First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1457

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

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

SECTION 1. IC 22-4-11-1, AS AMENDED BY P.L.175-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) For the purpose of charging employers' experience or reimbursable accounts with regular benefits paid subsequent to July 3, 1971, to any eligible individual but except as provided in IC 22-4-22 and subsection (f), such benefits paid shall be charged proportionately against the experience or reimbursable accounts of the individual's employers in the individual's base period (on the basis of total wage credits established in such base period) against whose accounts the maximum charges specified in this section shall not have been previously made. Such charges shall be made in the inverse chronological order in which the wage credits of such individuals were established. However, when an individual's claim has been computed for the purpose of determining the individual's regular benefit rights, maximum regular benefit amount, and the proportion of such maximum amount to be charged to the experience or reimbursable accounts of respective chargeable employers in the base period, the experience or reimbursable account of any employer charged with regular benefits paid shall not be credited or recredited with any portion of such maximum amount because of any portion of such individual's wage credits remaining uncharged at the expiration of the individual's benefit period. The maximum so charged against the

account of any employer shall not exceed twenty-eight percent (28%) of the total wage credits of such individual with each such employer with which wage credits were established during such individual's base period. Benefits paid under provisions of IC 22-4-22-3 in excess of the amount that the claimant would have been monetarily eligible for under other provisions of this article shall be paid from the fund and not charged to the experience account of any employer. This exception shall not apply to those employers electing to make payments in lieu of contributions who shall be charged for the full amount of regular benefit payments and the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 that are attributable to service in their employ. Irrespective of the twenty-eight percent (28%) maximum limitation provided for in this section, the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 paid to an eligible individual based on service with a governmental entity of this state or its political subdivisions shall be charged to the experience or reimbursable accounts of the employers, and the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 paid to an eligible individual shall be charged to the experience or reimbursable accounts of the individual's employers in the individual's base period, other than governmental entities of this state or its political subdivisions, in the same proportion and sequence as are provided in this section for regular benefits paid. Additional benefits paid under IC 22-4-12-4(c) and benefits paid under IC 22-4-15-1(c)(8) shall:

(1) be paid from the fund; and

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

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

(c) When wage records show that an individual has been employed by two (2) or more employers during the same calendar quarter of the base period but do not indicate both that such employment was consecutive and the order of sequence thereof, then and in such cases it shall be deemed that the employer with whom the individual established a plurality of wage credits in such calendar quarter is the

most recent employer in such quarter and its experience or reimbursable account shall be first charged with benefits paid to such individual. The experience or reimbursable account of the employer with whom the next highest amount of wage credits were established shall be charged secondly and the experience or reimbursable accounts of other employers during such quarters, if any, shall likewise be charged in order according to plurality of wage credits established by such individual.

(d) Except as provided in subsection (f) **or section 1.5 of this chapter,** if an individual:

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

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

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

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

(f) If an individual:

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

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

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

wage credits earned with the base period employers shall be used to

compute the claimant's eligibility for benefits, but charges based on the wage credits from the employer who continues to employ the individual shall be charged to the experience or reimbursable account of the separating employer.

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

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

SECTION 2. IC 22-4-11-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 1.5. (a) As used in this section, "erroneous payment" means a payment that would not have been made but for the failure by an employer or a person acting on behalf of the employer with respect to a claim for unemployment benefits to which the payment relates.**

(b) As used in this section, "pattern of failure" means a repeated and documented failure by an employer or a person acting on behalf of an employer to respond to requests for information made by the department, taking into consideration the number of failures in relation to the total number of requests received by the employer or the person acting on behalf of an employer.

(c) The experience account of an employer may not be relieved of charges for a benefit overpayment from the state's unemployment insurance benefit fund established by IC 22-4-26-1, if the department determines that:

(1) the erroneous payment was made because the employer or a person acting on behalf of the employer was at fault in failing to respond in a timely or adequate manner to the department's written request for information relating to the claim for unemployment benefits; and

(2) the employer or a person acting on behalf of the employer has established a pattern of failure to respond in a timely or adequate manner to department requests described in subdivision (1).

SECTION 3. IC 22-4-11-2, AS AMENDED BY P.L.6-2012, SECTION 153, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) Except as provided in IC 22-4-10-6 and IC 22-4-11.5, the department shall for each year determine the contribution rate applicable to each employer.

