



March 29, 2019

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# ENGROSSED HOUSE BILL No. 1062

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DIGEST OF HB 1062 (Updated March 27, 2019 12:50 pm - DI 132)

**Citations Affected:** IC 22-4.

**Synopsis:** Unemployment matters. Makes various changes to unemployment compensation law concerning confidentiality, the method of sending notices to claimants and employers, the removal of the cap on expenditures from the special employment and training services fund, employing units subject to the Federal Unemployment Tax Act, and appeals regarding seasonal determinations. Updates and eliminates outdated language. Makes technical corrections.

**Effective:** July 1, 2015 (retroactive); July 1, 2019.

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## Leonard

(SENATE SPONSORS — BOOTS, RANDOLPH LONNIE M)

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January 3, 2019, read first time and referred to Committee on Employment, Labor and Pensions.

January 29, 2019, amended, reported — Do Pass.

January 31, 2019, read second time, ordered engrossed. Engrossed.

February 4, 2019, read third time, passed. Yeas 63, nays 21.

SENATE ACTION

February 27, 2019, read first time and referred to Committee on Pensions and Labor.

March 28, 2019, amended, reported favorably — Do Pass.

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EH 1062—LS 6713/DI 128





March 29, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1062

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

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

1 SECTION 1. IC 22-4-2-9, AS AMENDED BY P.L.1-2007,  
2 SECTION 160, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2019]: Sec. 9. "Fund" means the unemployment  
4 insurance benefit fund established by IC 22-4-26-1, in which all  
5 contributions required, all payments in lieu of contributions, and all  
6 money received from the federal government as reimbursements  
7 pursuant to section 204 of the Federal-State Extended Compensation  
8 Act of 1970, 26 U.S.C. ~~3304n~~, **3304**, shall be deposited and from which  
9 all benefits provided under this article shall be paid.

10 SECTION 2. IC 22-4-2-16 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 16. "Annual payroll"  
12 means the total amount of wages for employment paid by an employer  
13 during the twelve (12) consecutive calendar month period ending on  
14 the computation date of any calendar year, including wages paid by any  
15 other employer whose account has been assumed by such employer in  
16 accordance with the provisions of **IC 22-4-6.5**, IC 22-4-10-6, ~~or~~  
17 IC 22-4-10-7, **or IC 22-4-11.5-7**.

**EH 1062—LS 6713/DI 128**



1 SECTION 3. IC 22-4-2-17, AS AMENDED BY P.L.108-2006,  
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2019]: Sec. 17. Except as provided in IC 22-4-11.5,  
 4 "computation date" means June 30 of the year preceding the effective  
 5 date of new rates of contribution. ~~except that in the event, after having~~  
 6 ~~been legally terminated, an employer again becomes subject to this~~  
 7 ~~article during the last six (6) months of a calendar year and resumes the~~  
 8 ~~employer's former position with respect to the resources and liabilities~~  
 9 ~~of the experience account, then and in such case the employer's first~~  
 10 ~~"computation date" shall mean December 31 of the fourth consecutive~~  
 11 ~~calendar year of such subjectivity and thereafter "computation date" for~~  
 12 ~~such employer shall mean June 30.~~

13 SECTION 4. IC 22-4-2-23, AS AMENDED BY P.L.108-2006,  
 14 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2019]: Sec. 23. ~~Initial~~ "New claim" means a ~~written an~~  
 16 application, in a ~~the~~ form ~~and manner~~ prescribed by the department,  
 17 made by an individual for the determination of the individual's status  
 18 as an insured worker.

19 SECTION 5. IC 22-4-2-24, AS AMENDED BY P.L.108-2006,  
 20 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2019]: Sec. 24. "Additional claim" means a ~~written an~~  
 22 application for a determination of benefit eligibility, made by an  
 23 individual in a ~~the~~ form ~~and manner~~ prescribed by the department, to  
 24 begin a second or subsequent series of claims in a benefit period, by  
 25 which application the individual certifies to new unemployment  
 26 resulting from a break in or loss of work which has occurred since the  
 27 last claim was filed by such individual.

28 SECTION 6. IC 22-4-2-35 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 35. An employer's  
 30 credit reserve ratio is determined on the basis of the relationship that  
 31 the **positive** credit balance shown by ~~his the employer's~~ experience  
 32 account as of the computation date bears to the wages paid by the  
 33 employer or ~~his the employer's~~ predecessors for the employment  
 34 during the thirty-six (36) months immediately preceding the  
 35 computation date.

36 SECTION 7. IC 22-4-2-36 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 36. An employer's debit  
 38 reserve ratio is determined on the basis of the relationship that the  
 39 **negative** debit balance shown by ~~his the employer's~~ experience  
 40 account as of the computation date bears to the wages paid by the  
 41 employer or ~~his the employer's~~ predecessors for employment during  
 42 the thirty-six (36) months immediately preceding the computation date.



1 SECTION 8. IC 22-4-4-1, AS AMENDED BY P.L.171-2016,  
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2019]: Sec. 1. "Remuneration" whenever used in this article,  
 4 unless the context clearly denotes otherwise, means all compensation  
 5 for personal services, including but not limited to commissions,  
 6 bonuses, dismissal pay, vacation pay, sick pay (subject to the  
 7 provisions of section ~~2(b)(2)~~ **2(c)(1)** of this chapter) payments in lieu  
 8 of compensation for services, and cash value of all compensation paid  
 9 in any medium other than cash. The reasonable cash value of  
 10 compensation paid in any medium other than cash may be estimated  
 11 and determined in accordance with rules prescribed by the department.  
 12 Such term shall not, however, include the value of meals, lodging,  
 13 books, tuition, or educational facilities furnished to a student while  
 14 such student is attending an established school, college, university,  
 15 hospital, or training course for services performed within the regular  
 16 school term or school year, including the customary vacation days or  
 17 periods falling within such school term or school year.

18 SECTION 9. IC 22-4-4-2, AS AMENDED BY P.L.66-2018,  
 19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2019]: Sec. 2. (a) Except as otherwise provided in this section,  
 21 "wages" means all remuneration as defined in section 1 of this chapter  
 22 paid to an individual by an employer, remuneration received as tips or  
 23 gratuities in accordance with Sections 3301 and 3102 et seq. of the  
 24 Internal Revenue Code, and includes all remuneration considered as  
 25 wages under Sections 3301 and 3102 et seq. of the Internal Revenue  
 26 Code. However, the term shall not include any amounts paid as  
 27 compensation for services specifically excluded by IC 22-4-8-3 or  
 28 IC 22-4-8-3.5 from the definition of employment as defined in  
 29 IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited  
 30 to, any payments made by an employer to an employee or former  
 31 employee, under order of the National Labor Relations Board, or a  
 32 successor thereto, or agency named to perform the duties thereof, as  
 33 additional pay, back pay, or for loss of employment, or any such  
 34 payments made in accordance with an agreement made and entered  
 35 into by an employer, a union, and the National Labor Relations Board.

36 (b) ~~The term "wages" shall not include the following:~~ **For the**  
 37 **purpose of determining wages subject to contribution, the taxable**  
 38 **wage base is no higher than**

- 39 (1) That part of remuneration which, after remuneration equal to:  
 40 (A) seven thousand dollars (\$7,000); has been paid in a  
 41 calendar year to an individual by an employer or the  
 42 employer's predecessor with respect to employment during any



1           calendar year that begins after December 31, 1982, and before  
 2           January 1, 2011; or  
 3           ~~(B)~~ nine thousand five hundred dollars (\$9,500) ~~has been~~ paid  
 4           in a calendar year to an individual by an employer or the  
 5           employer's predecessor for employment during a calendar year  
 6           that begins after December 31, 2010.  
 7           ~~unless that part of the remuneration is subject to a tax under a~~  
 8           ~~federal law imposing a tax against which credit may be taken for~~  
 9           ~~contributions required to be paid into a state unemployment fund.~~  
 10          For the purposes of this ~~subdivision~~, **subsection**, the term  
 11          "employment" shall include service constituting employment  
 12          under any employment security law of any state or of the federal  
 13          government. However, nothing in this ~~subdivision~~ **subsection**  
 14          shall be taken as an approval or disapproval of any related federal  
 15          legislation.  
 16          **(c) The term "wages" may not include the following:**  
 17          ~~(2)~~ **(1)** The amount of any payment (including any amount paid by  
 18          an employer for insurance or annuities or into a fund to provide  
 19          for any such payment) made to, or on behalf of, an individual or  
 20          any of the individual's dependents under a plan or system  
 21          established by an employer which makes provision generally for  
 22          individuals performing service for it (or for such individuals  
 23          generally and their dependents) or for a class or classes of such  
 24          individuals (or for a class or classes of such individuals and their  
 25          dependents) on account of:  
 26                  (A) retirement;  
 27                  (B) sickness or accident disability, and in the case of payments  
 28                  made to an employee or any dependents, this clause shall  
 29                  exclude from the term "wages" only payments that are  
 30                  received under a worker's compensation or occupational  
 31                  diseases compensation law;  
 32                  (C) medical or hospitalization expenses in connection with  
 33                  sickness or accident disability; or  
 34                  (D) death.  
 35          ~~(3)~~ **(2)** The amount of any payment made by an employer to an  
 36          individual performing service for it (including any amount paid  
 37          by an employer for insurance or annuities or into a fund to  
 38          provide for any such payment) on account of retirement.  
 39          ~~(4)~~ **(3)** The amount of any payment on account of sickness or  
 40          accident disability, or medical or hospitalization expenses in  
 41          connection with sickness or accident disability made by an  
 42          employer to, or on behalf of, an individual performing services for



1 it and after the expiration of six (6) calendar months following the  
 2 last calendar month in which the individual performed services  
 3 for such employer.

