the individual's weekly benefit
 22 amount for each day of such inability to work or unavailability for
 23 work.

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

- 27 (1) that such individual is engaged by any unit, agency, or
 28 instrumentality of the United States, in charge of public works or
 29 assistance through public employment, or any unit, agency, or
 30 instrumentality of this state, or any political subdivision thereof,
 31 in charge of any public works or assistance through public
 32 employment;
 33 (2) that such individual is in full-time active military service of
 34 the United States, or is enrolled in civilian service as a
 35 conscientious objector to military service;
 36 (3) that such individual is suspended for misconduct in
 37 connection with the individual's work; or
 38 (4) that such individual is in attendance at a regularly established

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

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

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

26 **(1) obtain from the court proof of the individual's jury**
 27 **service; and**

28 **(2) provide to the department, in the manner the department**
 29 **prescribes by rule, proof of the individual's jury service.**

30 SECTION 19. IC 22-4-14-12 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2010]: **Sec. 12. (a) This section applies to an**
 33 **individual who meets all of the following requirements:**

34 **(1) The individual:**

35 **(A) receives a notice of permanent termination of**
 36 **employment from the individual's employer; or**

37 **(B) has been laid off and is unlikely to return to the**
 38 **individual's previous employment because work**

- 1 **opportunities in the individual's job classification are**
 2 **impaired by a substantial reduction in employment at the**
 3 **worksite.**
- 4 **(2) At the time of the termination or layoff described in**
 5 **subdivision (1), the individual is eligible for benefits under this**
 6 **article.**
- 7 **(3) The individual notifies the department of the individual's**
 8 **intention to enroll in the training described in subdivision (4)**
 9 **not later than the latest of the following dates:**
- 10 **(A) Sixty (60) days after the date of the individual's**
 11 **termination or layoff.**
- 12 **(B) Thirty (30) days after the date the individual enrolls in**
 13 **the training.**
- 14 **(4) The individual enrolls and maintains satisfactory progress**
 15 **in one of the following:**
- 16 **(A) A state approved training program.**
- 17 **(B) A job training program authorized under the federal**
 18 **Workforce Investment Act (Act) (29 U.S.C. 2801 et seq.),**
 19 **including reauthorizations of the Act.**
- 20 **(C) A training program authorized by the Act or approved**
 21 **by the state that prepares the individual for entry into a**
 22 **high demand occupation (as determined by the department**
 23 **using available labor market data), if the individual:**
- 24 **(i) separated from a declining occupation (as determined**
 25 **by the department using available labor market data); or**
 26 **(ii) involuntarily and indefinitely separated from**
 27 **employment as a result of a permanent reduction of**
 28 **operations at the individual's place of employment.**
- 29 **(5) The individual:**
- 30 **(A) has not completed the training described in subdivision**
 31 **(4) by the last day the individual is entitled to receive**
 32 **benefits under:**
- 33 **(i) this article; and**
- 34 **(ii) any federal law providing federally financed**
 35 **supplemental or extended benefits; and**
- 36 **(B) is reasonably expected to complete successfully the**
 37 **instruction or training described in subdivision (4) during**
 38 **or after the period in which the additional benefits**

1 **described in subsection (b) are paid.**

2 **(b) An individual who meets the requirements of subsection (a)**
 3 **is entitled to receive a weekly benefit computed under subsection**
 4 **(c) for each week, up to a maximum of twenty-six (26) weeks, the**
 5 **department certifies that the individual needs to complete the**
 6 **instruction or training described in subsection (a)(4).**

7 **(c) The weekly benefit described in subsection (b) is equal to:**

8 **(1) the weekly benefit amount payable to the individual during**
 9 **the individual's most recent benefit period; minus**

10 **(2) any deductible income (as defined in IC 22-4-5-1)**
 11 **attributable to the individual.**

12 **(d) The amounts paid under this section do not affect and may**
 13 **not be charged to the experience account of any employer.**

14 **(e) Benefits may not be paid under this section later than one (1)**
 15 **year after the last day of an individual's most recent benefit period.**

16 SECTION 20. IC 22-4-15-1, AS AMENDED BY P.L.175-2009,
 17 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2010]: Sec. 1. (a) With respect to benefit periods established
 19 on and after July 6, 1980, an individual who has voluntarily left the
 20 individual's most recent employment without good cause in connection
 21 with the work or who was discharged from the individual's most recent
 22 employment for just cause is ineligible for waiting period or benefit
 23 rights for the week in which the disqualifying separation occurred and
 24 until the individual has earned remuneration in employment equal to
 25 or exceeding the weekly benefit amount of the individual's claim in
 26 each of eight (8) weeks. If the qualification amount has not been earned
 27 at the expiration of an individual's benefit period, the unearned amount
 28 shall be carried forward to an extended benefit period or to the benefit
 29 period of a subsequent claim.