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

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

(2) for each calendar year, an employer's rate shall be ~~two and seven-tenths percent (2.7%) before January 1, 2011, and~~ two and five-tenths percent (2.5%), ~~after December 31, 2010,~~ except as otherwise provided in **subsection (g) or** IC 22-4-37-3, unless:

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

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

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

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

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

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

~~(A) the delinquency; or~~

~~(B) failure to file the reports;~~

~~whichever is the later date.~~

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

(c) ~~(d) This subsection applies after December 31, 2010.~~ In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A), (b)(2)(B), and (b)(2)(C), an employer's rate is equal to the sum of the employer's contribution rate determined or estimated by the department under this article plus two percent (2%) unless all required contributions and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessor for periods before and including the computation date have been paid:

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

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

(A) the delinquency; or

(B) failure to file the reports;

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

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

~~(1) one percent (1%), before January 1, 2011; or~~

~~(2)~~ one and six-tenths percent (1.6%) ~~after December 31, 2010;~~ until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

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

STEP ONE: Divide:

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

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

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

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

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

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

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

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

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

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

SECTION 4. IC 22-4-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) If the

commissioner finds that any employer has failed to file any payroll report or has filed a report which the commissioner finds incorrect or insufficient, the commissioner shall make an estimate of the information required from the employer on the basis of the best evidence reasonably available to the commissioner at the time and notify the employer thereof by mail addressed to the employer's last known address. Except as provided in subsection (b), unless the employer files the report or a corrected or sufficient report, as the case may be, within fifteen (15) days after the mailing of the notice, the commissioner shall compute the employer's rate of contribution on the basis of the estimates, and the rate determined in this manner shall be subject to increase ~~but not to reduction~~ **or decrease** on the basis of subsequently ascertained **and verified** information. The estimated amount of contribution is considered prima facie correct.

(b) The commissioner may adjust the amount of contribution estimated in this manner on the basis of information ascertained after the expiration of the notice period if the employer or other interested party:

(1) makes an affirmative showing of all facts alleged as a reasonable cause for the failure to timely file any payroll report; and

(2) submits accurate and reliable payroll reports.

SECTION 5. IC 22-4-13-1.1, AS AMENDED BY P.L.175-2009, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.1. (a) Notwithstanding any other provisions of this article, if an individual knowingly:

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

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

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

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

(1) For the first instance, an amount equal to twenty-five percent

(25%) of the benefit overpayment.

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

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

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

(d) Interest and civil penalties collected under this chapter shall be deposited **as follows:**

(1) Fifteen percent (15%) of the amount collected shall be deposited in the unemployment insurance benefit fund established under IC 22-4-26-1.

(2) The remainder of the amount collected shall be deposited in the special employment and training services fund established under IC 22-4-25-1.

SECTION 6. IC 22-4-14-3, AS AMENDED BY P.L.110-2010, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) may restrict the individual's availability because of the individual's need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (as defined in IC 31-9-2-42).

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

(1) is physically and mentally able to work;

(2) is available for work;

(3) is found by the department to be making an effort to secure full-time work; and

(4) participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services under a profiling system established by the department, **and reemployment and eligibility assessment activities when directed by the department,** unless the department determines that:

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

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

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

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

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

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

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

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

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

suitable work. The department shall by rule prescribe the conditions under which approval of such training will be granted.

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

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

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

(f) For purposes of this section, reemployment services and reemployment and eligibility assessment activities provided to an individual:

(1) must include:

(A) orientation to the services available through a one stop center (as defined by IC 22-4.5-2-6);

(B) provision of labor market and career information;

(C) assessment of the individual's workforce and other job related skills; and

(D) a review of the individual's work search efforts; and

(2) may include:

(A) comprehensive and specialized assessments;

(B) individual and group career counseling;

(C) training services;

(D) additional services to assist the individual in becoming reemployed;

(E) job search counseling; and

(F) development and review of the individual's reemployment plan that includes the individual's participation in job search activities and appropriate workshops.

(g) The department may require an individual participating in reemployment and eligibility assessment activities described in this section to provide proof of identity.

SECTION 7. IC 22-4-17-2, AS AMENDED BY P.L.42-2011, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of the individual's status as an insured worker in a form prescribed by the department. A written notice of the determination of insured status shall be furnished to the individual promptly. Each such determination shall be based on

and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

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

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

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

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

~~(2) the employing unit fails to respond within ten (10) days after the date the request is mailed to the employing unit;~~

~~the department shall make a decision with the information available.~~

~~(e) If:~~

~~(1) an employer appeals an original determination granting benefits to a claimant and the determination is reversed on appeal; and~~

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

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

~~(f) If:~~

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

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

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

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

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

~~(i)~~ **(f)** Except as otherwise hereinafter provided in this section regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after the

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

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

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

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

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

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

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

SECTION 8. IC 22-4.1-4-2, AS AMENDED BY P.L.131-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) This section applies only to an employer who employs individuals within the state.

(b) As used in this section, "date of hire" is:

(1) the first date that an employee provides labor or services to an employer; **or**

(2) the first date that an employee resumes providing labor or services to an employer after a separation from service with the employer of at least sixty (60) days.

(c) As used in this section, "employee":

(1) has the meaning set forth in Chapter 24 of the Internal Revenue Code of 1986; and

(2) includes any individual:

(A) required under Internal Revenue Service regulations to complete a federal form W-4; and

(B) who has provided services to an employer.