4 ~~(5)~~ (4) The amount of any payment made by an employer to, or on  
 5 behalf of, an individual performing services for it or to the  
 6 individual's beneficiary:

7 (A) from or to a trust exempt from tax under Section 401(a) of  
 8 the Internal Revenue Code at the time of such payment unless  
 9 such payment is made to an individual performing services for  
 10 the trust as remuneration for such services and not as a  
 11 beneficiary of the trust; or

12 (B) under or to an annuity plan which, at the time of such  
 13 payments, meets the requirements of Section 401(a)(3),  
 14 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue  
 15 Code.

16 ~~(6)~~ (5) Remuneration paid in any medium other than cash to an  
 17 individual for service not in the course of the employer's trade or  
 18 business.

19 ~~(7)~~ (6) The amount of any payment (other than vacation or sick  
 20 pay) made to an individual after the month in which the individual  
 21 attains the age of sixty-five (65) if the individual did not perform  
 22 services for the employer in the period for which such payment is  
 23 made.

24 ~~(8)~~ (7) The payment by an employer (without deduction from the  
 25 remuneration of the employee) of the tax imposed upon an  
 26 employee under Sections 3101 et seq. of the Internal Revenue  
 27 Code (Federal Insurance Contributions Act).

28 SECTION 10. IC 22-4-4-3, AS AMENDED BY P.L.2-2011,  
 29 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2019]: Sec. 3. (a) For calendar quarters beginning on and after  
 31 July 1, 1997, and before July 1, 1998, "wage credits" means  
 32 remuneration paid for employment by an employer to an individual and  
 33 remuneration received as tips or gratuities in accordance with Sections  
 34 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may  
 35 not exceed five thousand four hundred dollars (\$5,400) and may not  
 36 include payments specified in section ~~2(b)~~ 2 of this chapter.

37 (b) For calendar quarters beginning on and after July 1, 1998, and  
 38 before July 1, 1999, "wage credits" means remuneration paid for  
 39 employment by an employer to an individual and remuneration  
 40 received as tips or gratuities in accordance with Sections 3102 and  
 41 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 42 exceed five thousand six hundred dollars (\$5,600) and may not include



1 payments that are excluded from the definition of wages under section  
2 ~~2(b)~~ 2 of this chapter.

3 (c) For calendar quarters beginning on and after July 1, 1999, and  
4 before July 1, 2000, "wage credits" means remuneration paid for  
5 employment by an employer to an individual and remuneration  
6 received as tips or gratuities in accordance with Sections 3102 and  
7 3301 et seq. of the Internal Revenue Code. Wage credits may not  
8 exceed five thousand eight hundred dollars (\$5,800) and may not  
9 include payments that are excluded from the definition of wages under  
10 section ~~2(b)~~ 2 of this chapter.

11 (d) For calendar quarters beginning on and after July 1, 2000, and  
12 before July 1, 2001, "wage credits" means remuneration paid for  
13 employment by an employer to an individual and remuneration  
14 received as tips or gratuities in accordance with Sections 3102 and  
15 3301 et seq. of the Internal Revenue Code. Wage credits may not  
16 exceed six thousand seven hundred dollars (\$6,700) and may not  
17 include payments that are excluded from the definition of wages under  
18 section ~~2(b)~~ 2 of this chapter.

19 (e) For calendar quarters beginning on and after July 1, 2001, and  
20 before July 1, 2002, "wage credits" means remuneration paid for  
21 employment by an employer to an individual and remuneration  
22 received as tips or gratuities in accordance with Sections 3102 and  
23 3301 et seq. of the Internal Revenue Code. Wage credits may not  
24 exceed seven thousand three hundred dollars (\$7,300) and may not  
25 include payments that are excluded from the definition of wages under  
26 section ~~2(b)~~ 2 of this chapter.

27 (f) For calendar quarters beginning on and after July 1, 2002, and  
28 before July 1, 2003, "wage credits" means remuneration paid for  
29 employment by an employer to an individual and remuneration  
30 received as tips or gratuities in accordance with Sections 3102 and  
31 3301 et seq. of the Internal Revenue Code. Wage credits may not  
32 exceed seven thousand nine hundred dollars (\$7,900) and may not  
33 include payments that are excluded from the definition of wages under  
34 section ~~2(b)~~ 2 of this chapter.

35 (g) For calendar quarters beginning on and after July 1, 2003, and  
36 before July 1, 2004, "wage credits" means remuneration paid for  
37 employment by an employer to an individual and remuneration  
38 received as tips or gratuities in accordance with Sections 3102 and  
39 3301 et seq. of the Internal Revenue Code. Wage credits may not  
40 exceed eight thousand two hundred sixteen dollars (\$8,216) and may  
41 not include payments that are excluded from the definition of wages  
42 under section ~~2(b)~~ 2 of this chapter.





1 (h) For calendar quarters beginning on and after July 1, 2004, and  
 2 before July 1, 2005, "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 eight thousand seven hundred thirty-three dollars (\$8,733) and  
 7 may not include payments that are excluded from the definition of  
 8 wages under section ~~2(b)~~ 2 of this chapter.

9 (i) For calendar quarters beginning on and after July 1, 2005, and  
 10 before July 1, 2012, "wage credits" means remuneration paid for  
 11 employment by an employer to an individual and remuneration  
 12 received as tips or gratuities in accordance with Sections 3102 and  
 13 3301 et seq. of the Internal Revenue Code. Wage credits may not  
 14 exceed nine thousand two hundred fifty dollars (\$9,250) and may not  
 15 include payments that are excluded from the definition of wages under  
 16 section ~~2(b)~~ 2 of this chapter.

17 (j) For calendar quarters beginning on and after July 1, 2012, "wage  
 18 credits" means remuneration paid for employment by an employer to  
 19 an individual and remuneration received as tips or gratuities in  
 20 accordance with Sections 3102 and 3301 et seq. of the Internal  
 21 Revenue Code. Wage credits may not include payments that are  
 22 excluded from the definition of wages under section ~~2(b)~~ 2 of this  
 23 chapter.

24 SECTION 11. IC 22-4-5-3 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) This section  
 26 applies for purposes of deductible income only.

27 (b) If:

28 (1) an employee and an employing unit have agreed in a labor  
 29 contract, that is negotiated on or before May 10, 1987, and any  
 30 renewals ~~thereafter~~ of ~~such the~~ contract, to establish a work week  
 31 that is a different term of seven (7) days than the calendar week;

32 (2) the employing unit has filed a written notice with the ~~division~~  
 33 **department on a in the form and manner** prescribed by the  
 34 ~~division department~~ stating that a work week other than the  
 35 calendar week has been established under the labor contract  
 36 between the employing unit and its employees; and

37 (3) the notice has been filed with the ~~division department~~ before  
 38 an employee working on the contractual work week files a claim  
 39 for unemployment compensation benefits;

40 the work week specified in the contract may be used for purposes of  
 41 this chapter.

42 SECTION 12. IC 22-4-6.5-9, AS ADDED BY P.L.33-2013,

**EH 1062—LS 6713/DI 128**



1 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2019]: Sec. 9. (a) A PEO may elect the PEO level reporting  
3 method, which uses the state employer account number and  
4 contribution rate of the PEO to report and pay all required contributions  
5 to the unemployment compensation fund as required by IC 22-4-10.

6 (b) A PEO shall make the election required by subsection (a) not  
7 later than the following:

8 (1) December 1, 2013, if the PEO is doing business in Indiana on  
9 July 1, 2013.

10 (2) The first date the PEO is liable to make contributions under  
11 this article for at least one (1) covered employee, if the PEO  
12 begins doing business in Indiana after July 1, 2013.

13 (c) The election required by subsection (a) must be made in ~~writing~~  
14 **on forms the form and manner** prescribed by the department.

15 (d) A PEO that does not make an election under this section shall  
16 use the client level reporting method.

17 SECTION 13. IC 22-4-6.5-10, AS ADDED BY P.L.33-2013,  
18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2019]: Sec. 10. (a) The following apply to a PEO that elects  
20 to use the PEO level reporting method:

21 (1) The PEO shall file all quarterly ~~contribution and wage~~ reports  
22 in accordance with IC 22-4-10-1.