30 (b) When it has been determined that an individual has been
 31 separated from employment under disqualifying conditions as outlined
 32 in this section, the maximum benefit amount of the individual's current
 33 claim, as initially determined, shall be reduced by an amount
 34 determined as follows:

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

38 (A) the maximum benefit amount of the individual's current

- 1 claim, as initially determined; multiplied by
 2 (B) seventy-five percent (75%);
 3 rounded (if not already a multiple of one dollar (\$1)) to the next
 4 higher dollar.
- 5 (2) For the second separation from employment under
 6 disqualifying conditions, the maximum benefit amount of the
 7 individual's current claim is equal to the result of:
 8 (A) the maximum benefit amount of the individual's current
 9 claim determined under subdivision (1); multiplied by
 10 (B) eighty-five percent (85%);
 11 rounded (if not already a multiple of one dollar (\$1)) to the next
 12 higher dollar.
- 13 (3) For the third and any subsequent separation from employment
 14 under disqualifying conditions, the maximum benefit amount of
 15 the individual's current claim is equal to the result of:
 16 (A) the maximum benefit amount of the individual's current
 17 claim determined under subdivision (2); multiplied by
 18 (B) ninety percent (90%);
 19 rounded (if not already a multiple of one dollar (\$1)) to the next
 20 higher dollar.
- 21 (c) The disqualifications provided in this section shall be subject to
 22 the following modifications:
- 23 (1) An individual shall not be subject to disqualification because
 24 of separation from the individual's employment if:
 25 (A) the individual left to accept with another employer
 26 previously secured permanent full-time work which offered
 27 reasonable expectation of continued covered employment and
 28 betterment of wages or working conditions and thereafter was
 29 employed on said job;
 30 (B) having been simultaneously employed by two (2)
 31 employers, the individual leaves one (1) such employer
 32 voluntarily without good cause in connection with the work
 33 but remains in employment with the second employer with a
 34 reasonable expectation of continued employment; or
 35 (C) the individual left to accept recall made by a base period
 36 employer.
- 37 (2) An individual whose unemployment is the result of ~~medically~~
 38 ~~substantiated physical illness or~~ disability ~~and who is~~

1 involuntarily unemployed after having made reasonable efforts to
2 maintain the employment relationship (as defined in
3 **IC 22-4-2-30.5) of the individual or the individual's spouse,**
4 **minor child, or parent** shall not be subject to disqualification
5 under this section for such separation.

6 (3) An individual who left work to enter the armed forces of the
7 United States shall not be subject to disqualification under this
8 section for such leaving of work.

9 (4) An individual whose employment is terminated under the
10 compulsory retirement provision of a collective bargaining
11 agreement to which the employer is a party, or under any other
12 plan, system, or program, public or private, providing for
13 compulsory retirement and who is otherwise eligible shall not be
14 deemed to have left the individual's work voluntarily without
15 good cause in connection with the work. However, if such
16 individual subsequently becomes reemployed and thereafter
17 voluntarily leaves work without good cause in connection with the
18 work, the individual shall be deemed ineligible as outlined in this
19 section.

20 (5) An otherwise eligible individual shall not be denied benefits
21 for any week because the individual is in training approved under
22 Section 236(a)(1) of the Trade Act of 1974, nor shall the
23 individual be denied benefits by reason of leaving work to enter
24 such training, provided the work left is not suitable employment,
25 or because of the application to any week in training of provisions
26 in this law (or any applicable federal unemployment
27 compensation law), relating to availability for work, active search
28 for work, or refusal to accept work. For purposes of this
29 subdivision, the term "suitable employment" means with respect
30 to an individual, work of a substantially equal or higher skill level
31 than the individual's past adversely affected employment (as
32 defined for purposes of the Trade Act of 1974), and wages for
33 such work at not less than eighty percent (80%) of the individual's
34 average weekly wage as determined for the purposes of the Trade
35 Act of 1974.

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

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

1 (B) the individual left to accept previously secured full-time
 2 work with an employer in the individual's labor market; and
 3 (C) the individual actually became employed with the
 4 employer in the individual's labor market.