The term does not include an employee of a federal or state agency who performs intelligence or counter intelligence functions if the head of the agency determines that the reporting information required under this section could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(d) As used in this section, "employer" has the meaning set forth in Section 3401(d) of the Internal Revenue Code of 1986. The term includes:

(1) governmental agencies; ~~and~~

(2) labor organizations; ~~and~~ **or**

~~(2)~~ **(3)** a person doing business in the state as identified by:

(A) the person's federal employer identification number; or

(B) if applicable, the common paymaster, as defined in Section 3121 of the Internal Revenue Code or the payroll reporting agent of the employer, as described in IRS Rev. Proc. 70-6, 1970-1, C.B. 420.

(e) As used in this section, "labor organization" has the meaning set forth in 42 U.S.C. 653A(a)(2)(B)(ii).

(f) As used in this section, "newly hired employee" means an employee who:

(1) has not previously been employed by an employer; or

(2) resumes service with an employer after a separation from service of at least sixty (60) days.

~~(f)~~ **(g)** The department shall maintain the Indiana directory of new hires as required under 42 U.S.C. 653A.

~~(g)~~ **(h)** The directory under subsection ~~(f)~~ **(g)** must contain **the** information **for each newly hired employee** that an employer must provide to the department ~~for each newly hired employee as follows:~~ **under subsection (k).**

(i) An employer must transmit the information required under subsection (k):

(1) ~~The information must be transmitted~~ within twenty (20) business days of the employee's date of hire; **or**

(2) if ~~an employer transmits reports under this section~~ **the information is transmitted** magnetically or electronically, ~~the information must be transmitted~~ in two (2) monthly transactions that are:

(A) not less than twelve (12) days apart; and

(B) not more than sixteen (16) days apart.

(j) ~~If mailed, the~~ **A** report **containing the information required under subsection (k)** is considered timely:

(1) if it is postmarked on or before the due date, **whenever the report is mailed; or**

(2) ~~If the report is transmitted by facsimile machine or by using electronic or magnetic media, the report is considered timely~~ if it is received on or before the due date, **whenever the report is transmitted by:**

(A) facsimile machine; or

(B) electronic or magnetic media.

~~(h)~~ **(k)** The employer shall provide the information required under this section on an employee's withholding allowance certificate (Internal Revenue Service form W-4) or, at the employer's option, an equivalent form. ~~The report may be transmitted to the department by first class mail, by facsimile machine, electronically, or magnetically.~~ The report must include at least the following:

(1) The name, address, and Social Security number of the employee.

(2) The name, address, and federal tax identification number of the employer.

(3) The date of hire of the employee.

~~(i)~~ **(l)** An employer that has employees in two (2) or more states and that transmits reports under this section electronically or magnetically may comply with this section by doing the following:

(1) Designating one (1) state to receive each report.

(2) Notifying the Secretary of the United States Department of Health and Human Services which state will receive the reports.

(3) Transmitting the reports to the agency in the designated state that is charged with receiving the reports.

~~(j)~~ **(m)** The department may impose **the following as** a civil penalty: ~~of:~~

(1) Twenty-five dollars ($25) on an employer that fails to comply with this section.

(2) Five hundred dollars ($500) on an employer that fails to comply with this section if the failure is a result of a conspiracy between the employer and the employee to:

~~(1)~~ **(A)** not provide the required report; or

~~(2)~~ **(B)** provide a false or an incomplete report.

~~(k)~~ **(n)** The **department shall do the following with** information received from an employer regarding newly hired employees: ~~shall be:~~

(1) ~~entered~~ **Enter the information** into the state's new hire directory within five (5) business days of receipt. ~~and~~

(2) ~~forwarded~~ **Forward the information** to the national directory of new hires ~~within~~ **not later than** three (3) business days after ~~entry~~ **the information is entered** into the state's new hire directory.

The state shall use quality control standards established by the Administrators of the National Directory of New Hires.

~~(l)~~ **(o)** The information contained in the Indiana directory of new hires is available only for use by the department for purposes required by 42 U.S.C. 653A, unless otherwise provided by law.

~~(m)~~ **(p)** The department of child services **(established under IC 31-25-1-1)** shall:

(1) reimburse the department for any costs incurred in carrying out this section;

~~(n) The department of child services and the department shall~~ **and**

(2) enter into a purchase of service agreement **with the department** that establishes procedures necessary to administer this section.

SECTION 9. [EFFECTIVE JULY 1, 2013] **(a) As used in this SECTION, "committee" refers to the unemployment insurance oversight committee established by IC 2-5-30-3.**

(b) The general assembly urges the legislative council to assign the committee the task of studying the following issues:

(1) The use of debit cards to pay unemployment insurance benefits.

(2) The direct deposit of unemployment insurance benefits to a claimant's own checking or savings account.

(c) If the committee is assigned the topics described in subsection (b), the committee shall issue to the legislative council a final report containing the committee's findings and recommendations, including any recommended legislation concerning the topics, in an electronic format under IC 5-14-6 not later than November 1, 2013.

(d) This SECTION expires January 1, 2014.

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____