23 (2) Whenever the PEO enters into a professional employer  
24 agreement with a client, the PEO:

25 (A) shall notify the department not later than fifteen (15) days  
26 after the end of the quarter in which the professional employer  
27 agreement became effective; and

28 (B) is subject to IC 22-4-10-6 and IC 22-4-11.5, beginning on  
29 the effective date of the professional employer agreement.

30 (3) The PEO shall notify the department in ~~writing on forms the~~  
31 **form and manner** prescribed by the department not later than  
32 fifteen (15) days after the date of the following:

33 (A) The PEO and a client terminate a professional employer  
34 agreement.

35 (B) The PEO elects the client level reporting method under  
36 section 11 of this chapter.

37 After receiving a notice under this subdivision, the department  
38 shall make any changes required by IC 22-4-10-6 and  
39 IC 22-4-11.5.

40 (b) Except as provided by IC 22-4-32-21(d), a PEO that elects to use  
41 the PEO level reporting method is liable for all contributions, interest,  
42 penalties, and surcharges until the effective date of an election under



1 section 11 of this chapter by the PEO to change to the client level  
2 reporting method.

3 SECTION 14. IC 22-4-6.5-11, AS ADDED BY P.L.33-2013,  
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2019]: Sec. 11. (a) A PEO using the PEO level reporting  
6 method may elect the client level reporting method, which uses the  
7 state employer account number and contribution rate of the client to  
8 report and pay all required contributions to the unemployment  
9 compensation fund as required by IC 22-4-10.

10 (b) A PEO shall make an election under subsection (a) not later than  
11 December 1 of the calendar year before the calendar year in which the  
12 election is effective.

13 (c) An election under subsection (a) must be made in ~~writing on~~  
14 ~~forms the form and manner~~ prescribed by the department.

15 (d) An election under subsection (a) is effective on January 1 of the  
16 calendar year immediately following the year in which the department  
17 receives the notice described in subsection (c).

18 SECTION 15. IC 22-4-7-2, AS AMENDED BY P.L.108-2006,  
19 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2019]: Sec. 2. "Employer" also means the following:

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

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

41 (c) Any employing unit which, having become an employer under  
42 section 1, 2(a), 2(b), 2(d), 2(f), or 2(h) of this chapter, has not ceased



1 to be an employer by compliance with the provisions of IC 22-4-9-2  
2 and IC 22-4-9-3.

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

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

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

34 (g) Any employing unit for which service in employment, as defined  
35 in IC 22-4-8-2(i) or IC 22-4-8-2(i)(1), is performed.

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

38 (i) Any employing unit for which service in employment as defined  
39 in IC 22-4-8-2(m) is performed. In determining whether an employing  
40 unit for which service other than domestic service is also performed is  
41 an employer under sections 1 or 2 of this chapter, the wages earned or  
42 the employment of an employee performing domestic service may not



1 be taken into account.

2 SECTION 16. IC 22-4-7-3 IS AMENDED TO READ AS

3 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) As used in this

4 article, "seasonal employer" means an employer that, because of

5 climatic conditions or the seasonal nature of a product or service,

6 customarily operates all or a portion of its business only during a

7 regularly recurring period or periods of less than twenty-six (26) weeks

8 for all seasonal periods during a calendar year. An employer may be a

9 seasonal employer with respect to a portion of its business only if that

10 portion, under the usual and customary practice in the industry, is

11 identifiable as a functionally distinct operation.

12 (b) As used in this article, "seasonal determination" means a

13 decision made by the department after application ~~on prescribed forms~~

14 **in the form and manner prescribed by the department** as to the

15 seasonal nature of the employer, the normal seasonal period or periods

16 of the employer, and the seasonal operation of the employer covered by

17 such determination.

18 SECTION 17. IC 22-4-8-3, AS AMENDED BY P.L.171-2016,

19 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

20 JULY 1, 2019]: Sec. 3. "Employment" shall not include the following:

21 (1) Except as provided in section 2(i) of this chapter, service

22 performed prior to January 1, 1978, in the employ of this state,

23 any other state, any town or city, or political subdivision, or any

24 instrumentality of any of them, other than service performed in

25 the employ of a municipally owned public utility as defined in this

26 article; or service performed in the employ of the United States of

27 America, or an instrumentality of the United States immune under

28 the Constitution of the United States from the contributions

29 imposed by this article, except that to the extent that the Congress

30 of the United States shall permit states to require any

31 instrumentalities of the United States to make payments into an

32 unemployment fund under a state unemployment compensation

33 statute, all of the provisions of this article shall be applicable to

34 such instrumentalities, in the same manner, to the same extent,

35 and on the same terms as to all other employers, employing units,

36 individuals, and services. However, if this state shall not be

37 certified for any year by the Secretary of Labor under Section

38 3304 of the Internal Revenue Code the payments required of such

39 instrumentalities with respect to ~~such that~~ year shall be refunded

40 by the commissioner from the fund in the same manner and

41 within the same period as is provided in IC 22-4-32-19 with

42 respect to contribution erroneously paid or wrongfully assessed.



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

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

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

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

28 (C) in connection with the production or harvesting of any  
 29 commodity defined as an agricultural commodity in Section  
 30 15(g) of the Agricultural Marketing Act (12 U.S.C. 1141j(g))  
 31 as amended, or in connection with the operation or  
 32 maintenance of ditches, canals, reservoirs, or waterways, not  
 33 owned or operated for profit, used exclusively for supplying  
 34 and storing water for farming purposes;

35 (D) in the employ of:  
 36 (i) the operator of a farm in handling, planting, drying,  
 37 packing, packaging, processing, freezing, grading, storing,  
 38 or delivering to storage or to market or to a carrier for  
 39 transportation to market, in its unmanufactured state, any  
 40 agricultural or horticultural commodity; but only if **such the**  
 41 operator produced more than one-half (1/2) of the  
 42 commodity with respect to which **such the** service is



- 1 performed; or
- 2 (ii) a group of operators of farms (or a cooperative
- 3 organization of which such operators are members) in the
- 4 performance of service described in item (i), but only if ~~such~~
- 5 **the** operators produce more than one-half (1/2) of the
- 6 commodity with respect to which ~~such the~~ service is
- 7 performed;
- 8 except the provisions of items (i) and (ii) shall not be deemed
- 9 to be applicable with respect to service performed in
- 10 connection with commercial canning or commercial freezing
- 11 or in connection with any agricultural or horticultural
- 12 commodity after its delivery to a terminal market for
- 13 distribution for consumption; or
- 14 (E) on a farm operated for profit if ~~such the~~ service is not in
- 15 the course of the employer's trade or business or is domestic
- 16 service in a private home of the employer.
- 17 (4) As used in subdivision (3), "farm" includes stock, dairy,
- 18 poultry, fruit, furbearing animals, and truck farms, nurseries,
- 19 orchards, greenhouses, or other similar structures used primarily
- 20 for the raising of agricultural or horticultural commodities.
- 21 (5) Domestic service in a private home, local college club, or
- 22 local chapter of a college fraternity or sorority, except as provided
- 23 in section 2(m) of this chapter.
- 24 (6) Service performed on or in connection with a vessel or aircraft
- 25 not an American vessel or American aircraft, if the employee is
- 26 employed on and in connection with ~~such the~~ vessel or aircraft
- 27 when outside the United States.
- 28 (7) Service performed by an individual in the employ of child or
- 29 spouse, and service performed by a child under the age of
- 30 twenty-one (21) in the employ of a parent.
- 31 (8) Service not in the course of the employing unit's trade or
- 32 business performed in any calendar quarter by an individual,
- 33 unless the cash remuneration paid for ~~such the~~ service is fifty
- 34 dollars (\$50) or more and ~~such the~~ service is performed by an
- 35 individual who is regularly employed by ~~such the~~ employing unit
- 36 to perform ~~such the~~ service. For the purposes of this subdivision,
- 37 an individual shall be deemed to be regularly employed to
- 38 perform service not in the course of an employing unit's trade or
- 39 business during a calendar quarter only if:
- 40 (A) on each of some of twenty-four (24) days during ~~such the~~
- 41 quarter ~~such that the~~ individual performs ~~such the~~ service for
- 42 some portion of the day; or