5 (7) An individual who, but for the voluntary separation to move
 6 to another labor market to join a spouse who had moved to that
 7 labor market, shall not be disqualified for that voluntary
 8 separation, if the individual is otherwise eligible for benefits.
 9 Benefits paid to the spouse whose eligibility is established under
 10 this subdivision shall not be charged against the employer from
 11 whom the spouse voluntarily separated.

12 (8) An individual shall not be subject to disqualification if the
 13 individual voluntarily left employment or was discharged due to
 14 circumstances directly caused by domestic or family violence (as
 15 defined in IC 31-9-2-42) **against the individual or the**
 16 **individual's spouse, minor child, or parent.** An individual who
 17 may be entitled to benefits based on this modification may apply
 18 to the office of the attorney general under IC 5-26.5 to have an
 19 address designated by the office of the attorney general to serve
 20 as the individual's address for purposes of this article.

21 **(9) An individual may not be subject to disqualification if the**
 22 **individual is enrolled in training and meets the requirements**
 23 **of IC 22-4-14-12.**

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

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

- 31 (1) separation initiated by an employer for falsification of an
 32 employment application to obtain employment through
 33 subterfuge;
 34 (2) knowing violation of a reasonable and uniformly enforced rule
 35 of an employer, including a rule regarding attendance;
 36 (3) if an employer does not have a rule regarding attendance, an
 37 individual's unsatisfactory attendance, if the individual cannot
 38 show good cause for absences or tardiness;

- 1 (4) damaging the employer's property through willful negligence;
 2 (5) refusing to obey instructions;
 3 (6) reporting to work under the influence of alcohol or drugs or
 4 consuming alcohol or drugs on employer's premises during
 5 working hours;
 6 (7) conduct endangering safety of self or coworkers;
 7 (8) incarceration in jail following conviction of a misdemeanor or
 8 felony by a court of competent jurisdiction; or
 9 (9) any breach of duty in connection with work which is
 10 reasonably owed an employer by an employee.

11 (e) To verify that domestic or family violence has occurred, an
 12 individual who applies for benefits under subsection (c)(8) shall
 13 provide **evidence that reasonably proves that domestic violence has**
 14 **occurred. One (1) of the following may be provided to satisfy this**
 15 **requirement:**

- 16 (1) A report of a law enforcement agency (as defined in
 17 IC 10-13-3-10).
 18 (2) A protection order issued under IC 34-26-5.
 19 (3) A foreign protection order (as defined in IC 34-6-2-48.5).
 20 (4) An affidavit from a domestic violence service provider
 21 verifying services provided to the individual by the domestic
 22 violence service provider.
 23 **(5) A statement that reasonably proves that recent domestic**
 24 **violence has occurred, obtained from a qualified professional**
 25 **from whom the victim has sought assistance, such as a**
 26 **counselor, shelter worker, member of the clergy, attorney, or**
 27 **health worker.**

28 **The department may not require an individual who applies for**
 29 **benefits under subsection (c)(8) to provide the department with an**
 30 **active or recently issued protective or other order documenting**
 31 **domestic violence or a police record documenting domestic**
 32 **violence.**

33 SECTION 21. IC 22-4-17-2, AS AMENDED BY P.L.175-2009,
 34 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 2. (a) When an individual files an initial
 36 claim, the department shall promptly ~~follow the procedure described in~~
 37 ~~subsections (b) through (e) to~~ make a determination of the individual's
 38 status as an insured worker in a form prescribed by the department. A

1 written notice of the determination of insured status shall be furnished
2 to the individual promptly. The notice must include the time by which
3 the employer is required to respond to the department's notice of the
4 individual's claim, and complete information about the rules of
5 evidence and standards of proof that the department will apply to
6 determine the validity of the individual's claim, if the employer
7 disputes the claim. Each such determination shall be based on and
8 include a written statement showing the amount of wages paid to the
9 individual for insured work by each employer during the individual's
10 base period and shall include a finding as to whether such wages meet
11 the requirements for the individual to be an insured worker, and, if so,
12 the week ending date of the first week of the individual's benefit period,
13 the individual's weekly benefit amount, and the maximum amount of
14 benefits that may be paid to the individual for weeks of unemployment
15 in the individual's benefit period. For the individual who is not insured,
16 the notice shall include the reason for the determination. Unless the
17 individual, within ten (10) days after such determination was mailed to
18 the individual's last known address, or otherwise delivered to the
19 individual, asks a hearing thereon before an administrative law judge,
20 such determination shall be final and benefits shall be paid or denied
21 in accordance therewith.