- 1 (B) ~~such the~~ individual was regularly employed (as
- 2 determined under clause (A)) by ~~such an~~ employing unit in the
- 3 performance of ~~such a~~ service during the preceding calendar
- 4 quarter.
- 5 (9) Service performed by an individual in any calendar quarter in
- 6 the employ of any organization exempt from income tax under
- 7 Section 501 of the Internal Revenue Code (except those services
- 8 included in sections 2(i) and 2(j) of this chapter) if the
- 9 remuneration for ~~such the~~ service is less than fifty dollars ~~(\$50)~~;
- 10 **(\$50)**.
- 11 (10) Service performed in the employ of a hospital, if ~~such the~~
- 12 service is performed by a patient of ~~such the~~ hospital.
- 13 (11) Service performed in the employ of a school or eligible
- 14 postsecondary educational institution if the service is performed:
- 15 (A) by a student who is enrolled and is regularly attending
- 16 classes at the school or eligible postsecondary educational
- 17 institution; or
- 18 (B) by the spouse of ~~such a~~ student, if ~~such the~~ spouse is
- 19 advised, at the time ~~such the~~ spouse commences to perform
- 20 ~~such the~~ service, that:
- 21 (i) the employment of ~~such the~~ spouse to perform ~~such the~~
- 22 service is provided under a program to provide financial
- 23 assistance to ~~such the~~ student by the school or eligible
- 24 postsecondary educational institution; and
- 25 (ii) ~~such the~~ employment will not be covered by any
- 26 program of unemployment insurance.
- 27 (12) Service performed by an individual who is enrolled at a
- 28 nonprofit or public educational institution which normally
- 29 maintains a regular faculty and curriculum and normally has a
- 30 regularly organized body of students in attendance at the place
- 31 where its educational activities are carried on as a student in a
- 32 full-time program, taken for credit at ~~such the~~ institution, which
- 33 combines academic instruction with work experience, if ~~such the~~
- 34 service is an integral part of ~~such the~~ program, and ~~such the~~
- 35 institution has so certified to the employer, except that this
- 36 subdivision shall not apply to service performed in a program
- 37 established for or on behalf of an employer or group of employers.
- 38 (13) Service performed in the employ of a government foreign to
- 39 the United States of America, including service as a consular or
- 40 other officer or employee or a nondiplomatic representative.
- 41 (14) Service performed in the employ of an instrumentality
- 42 wholly owned by a government foreign to that of the United





- 1 States of America, if the service is of a character similar to that  
 2 performed in foreign countries by employees of the United States  
 3 of America or of an instrumentality ~~thereof~~, **of the United States**  
 4 **of America**, and if the department finds that the Secretary of  
 5 State of the United States has certified to the Secretary of the  
 6 Treasury of the United States that the government, foreign to the  
 7 United States, with respect to whose instrumentality exemption is  
 8 claimed, grants an equivalent exemption with respect to similar  
 9 service performed in such country by employees of the United  
 10 States and of instrumentalities ~~thereof~~. **of the United States.**
- 11 (15) Service performed as a student nurse in the employ of a  
 12 hospital or nurses' training school by an individual who is  
 13 enrolled and is regularly attending classes in a nurses' training  
 14 school chartered or approved pursuant to state law; and service  
 15 performed as an intern in the employ of a hospital by an  
 16 individual who has completed a four (4) year course in a medical  
 17 school chartered or approved pursuant to state law.
- 18 (16) Service performed by an individual as an insurance producer  
 19 or as an insurance solicitor, if all ~~such~~ service performed by ~~such~~  
 20 **the** individual is performed for remuneration solely by way of  
 21 commission.
- 22 (17) Service performed by an individual:
- 23 (A) under the age of eighteen (18) in the delivery or  
 24 distribution of newspapers or shopping news, not including  
 25 delivery or distribution to any point for subsequent delivery or  
 26 distribution; or
- 27 (B) in, and at the time of, the sale of newspapers or magazines  
 28 to ultimate consumers, under an arrangement under which the  
 29 newspapers or magazines are to be sold by the individual at a  
 30 fixed price, the individual's compensation being based on the  
 31 retention of the excess of ~~such the~~ price over the amount at  
 32 which the newspapers or magazines are charged to the  
 33 individual, whether or not the individual is guaranteed a  
 34 minimum amount of compensation for ~~such the~~ service, or is  
 35 entitled to be credited with the unsold newspapers or  
 36 magazines turned back.
- 37 (18) Service performed in the employ of an international  
 38 organization **to the extent the services are excluded from**  
 39 **employment under 26 CFR 31.3306(c)(16).**
- 40 (19) Except as provided in IC 22-4-7-1, services covered by an  
 41 election duly approved by the agency charged with the  
 42 administration of any other state or federal unemployment



1 compensation law in accordance with an arrangement pursuant to  
 2 IC 22-4-22-1 through IC 22-4-22-5, during the effective period of  
 3 such election.

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

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

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

23 SECTION 18. IC 22-4-9-2, AS AMENDED BY P.L.98-2005,  
 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2019]: Sec. 2. Except as otherwise provided in sections 4 and  
 26 5 of this chapter, IC 22-4-7-2(f), and IC 22-4-11.5, an employing unit  
 27 shall cease to be an employer subject to this article only as of January  
 28 1 of any calendar year, if it files with the commissioner, prior to  
 29 January 31 of such year, a ~~written an~~ application for termination of  
 30 coverage **in the form and manner prescribed by the department**,  
 31 and the commissioner finds that the employment experience of the  
 32 employer within the preceding calendar year was not sufficient to  
 33 qualify an employing unit as an employer under IC 22-4-7-1 and  
 34 IC 22-4-7-2.

35 SECTION 19. IC 22-4-9-4, AS AMENDED BY P.L.108-2006,  
 36 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2019]: Sec. 4. Any employing unit not otherwise subject to  
 38 this article which files ~~with the~~ **in the form and manner prescribed**  
 39 **by the** department its ~~written~~ election to become an employer subject  
 40 to this article for not less than two (2) calendar years shall, with the  
 41 ~~written~~ approval of ~~such the~~ election by the department, become an  
 42 employer subject to this article to the same extent as all other



1 employers as of the date stated in such approval. However, the  
 2 voluntary election of ~~any such an~~ employer shall become inoperative  
 3 if ~~such the~~ employing unit becomes an employer by reason of  
 4 IC 22-4-7-1.

5 SECTION 20. IC 22-4-9-5, AS AMENDED BY P.L.98-2005,  
 6 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2019]: Sec. 5. An employing unit for which services, as  
 8 specifically excluded by IC 22-4-8-3 or IC 22-4-8-3.5, are performed,  
 9 may file ~~with the commissioner in the form and manner prescribed~~  
 10 **by the department** its ~~written~~ election to consider ~~all such those~~  
 11 services for ~~such the~~ employing unit in one (1) or more distinct  
 12 establishments, as employment for all purposes of this article for not  
 13 less than two (2) calendar years. Upon ~~written~~ approval of ~~such the~~  
 14 election by the ~~commissioner; such department, the~~ services shall be  
 15 deemed to constitute employment subject to this article as of the date  
 16 stated in ~~such the~~ approval and shall cease to be deemed employment  
 17 ~~subject hereto~~ as of January 1 of any calendar year subsequent to ~~such~~  
 18 ~~the~~ two (2) calendar years only if prior to January 31 it has filed ~~with~~  
 19 ~~the commissioner a written notice in the form and manner~~  
 20 **prescribed by the department** to that effect.

21 SECTION 21. IC 22-4-10-1, AS AMENDED BY P.L.175-2009,  
 22 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2019]: Sec. 1. (a) Contributions shall accrue and become  
 24 payable from each employer for each calendar year in which it is  
 25 subject to this article with respect to wages paid during such calendar  
 26 year. Where the status of an employer is changed by cessation or  
 27 disposition of business or appointment of a receiver, trustees, trustee  
 28 in bankruptcy, or other fiduciary, contributions shall immediately  
 29 become due and payable on the basis of wages paid or payable by such  
 30 employer as of the date of the change of status. Such contributions shall  
 31 be paid to the department in such manner as the department may  
 32 prescribe, and shall not be deducted, in whole or in part, from the  
 33 remuneration of individuals in an employer's employ. When  
 34 contributions are determined in accordance with Schedule A as  
 35 provided in IC 22-4-11-3, the department may prescribe rules to require  
 36 an estimated advance payment of contributions in whole or in part, if  
 37 in the judgment of the department such advance payments will avoid  
 38 a debit balance in the fund during the calendar quarter to which the  
 39 advance payment applies. An adjustment shall be made following the  
 40 quarter in which an advance payment has been made to reflect the  
 41 difference between the estimated contribution and the contribution  
 42 actually payable. Advance payment of contributions shall not be



1 required for more than one (1) calendar quarter in any calendar year.

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

6 (c) Except as provided in subsection (e), the election to become  
7 liable for "payments in lieu of contributions" must be filed with the  
8 department ~~on a~~ **in the form and manner** prescribed by the department  
9 not later than thirty-one (31) days following the date upon which ~~such~~  
10 **the** entity qualifies as an employer under this article, and shall be for  
11 a period of not less than two (2) calendar years.

12 (d) Any employer that makes an election in accordance with  
13 subsections (b) and (c) will continue to be liable for "payments in lieu  
14 of contributions" until it files with the department a ~~written~~ **in**  
15 **the form and manner prescribed by the department** terminating its  
16 election. The notice filed by an employer to terminate its election must  
17 be filed not later than thirty (30) days prior to the beginning of the  
18 taxable year for which ~~such the~~ termination shall first be effective.

19 (e) Any employer that qualifies to elect to become liable for  
20 "payments in lieu of contributions" and has been paying contributions  
21 under this article, may change to a reimbursable basis by filing with the  
22 department not later than thirty (30) days prior to the beginning of any  
23 taxable year a written notice of election to become liable for payments  
24 in lieu of contributions. ~~Such The~~ election shall not be terminable by  
25 the organization for that and the next year.

26 (f) Employers making "payments in lieu of contributions" under  
27 subsections (b) and (c) shall make reimbursement payments monthly  
28 ~~At the end of each calendar month the department shall bill each such~~  
29 ~~employer (or group of employers) for an amount equal to the full~~  
30 ~~amount of regular benefits plus the part of benefits not reimbursed by~~  
31 ~~the federal government under the Federal-State Extended~~  
32 ~~Unemployment Compensation Act of 1970 paid during such month that~~  
33 ~~is attributable to services in the employ of such employers or group of~~  
34 ~~employers. Governmental entities of this state and its political~~  
35 ~~subdivisions electing to make "payments in lieu of contributions" shall~~  
36 ~~be as billed by the department. at the end of each calendar month for~~  
37 ~~an amount equal to the full amount of regular benefits plus the part of~~  
38 ~~benefits not reimbursed by the federal government under the~~  
39 ~~Federal-State Extended Unemployment Compensation Act of 1970~~  
40 ~~paid during the month that is attributable to service in the employ of~~  
41 ~~the governmental entities.~~

42 (g) Payment of any bill rendered under subsection (f) shall be made



1 not later than thirty (30) days after ~~such the~~ bill was ~~sent mailed to the~~  
 2 ~~last known address of the employer or was otherwise delivered to it;~~  
 3 ~~unless there has been an application for review and redetermination~~  
 4 ~~filed under subsection (i); by the department.~~

5 (h) Payments made by any employer under the provisions of  
 6 subsections (f) through (j) shall not be deducted or deductible, in whole  
 7 or in part, from the remuneration of individuals in the employ of the  
 8 employer.

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

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

23 (k) Two (2) or more employers that have elected to become liable  
 24 for "payments in lieu of contributions" in accordance with subsections  
 25 (b) and (c) may file a joint application **with in the form and manner**  
 26 **as prescribed by** the department for the establishment of a group  
 27 account for the purpose of sharing the cost of benefits paid that are  
 28 attributable to service in the employ of ~~such those~~ employers. ~~Such~~  
 29 **The** group account shall be established as provided in regulations  
 30 prescribed by the commissioner.

31 SECTION 22. IC 22-4-10-5 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. Any employer may  
 33 make voluntary payments in addition to the contributions required  
 34 under this article, and the same shall be credited to its experience  
 35 account. ~~Such The~~ voluntary contributions shall not be used in the  
 36 computation of reduced rates unless ~~such the~~ contributions are paid  
 37 prior to the expiration of one hundred twenty (120) days after the  
 38 beginning of the year for which ~~such the~~ rates are effective. ~~Such The~~  
 39 payments shall be included in the experience account as of the  
 40 computation date only if they are made within thirty (30) days  
 41 following the date upon which the department ~~mails sends~~ notice that  
 42 ~~such the~~ payments may be made with respect to a calendar year. ~~Such~~



1     **The** voluntary payments when accepted from an employer will not be  
 2 refunded in whole or in part.

3     SECTION 23. IC 22-4-10-6, AS AMENDED BY P.L.33-2013,  
 4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2019]: Sec. 6. (a) Except as provided by IC 22-4-6.5, when:

6         (1) an employing unit (whether or not an employing unit at the  
 7 time of the acquisition) becomes an employer under  
 8 IC 22-4-7-2(a);

9         (2) an employer acquires the organization, trade, or business, or  
 10 substantially all the assets of another employer; or

11         (3) an employer transfers all or a portion of the employer's trade  
 12 or business (including the employer's workforce) to another  
 13 employer as described in IC 22-4-11.5-7;

14 the successor employer shall, in accordance with the rules prescribed  
 15 by the department, assume the position of the predecessor with respect  
 16 to all the resources and liabilities of the predecessor's experience  
 17 account.

18         (b) Except as provided by IC 22-4-6.5 or IC 22-4-11.5, when:

19         (1) an employing unit (whether or not an employing unit at the  
 20 time of the acquisition) becomes an employer under  
 21 IC 22-4-7-2(b); or

22         (2) an employer acquires a distinct and segregable portion of the  
 23 organization, trade, or business within this state of another  
 24 employer;

25 the successor employer shall assume the position of the predecessor  
 26 employer with respect to the portion of the resources and liabilities of  
 27 the predecessor's experience account as pertains to the distinct and  
 28 segregable portion of the predecessor's organization, trade, or business  
 29 acquired by the successor. ~~An application for the acquiring employer~~  
 30 ~~to assume this portion of the resources and liabilities of the disposing~~  
 31 ~~employer's experience account~~ **Both the disposer and the acquirer**  
 32 ~~must be filed with disclose the transfer to the department on~~  
 33 ~~prescribed forms in the form and manner prescribed by the~~  
 34 ~~department~~ **not later than thirty (30) days immediately following the**  
 35 **disposition date or not later than ten (10) days after the disposing and**  
 36 **acquiring employers are mailed or otherwise delivered final notice that**  
 37 **the acquiring employer is a successor employer; sent a request for**  
 38 **information, whichever is the earlier date. This portion of the**  
 39 **resources and liabilities of the disposing employer's experience account**  
 40 **shall be transferred in accordance with ~~IC 22-4-11.5. the rules~~**  
 41 **prescribed by the department.**

42         (c) Except as provided by IC 22-4-6.5 or IC 22-4-11.5, the successor



1 employer, if an employer prior to the acquisition, shall pay at the rate  
 2 of contribution originally assigned to it for the calendar year in which  
 3 the acquisition occurs, until the end of that year. If not an employer  
 4 prior to the acquisition, the ~~successor employer shall pay the rate~~  
 5 ~~determined under IC 22-4-11-2(b)(2); unless the successor employer~~  
 6 ~~assumes all or part of the resources and liabilities of the predecessor~~  
 7 ~~employer's experience account; in which event the successor employer~~  
 8 shall pay at the rate of contribution assigned to the predecessor  
 9 employer for the period starting with the first day of the calendar  
 10 quarter in which the acquisition occurs, until the end of that year.  
 11 However, if a successor employer, not an employer prior to the  
 12 acquisition, simultaneously acquires all or part of the experience  
 13 balance of two (2) or more employers, the successor employer shall pay  
 14 at the highest rate applicable to the experience accounts totally or  
 15 partially acquired for the period starting with the first day of the  
 16 calendar quarter in which the acquisition occurs, until the end of the  
 17 year. ~~If the successor employer had any employment prior to the date~~  
 18 ~~of acquisition upon which contributions were owed under IC 22-4-9-1,~~  
 19 ~~the employer's rate of contribution from the first of the year to the first~~  
 20 ~~day of the calendar quarter in which the acquisition occurred would be~~  
 21 ~~determined under IC 22-4-11-2(b)(2).~~

22 SECTION 24. IC 22-4-11-1.5, AS ADDED BY P.L.154-2013,  
 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2019]: Sec. 1.5. (a) As used in this section, "erroneous  
 25 payment" means a payment that would not have been made but for the  
 26 failure by an employer or a person acting on behalf of the employer  
 27 with respect to a claim for unemployment benefits to which the  
 28 payment relates.

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

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

- 39 (1) the erroneous payment was made because the employer or a  
 40 person acting on behalf of the employer was at fault in failing to  
 41 respond in a timely or adequate manner to the department's  
 42 ~~written~~ request for information relating to the claim for



1 unemployment benefits; and

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

5 SECTION 25. IC 22-4-11-4, AS AMENDED BY P.L.154-2013,  
6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2019]: Sec. 4. ~~(a)~~ If the commissioner finds that any employer  
8 has failed to file any payroll report or has filed a report which the  
9 commissioner finds incorrect or insufficient, the commissioner shall  
10 make an estimate of the information required from the employer on the  
11 basis of the best evidence reasonably available to the commissioner at  
12 the time and notify the employer. ~~thereof by mail addressed to the~~  
13 ~~employer's last known address. Except as provided in subsection (b);~~  
14 Unless the employer files the report or a corrected or sufficient report,  
15 as the case may be, within fifteen (15) days after ~~the mailing of the~~  
16 notice **is sent by the department**, the commissioner shall compute the  
17 employer's rate of contribution on the basis of the estimates, and the  
18 rate determined in this manner shall be subject to increase or decrease  
19 on the basis of subsequently ascertained and verified information. The  
20 estimated amount of contribution is considered prima facie correct.

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

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

28 ~~(2) submits accurate and reliable payroll reports.~~

29 SECTION 26. IC 22-4-11.5-7, AS AMENDED BY P.L.108-2006,  
30 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2019]: Sec. 7. (a) This section applies to a transfer of a trade  
32 or business that meets the following requirements:

33 (1) An employer transfers all or a portion of the employer's trade  
34 or business to another employer.

35 (2) At the time of the transfer, the two (2) employers have  
36 substantially common ownership, management, or control.