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

37 ~~(c) After receiving a claim from the department, the unemployment~~
38 ~~claims compliance center shall contact the separating employer that~~

1 provided information that does not match information provided by the
2 individual making the claim to obtain information about the claim that
3 is accurate and sufficient for the department to determine whether the
4 individual is eligible for benefits. The center shall also obtain from the
5 employer the name and address of a person to receive without delay
6 notices served on the employer concerning the claim.

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

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

24 (f) (b) After the department makes a determination concerning the
25 individual's eligibility for benefits, The department shall promptly
26 furnish each employer in the base period whose experience or
27 reimbursable account is potentially chargeable with benefits to be paid
28 to such individual with a notice in writing of the employer's benefit
29 liability. The notice shall contain the date, the name and Social Security
30 account number of the individual, the ending date of the individual's
31 base period, the week ending date of the first week of the individual's
32 benefit period, the time by which the employer is required to respond
33 to the notice, and complete information about the rules of evidence and
34 standards of proof that the department will apply to determine the
35 validity of a claim, if an employer disputes the claim. The notice shall
36 further contain information as to the proportion of benefits chargeable
37 to the employer's experience or reimbursable account in ratio to the
38 earnings of such individual from such employer. Unless the employer

1 within ten (10) days after such notice of benefit liability was mailed to
 2 the employer's last known address, or otherwise delivered to the
 3 employer, asks a hearing thereon before an administrative law judge,
 4 such determination shall be final and benefits paid shall be charged in
 5 accordance therewith.

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

12 ~~(h)~~ (d) If, after the department determines that additional
 13 information is necessary to make a determination under this chapter:

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

17 (2) the employing unit fails to respond within ten (10) days after
 18 the date the request is delivered to the employing unit;

19 the department shall make the determination with the information
 20 available.

21 ~~(i)~~ (e) If:

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

24 (2) the determination is at least in part based on information that
 25 the department requested from the employer under subsection ~~(h)~~;
 26 (d), but which the employer failed to provide within ten (10) days
 27 after the department's request was delivered to the employer;

28 the employer's experience account shall be charged an amount equal to
 29 fifty percent (50%) of the benefits paid to the employee to which the
 30 employee was not entitled.

31 ~~(j)~~ (f) If:

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

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

36 the employer shall receive a credit to the employer's experience
 37 account that is equal to the amount of the employee's repayment up to
 38 the amount charged to the employer's experience account under

1 subsection ~~(f)~~: **(e)**.

2 ~~(k)~~ **(g)** In addition to the foregoing determination of insured status
3 by the department, the deputy shall, throughout the benefit period,
4 determine the claimant's eligibility with respect to each week for which
5 the claimant claims waiting period credit or benefit rights, the validity
6 of the claimant's claim therefor, and the cause for which the claimant
7 left the claimant's work, or may refer such claim to an administrative
8 law judge who shall make the initial determination with respect thereto
9 in accordance with the procedure in section 3 of this chapter.

10 ~~(f)~~ **(h)** In cases where the claimant's benefit eligibility or
11 disqualification is disputed, the department shall promptly notify the
12 claimant and the employer or employers directly involved or connected
13 with the issue raised as to the validity of such claim, the eligibility of
14 the claimant for waiting period credit or benefits, or the imposition of
15 a disqualification period or penalty, or the denial thereof, and of the
16 cause for which the claimant left the claimant's work, of such
17 determination and the reasons thereof.

18 ~~(m)~~ **(i)** Except as otherwise hereinafter provided in this section
19 regarding parties located in Alaska, Hawaii, and Puerto Rico, unless
20 the claimant or such employer, within ten (10) days after the
21 notification required by subsection ~~(k)~~ **(h)** was mailed to the claimant's
22 or the employer's last known address or otherwise delivered to the
23 claimant or the employer, asks for a hearing before an administrative
24 law judge thereon, such decision shall be final and benefits shall be
25 paid or denied in accordance therewith.

26 ~~(n)~~ **(j)** For a notice of disputed administrative determination or
27 decision mailed or otherwise delivered to the claimant or employer
28 either of whom is located in Alaska, Hawaii, or Puerto Rico, unless the
29 claimant or employer, within fifteen (15) days after the notification
30 required by subsection ~~(k)~~ **(h)** was mailed to the claimant's or
31 employer's last known address or otherwise delivered to the claimant
32 or employer, asks for a hearing before an administrative law judge
33 thereon, such decision shall be final and benefits shall be paid or
34 denied in accordance therewith.