37 (b) The successor employer shall assume the experience account  
38 balance of the predecessor employer for the resources and liabilities of  
39 the predecessor employer's experience account that are attributable to  
40 the transfer.

41 (c) The contribution rates of both employers shall be recalculated,  
42 and the recalculated rate made effective on the **first day of the**





1 **calendar year during which the transfer occurred if the** effective  
 2 **date of the transfer described in subsection (a) is before April 1, and**  
 3 **the first day of the subsequent calendar year, if the effective date**  
 4 **of the transfer described in subsection (a) is after March 31.**

5 (d) The payroll of the predecessor employer on the effective date of  
 6 the transfer, and the benefits chargeable to the predecessor employer's  
 7 original experience account after the effective date of the transfer, must  
 8 be divided between the predecessor employer and the successor  
 9 employer in accordance with rules adopted by the department under  
 10 IC 4-22-2.

11 (e) Any written determination made by the department is conclusive  
 12 and binding on both the predecessor employer and the successor  
 13 employer unless one (1) employer files or both employers file a written  
 14 protest with the department setting forth all reasons for the protest. A  
 15 protest under this section must be filed not later than fifteen (15) days  
 16 after the date the department sends the initial determination to the  
 17 employers. The protest shall be heard and determined under this  
 18 section and IC 22-4-32-1 through IC 22-4-32-15. The predecessor  
 19 employer, the successor employer, and the department shall be parties  
 20 to the hearing before the liability administrative law judge and are  
 21 entitled to receive copies of all pleadings and the decision.

22 SECTION 27. IC 22-4-13-1, AS AMENDED BY P.L.183-2015,  
 23 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2015 (RETROACTIVE)]: Sec. 1. (a) Whenever an individual  
 25 receives benefits or extended benefits to which the individual is not  
 26 entitled under:

27 (1) this article; or

28 (2) the unemployment insurance law of the United States;

29 the department shall establish that an overpayment has occurred and  
 30 establish the amount of the overpayment. For an overpayment  
 31 described in subsection (e), the department has four (4) years from the  
 32 date of the overpayment to establish that the overpayment occurred and  
 33 the amount of the overpayment.

34 (b) An individual described in subsection (a) is liable to repay the  
 35 established amount of the overpayment.

36 (c) Any individual who knowingly:

37 (1) makes, or causes to be made by another, a false statement or  
 38 representation of a material fact knowing it to be false; or

39 (2) fails, or causes another to fail, to disclose a material fact; and  
 40 as a result thereof has received any amount as benefits to which the  
 41 individual is not entitled under this article, shall be liable to repay such  
 42 amount, with interest at the rate of one-half percent (0.5%) per month,



1 to the department for the unemployment insurance benefit fund or to  
2 have such amount deducted from any benefits otherwise payable to the  
3 individual under this article.

4 (d) Any individual who fails to report wages received during a week  
5 in which benefits were paid or because of the subsequent receipt of  
6 income deductible from benefits which is allocable to the week or  
7 weeks for which benefits were paid and as a result is not entitled to  
8 such benefits under this article shall be liable to repay such amount to  
9 the department for the unemployment insurance benefit fund or to have  
10 such amount deducted from any benefits otherwise payable to the  
11 individual under this article.

12 (e) An individual who for any reason not described in subsection (c)  
13 or (d) has received any amount as benefits to which the individual is  
14 not entitled under this article is liable to repay that amount to the  
15 department for the unemployment insurance benefit fund or to have  
16 that amount deducted from any benefits otherwise payable to the  
17 individual under this article.

18 (f) When benefits are paid to an individual who was eligible or  
19 qualified to receive such payments, but when such payments are made  
20 because of the failure of representatives or employees of the  
21 department to transmit or communicate to such individual notice of  
22 suitable work offered, through the department, to such individual by an  
23 employing unit, then and in such cases, the individual shall not be  
24 required to repay or refund amounts so received, but such payments  
25 shall be deemed to be benefits improperly paid.

26 (g) Where it is finally determined by a deputy, an administrative law  
27 judge, the review board, or a court of competent jurisdiction that an  
28 individual has received benefits to which the individual is not entitled  
29 under this article, the department shall relieve the affected employer's  
30 experience account of any benefit charges directly resulting from such  
31 overpayment, except as provided under IC 22-4-11-1.5. However, an  
32 employer's experience account will not be relieved of the charges  
33 resulting from an overpayment of benefits which has been created by  
34 a retroactive payment by such employer directly or indirectly to the  
35 claimant for a period during which the claimant claimed and was paid  
36 benefits unless the employer reports such payment by the end of the  
37 calendar quarter following the calendar quarter in which the payment  
38 was made or unless and until the overpayment has been collected.  
39 Those employers electing to make payments in lieu of contributions  
40 shall not have their account relieved as the result of any overpayment  
41 unless and until such overpayment has been repaid to the  
42 unemployment insurance benefit fund.



1 (h) Where any individual is liable to repay any amount to the  
 2 department for the unemployment insurance benefit fund for the  
 3 restitution of benefits to which the individual is not entitled under this  
 4 article, the amount due may be collectible without interest, except as  
 5 otherwise provided in subsection (c), by civil action in the name of the  
 6 state of Indiana, on relation of the department, which remedy by civil  
 7 action shall be in addition to all other existing remedies and to the  
 8 methods for collection provided in this article. **The department must**  
 9 **commence a civil action as described in this section not later than**  
 10 **ten (10) years after the later of the following:**

11 (1) **The date the department establishes that an overpayment**  
 12 **has occurred.**

13 (2) **The date that the determination of an overpayment**  
 14 **becomes final following the exhaustion of all appeals.**

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

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

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

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

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

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

27 SECTION 28. IC 22-4-14-11, AS AMENDED BY P.L.171-2016,  
 28 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2019]: Sec. 11. (a) For weeks of unemployment occurring  
 30 after October 1, 1983, benefits may be paid to an individual on the  
 31 basis of service performed in seasonal employment (as defined in  
 32 IC 22-4-8-4) only if the claim is filed within the operating period of the  
 33 seasonal employment. If the claim is filed outside the operating period  
 34 of the seasonal employment, benefits may be paid on the basis of  
 35 nonseasonal wages only.

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



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

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

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

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

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

23 (f) (e) Seasonal employers shall keep account of wages paid to  
 24 seasonal workers within the seasonal period as determined by the  
 25 department and shall report these wages on a special seasonal quarterly  
 26 report in the form provided and manner prescribed by the  
 27 department.

28 (g) (f) The department shall adopt rules applicable to seasonal  
 29 employers for determining their normal seasonal period or periods.

30 SECTION 29. IC 22-4-17-2, AS AMENDED BY P.L.154-2013,  
 31 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2019]: Sec. 2. (a) When an individual files an initial claim, the  
 33 department shall promptly make a determination of the individual's  
 34 status as an insured worker. in a form prescribed by the department. A  
 35 written notice of the determination of insured status shall be furnished  
 36 to the individual promptly. Each such determination shall be based on  
 37 and include a written statement showing the amount of wages paid to  
 38 the individual for insured work by each employer during the  
 39 individual's base period and shall include a finding as to whether such  
 40 the wages meet the requirements for the individual to be an insured  
 41 worker, and, if so, the week ending date of the first week of the  
 42 individual's benefit period, the individual's weekly benefit amount, and



1 the maximum amount of benefits that may be paid to the individual for  
 2 weeks of unemployment in the individual's benefit period. For the  
 3 individual who is not insured, the notice shall include the reason for the  
 4 determination. Unless the individual, within ten (10) days after ~~such~~  
 5 ~~the~~ determination was ~~mailed to the individual's last known address; or~~  
 6 ~~otherwise delivered~~ **sent by the department** to the individual, asks **for**  
 7 a hearing ~~thereon~~ before an administrative law judge, ~~such the~~  
 8 determination shall be final and benefits shall be paid or denied in  
 9 accordance ~~therewith.~~ **with the determination.**

10 (b) The department shall promptly furnish each employer in the base  
 11 period whose experience or reimbursable account is potentially  
 12 chargeable with benefits to be paid to ~~such the~~ individual with a notice  
 13 ~~in writing~~ of the employer's benefit liability. The notice shall contain  
 14 the date, the name and Social Security account number of the  
 15 individual, the ending date of the individual's base period, and the week  
 16 ending date of the first week of the individual's benefit period. The  
 17 notice shall further contain information as to the proportion of benefits  
 18 chargeable to the employer's experience or reimbursable account in  
 19 ratio to the earnings of ~~such the~~ individual from ~~such the~~ employer.  
 20 Unless the employer within ten (10) days after ~~such the~~ notice of  
 21 benefit liability was ~~mailed sent by the department~~ to the ~~employer's~~  
 22 ~~last known address; or otherwise delivered to the~~ employer, asks **for** a  
 23 hearing ~~thereon~~ before an administrative law judge, ~~such the~~  
 24 determination shall be final and benefits paid shall be charged in  
 25 accordance ~~therewith.~~ **with the determination.**

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

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

42 (e) In cases where the claimant's benefit eligibility or



1 disqualification is disputed, the department shall promptly notify the  
 2 claimant and the employer or employers directly involved or connected  
 3 with the issue raised as to the validity of ~~such the~~ claim, the eligibility  
 4 of the claimant for waiting period credit or benefits, or the imposition  
 5 of a disqualification period or penalty, or the denial ~~thereof, of the~~  
 6 **claim**, and of the cause for which the claimant left the claimant's work,  
 7 of ~~such the~~ determination and the reasons ~~thereof. for the~~  
 8 **determination.**

9 (f) Except as otherwise ~~hereinafter~~ provided in this section  
 10 regarding parties located in Alaska, Hawaii, and Puerto Rico, unless  
 11 the claimant or ~~such the~~ employer, within ten (10) days after the  
 12 notification required by subsection (e), was ~~mailed sent by the~~  
 13 **department** to the ~~claimant's or the employer's last known address or~~  
 14 ~~otherwise delivered to the~~ claimant or the employer, asks for a hearing  
 15 before an administrative law judge, ~~thereon, such the~~ decision shall be  
 16 final and benefits shall be paid or denied in accordance ~~therewith. with~~  
 17 **the decision.**

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

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

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

40 (j) Solely on the ground of obvious administrative error appearing  
 41 on the face of an original determination, and within the benefit year of  
 42 the affected claims, the commissioner, or a representative authorized



1 by the commissioner to act in the commissioner's behalf, may  
 2 reconsider and direct the deputy to revise the original determination so  
 3 as to correct the obvious error. ~~appearing therein~~. Time for filing an  
 4 appeal and requesting a hearing before an administrative law judge  
 5 regarding the determinations handed down pursuant to this subsection  
 6 shall begin on the date following the date of revision of the original  
 7 determination and shall be filed with the commissioner in ~~writing the~~  
 8 **form and manner prescribed by the department** within the  
 9 prescribed periods ~~as above set forth~~ **provided** in subsection (c).

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

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

18 SECTION 30. IC 22-4-17-6, AS AMENDED BY P.L.175-2009,  
 19 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2019]: Sec. 6. (a) The manner in which disputed claims shall  
 21 be presented and the conduct of hearings and appeals, including the  
 22 conduct of administrative law judges, review board members, and other  
 23 individuals who adjudicate claims during a hearing or other  
 24 adjudicative process, shall be in accordance with rules adopted by the  
 25 department for determining the rights of the parties, whether or not the  
 26 rules conform to common law or statutory rules of evidence and other  
 27 technical rules of procedure.

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

32 (c) Each party to a hearing before an administrative law judge held  
 33 under section 3 of this chapter shall be ~~mailed sent~~ a notice of the  
 34 hearing at least ten (10) days before the date of the hearing specifying  
 35 the date, place, and time of the hearing, identifying the issues to be  
 36 decided, and providing complete information about the rules of  
 37 evidence and standards of proof that the administrative law judge will  
 38 use to determine the validity of the claim.

39 (d) If a hearing so scheduled has not commenced within at least  
 40 sixty (60) minutes of the time for which it was scheduled, then a party  
 41 involved in the hearing may request a continuance of the hearing. Upon  
 42 submission of a request for continuance of a hearing under



1 circumstances provided in this section, the continuance shall be  
 2 granted unless the party requesting the continuance was responsible for  
 3 the delay in the commencement of the hearing as originally scheduled.  
 4 In the latter instance, the continuance shall be discretionary with the  
 5 administrative law judge. Testimony or other evidence introduced by  
 6 a party at a hearing before an administrative law judge or the review  
 7 board that another party to the hearing:

8 (1) is not prepared to meet; and

9 (2) by ordinary prudence could not be expected to have  
 10 anticipated;

11 shall be good cause for continuance of the hearing and upon motion  
 12 such continuance shall be granted.

13 SECTION 31. IC 22-4-17-11, AS AMENDED BY P.L.121-2014,  
 14 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2019]: Sec. 11. (a) Any decision of the review board, in the  
 16 absence of appeal as provided in this section, shall become final thirty  
 17 (30) days after the date the decision is ~~mailed~~ **sent** to the interested  
 18 parties. The review board shall ~~mail~~ **send** with the decision a notice  
 19 informing the interested parties of their right to appeal the decision to  
 20 the court of appeals of Indiana. The notice shall inform the parties that  
 21 they have thirty (30) days from the date ~~of mailing the notice was sent~~  
 22 **by the review board** within which to file a notice of intention to  
 23 appeal, and that in order to perfect the appeal they must request the  
 24 preparation of a transcript in accordance with section 12 of this  
 25 chapter.

26 (b) If the commissioner or any party adversely affected by the  
 27 decision files with the review board a notice of an intention to appeal  
 28 the decision, that action shall stay all further proceedings under or by  
 29 virtue of the review board decision for a period of thirty (30) days from  
 30 the date of the filing of the notice, and, if the appeal is perfected,  
 31 further proceedings shall be further stayed pending the final  
 32 determination of the appeal. However, if an appeal from the decision  
 33 of the review board is not perfected within the time provided for by this  
 34 chapter, no action or proceeding shall be further stayed.

35 SECTION 32. IC 22-4-19-6, AS AMENDED BY P.L.177-2017,  
 36 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2019]: Sec. 6. (a) Each employing unit shall keep true and  
 38 accurate records containing information the department considers  
 39 necessary. These records are:

40 (1) open to inspection; and

41 (2) subject to being copied;

42 by an authorized representative of the department at any reasonable





1 time and as often as may be necessary. The department, the review  
 2 board, or an administrative law judge may require from any employing  
 3 unit any verified or unverified report, with respect to persons employed  
 4 by it, which is considered necessary for the effective administration of  
 5 this article.

6 (b) Except as provided in ~~subsections (d) and (f)~~, **this section**,  
 7 information obtained or obtained from any person in the administration  
 8 of this article and the records of the department relating to the  
 9 unemployment tax or the payment of benefits is confidential and may  
 10 not be published or be open to public inspection in any manner  
 11 revealing the individual's or the employing unit's identity, except in  
 12 obedience to an order of a court or as provided in this section.

13 (c) A claimant or an employer at a hearing before an administrative  
 14 law judge or the review board shall be supplied with information from  
 15 the records referred to in this section to the extent necessary for the  
 16 proper presentation of the subject matter of the appearance.

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

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

19 (2) Employer specific information known as Quarterly Census of  
 20 Employment and Wages data and data resulting from  
 21 enhancements made through the business establishment list  
 22 improvement project may be released to the Indiana economic  
 23 development corporation only for the following purposes:

24 (A) The purpose of conducting a survey.

25 (B) The purpose of aiding the officers or employees of the  
 26 Indiana economic development corporation in providing  
 27 economic development assistance through program  
 28 development, research, or other methods.

29 (C) Other purposes consistent with the goals of the Indiana  
 30 economic development corporation and not inconsistent with  
 31 those of the department, including the purposes of IC 5-28-6-7.

32 (3) Employer specific information known as Quarterly Census of  
 33 Employment and Wages data and data resulting from  
 34 enhancements made through the business establishment list  
 35 improvement project may be released to:

36 (A) the budget agency and the legislative services agency only  
 37 for aiding the employees of the budget agency or the  
 38 legislative services agency in forecasting tax revenues; and

39 (B) the Indiana department of labor for the purpose of  
 40 conducting a survey and reporting to the United States  
 41 Department of Labor or the federal Bureau of Labor Statistics.

42 ~~(4) Information obtained from any person in the administration of~~



1 this article and the records of the department relating to the  
 2 unemployment tax or the payment of benefits for use by the  
 3 following governmental entities:

4 (A) an agency of the United States;

5 (B) an agency of the state; or

6 (C) a public official for use in the performance of the public  
 7 official's duties;

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

10 (e) The department may make information available under  
 11 subsection (d) only:

12 (1) if:

13 (A) **under subsection (d)(1)**, data provided in summary form  
 14 cannot be used to identify information relating to a specific  
 15 employer or specific employee; or

16 (B) **under subsection (d)(2) and (d)(3)**, there is an agreement  
 17 that the employer specific information released will be treated  
 18 as confidential and will be released only in summary form that  
 19 cannot be used to identify information relating to a specific  
 20 employer or a specific employee; and

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

23 **(f) The department may disclose confidential information:**

24 **(1) to an individual or employer as provided in 20 CFR**  
 25 **603.5(c), upon request and proper identification of the**  
 26 **individual or employer;**

27 **(2) through informed consent of a party as provided in 20**  
 28 **CFR 603.5(d);**

29 **(3) to a public official as provided in 20 CFR 603.5(e);**

30 **(4) to an agent or contractor of a public official as provided in**  
 31 **20 CFR 603.5(f); or**

32 **(5) to the Bureau of Labor Statistics as provided in 20 CFR**  
 33 **603.5(g);**

34 **after the cost of making the information available to the party**  
 35 **requesting the information is paid under IC 5-14-3.**