35 ~~(o)~~ **(k)** If a claimant or an employer requests a hearing under
36 subsection ~~(m)~~ **(i)** or ~~(n)~~ **(j)**, the request therefor shall be filed with the
37 department in writing within the prescribed periods as above set forth
38 in this section and shall be in such form as the department may

1 prescribe. In the event a hearing is requested by an employer or the
 2 department after it has been administratively determined that benefits
 3 should be allowed to a claimant, entitled benefits shall continue to be
 4 paid to said claimant unless said administrative determination has been
 5 reversed by a due process hearing. Benefits with respect to any week
 6 not in dispute shall be paid promptly regardless of any appeal.

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

9 ~~(q)~~ **(m)** Solely on the ground of obvious administrative error
 10 appearing on the face of an original determination, and within the
 11 benefit year of the affected claims, the commissioner, or a
 12 representative authorized by the commissioner to act in the
 13 commissioner's behalf, may reconsider and direct the deputy to revise
 14 the original determination so as to correct the obvious error appearing
 15 therein. Time for filing an appeal and requesting a hearing before an
 16 administrative law judge regarding the determinations handed down
 17 pursuant to this subsection shall begin on the date following the date
 18 of revision of the original determination and shall be filed with the
 19 commissioner in writing within the prescribed periods as above set
 20 forth in subsection ~~(g)~~: **(e)**.

21 ~~(r)~~ **(n)** Notice to the employer and the claimant that the
 22 determination of the department is final if a hearing is not requested
 23 shall be prominently displayed on the notice of the determination
 24 which is sent to the employer and the claimant.

25 ~~(s)~~ **(o)** If an allegation of the applicability of IC 22-4-15-1(c)(8) is
 26 made by the individual at the time of the claim for benefits, the
 27 department shall not notify the employer of the claimant's current
 28 address or physical location."

29 Delete pages 12 through 16.

30 Page 17, delete lines 1 through 10, begin a new paragraph and
 31 insert:

32 SECTION 22. IC 34-11-2-13 IS ADDED TO THE INDIANA
 33 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2010]: **Sec. 13. (a) This section applies**
 35 **beginning January 1, 2011.**

36 **(b) The definitions in IC 22-2-15 apply throughout this section.**

37 **(c) A civil action brought by an aggrieved person under**
 38 **IC 22-2-15 must be commenced not later than three (3) years after**

1 **the final date of performing services for the contractor, as**
 2 **provided in IC 22-2-15-26(e).**

3 SECTION 23. IC 36-1-12-1, AS AMENDED BY P.L.71-2009,
 4 SECTION 4, AND AS AMENDED BY P.L.99-2009, SECTION 3, IS
 5 CORRECTED AND AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as provided in this
 7 section, this chapter applies to all public work performed or contracted
 8 for by:

9 (1) political subdivisions; and

10 (2) their agencies;

11 regardless of whether it is performed on property owned or leased by
 12 the political subdivision or agency.

13 (b) This chapter does not apply to an officer or agent who, on behalf
 14 of a municipal utility, maintains, extends, and installs services of the
 15 utility if the necessary work is done by the employees of the utility.

16 (c) This chapter does not apply to hospitals organized or operated
 17 under IC 16-22-1 through IC 16-22-5 or IC 16-23-1, unless the public
 18 work is financed in whole or in part with cumulative building fund
 19 revenue.

20 (d) This chapter does not apply to tax exempt Indiana nonprofit
 21 corporations leasing and operating a city market owned by a political
 22 subdivision.

23 (e) As an alternative to this chapter, the governing body of a
 24 political subdivision or its agencies may do the following:

25 (1) Enter into a design-build contract as permitted under IC 5-30.

26 (2) Participate in a utility efficiency program or ~~may~~ enter into a
 27 guaranteed savings contract as permitted under IC 36-1-12.5.

28 (f) This chapter does not apply to a person that has entered into an
 29 operating agreement with a political subdivision or an agency of a
 30 political subdivision under IC 5-23.

31 **(g) In addition to this chapter, IC 22-2-15 applies to contractors,**
 32 **subcontractors, employees, and independent contractors with**

1 **respect to construction services performed on public work**
2 **projects.".**

3 Renumber all SECTIONS consecutively.

 (Reference is to SB 23 as reprinted January 12, 2010.)

and when so amended that said bill do pass.

Representative Niezgodski