36 **(g)** In addition to the confidentiality provisions of subsection (b),  
 37 the fact that a claim has been made under IC 22-4-15-1(c)(8) and any  
 38 information furnished by the claimant or an agent to the department to  
 39 verify a claim of domestic or family violence are confidential.  
 40 Information concerning the claimant's current address or physical  
 41 location shall not be disclosed to the employer or any other person.  
 42 Disclosure is subject to the following additional restrictions:



- 1 (1) The claimant must be notified before any release of  
 2 information.  
 3 (2) Any disclosure is subject to redaction of unnecessary  
 4 identifying information, including the claimant's address.  
 5 ~~(g)~~ **(h)** An employee:  
 6 (1) of the department who recklessly violates subsection (a), (c),  
 7 (d), (e), ~~or~~ (f), **or (g)**; or  
 8 (2) of any governmental entity listed in subsection ~~(d)(4)~~ **(f)** who  
 9 recklessly violates subsection ~~(d)(4)~~; **(f)**;  
 10 commits a Class B misdemeanor.  
 11 ~~(h)~~ **(i)** An employee of the Indiana economic development  
 12 corporation, the budget agency, or the legislative services agency who  
 13 violates subsection (d), ~~or~~ (e), **or (f)** commits a Class B misdemeanor.  
 14 ~~(i)~~ **(j)** An employer or agent of an employer that becomes aware that  
 15 a claim has been made under IC 22-4-15-1(c)(8) shall maintain that  
 16 information as confidential.  
 17 ~~(j)~~ **(k)** The department may charge a reasonable processing fee not  
 18 to exceed two dollars (\$2) for each record that provides information  
 19 about an individual's last known employer released in compliance with  
 20 a court order under subsection (b).  
 21 SECTION 33. IC 22-4-19-10 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. Any employing unit  
 23 which negligently or ~~wilfully~~ **willfully** fails to submit any report of  
 24 information required for the proper administration of this article  
 25 demanded by the commissioner within ten (10) days after request for  
 26 the same is sent to the employing unit by registered mail shall be  
 27 assessed a penalty of twenty-five dollars (\$25).  
 28 SECTION 34. IC 22-4-19-13, AS AMENDED BY P.L.177-2017,  
 29 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2019]: Sec. 13. (a) An employer that is required to be  
 31 provided a notice or report under this section is entitled to delivery of  
 32 the notice or report by the United States Postal Service using first class  
 33 mail. If an employer wants to receive notices and reports by mail, the  
 34 employer shall notify the department ~~on a~~ **in the form provided and**  
 35 **manner prescribed** by the department.  
 36 (b) Where an employer makes an offer of employment directly to a  
 37 claimant, promptly giving written notice to the department of ~~such the~~  
 38 offer, or when ~~any such the~~ employer makes ~~such an~~ offer of  
 39 employment in writing through the department, the commissioner, the  
 40 deputy, or an authorized representative of the state or the United States  
 41 employment service, which offer shall specify ~~such the~~ claimant by  
 42 name, and when ~~such the~~ claimant ~~thereafter~~ fails to register



1 subsequent to the receipt of ~~such the~~ offer of employment by the  
 2 department, the commissioner, the deputy, or an authorized  
 3 representative of the state or the United States employment service,  
 4 then a notice ~~in writing~~ shall promptly be ~~mailed sent~~ to ~~such the~~  
 5 employer of ~~such the~~ claimant's ~~said~~ failure to return and to register. If  
 6 ~~such the~~ claimant, ~~thereafter~~, in the claimant's benefit period, again  
 7 registers or renews and continues the claimant's claim for benefits, ~~such~~  
 8 ~~the~~ employer shall promptly be provided with notice of ~~such the~~ fact  
 9 in order that the employer may have an opportunity to renew and  
 10 remake an offer of employment to ~~such the~~ claimant.

11 (c) Upon the filing by an individual of an additional claim for  
 12 benefits, a notice shall be promptly provided to an employer from  
 13 whose employ the individual claims to have been last separated.

14 (d) Upon the filing by an individual of an initial claim for benefits,  
 15 a notice shall be promptly provided to the base period employer or base  
 16 period employers and to the employing units including an employer  
 17 from whose employ the individual claims to have been last separated.  
 18 The computation of the benefit rights of ~~such the~~ individual shall be  
 19 made as promptly as possible and, if ~~such the~~ claim is deemed valid,  
 20 then a notice of benefit liability shall be provided to each employer  
 21 whose experience account is potentially chargeable with benefits to be  
 22 paid to ~~such the~~ individual. ~~Such The~~ notice shall contain the date, the  
 23 name and Social Security number of the individual, the ending date of  
 24 the individual's base period, and the week ending date of the first week  
 25 of the individual's benefit year. ~~Such The~~ notice shall further contain  
 26 information as to the proportion of benefits chargeable to the  
 27 employer's experience account in ratio to the earnings of ~~such the~~  
 28 individual from ~~such the~~ employer and shall advise ~~such the~~ employer  
 29 of the employer's right to protest ~~such the~~ claim and the payment of any  
 30 benefits ~~thereon~~ and of the place and time within which ~~the~~ protest  
 31 must be made ~~and in~~ the form ~~and manner prescribed by the~~  
 32 ~~department and of the contents thereof: of the protest.~~

33 (e) Whenever a determination is made with respect to the validity  
 34 of any claim for benefits, or the eligibility of any claimant for benefits,  
 35 which involves the cancellation of wage credits or benefit rights, the  
 36 imposition of any disqualification, period of ineligibility or penalty, or  
 37 the denial ~~thereof, of the claim~~, a notice shall promptly be provided to  
 38 ~~such the~~ claimant and to each employer directly involved or connected  
 39 with the issue raised as to the validity of ~~such the~~ claim, the eligibility  
 40 of ~~such the~~ claimant for benefits, or the imposition of a disqualification  
 41 period of ineligibility or penalty, or the denial ~~thereof: of the claim.~~  
 42 ~~Such The~~ employer or ~~such the~~ claimant may protest any such a



1 determination within ~~such the~~ time limits and in ~~such the~~ manner as  
 2 provided in IC 22-4-17-2 and upon ~~said the~~ protest shall be entitled to  
 3 a hearing as provided in IC 22-4-17-2 and IC 22-4-17-3.

4 (f) Every employer shall be provided with a monthly report of  
 5 benefit charges which shall contain an itemized statement showing the  
 6 names of individuals to whom benefits were paid and charged to the  
 7 experience account of such employer, the weeks with respect to which  
 8 each ~~such~~ individual received benefits, the amount ~~thereof~~, **of the**  
 9 **benefits**, and the total amount of benefits charged to ~~such the~~  
 10 employer's ~~said~~ account during the period covered by ~~such the~~ report.

11 (g) Following the computation of rates of contribution for employers  
 12 for each calendar year, each employer shall be provided with notice not  
 13 later than ninety (90) days after the effective date of ~~such the~~ rates,  
 14 setting out the employer's rate of contribution for ~~such the~~ year,  
 15 computed by the department as of the preceding June 30, together with  
 16 sufficient information for ~~such the~~ employer to determine and compute  
 17 the amount of a voluntary payment required from ~~such the~~ employer in  
 18 order to qualify for and obtain a lower rate of contribution for ~~such the~~  
 19 year and also advising ~~such the~~ employer of the length of time within  
 20 which or last date upon which ~~said the~~ voluntary payment will be  
 21 received or can be made.

22 SECTION 35. IC 22-4-20-1, AS AMENDED BY P.L.171-2016,  
 23 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2019]: Sec. 1. (a) Whenever the commissioner shall consider  
 25 any account or claim for contributions against an employer, and any  
 26 penalty or interest due, ~~thereon~~, or any part ~~thereof~~, **of the penalty or**  
 27 **interest**, to be uncollectible, written notification containing appropriate  
 28 information shall be furnished to the attorney general by the  
 29 commissioner setting forth the reasons ~~therefor~~ and the extent to which  
 30 collection proceedings have been taken. The attorney general may  
 31 review ~~such the~~ notice and may undertake additional investigation as  
 32 to the facts ~~relating thereto~~, **regarding the collection proceedings**, and  
 33 shall ~~thereupon~~ certify to the commissioner an opinion as to the  
 34 collectibility of ~~such the~~ account or claim. If the attorney general  
 35 consents to the cancellation of ~~such a~~ claim for delinquent  
 36 contributions, and any interest or penalty due, ~~thereon~~, the **board**  
 37 **department** may then cancel all or any part of ~~such the~~ claim.

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

42 (1) The employer's account has been delinquent for at least seven



1 (7) years.

2 (2) The commissioner has determined that the account is  
3 uncollectible and has recommended that the department cancel  
4 the claim for delinquent contributions.

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

11 SECTION 36. IC 22-4-25-1, AS AMENDED BY P.L.177-2017,  
12 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2019]: Sec. 1. (a) There is created in the state treasury a  
14 special fund to be known as the special employment and training  
15 services fund. All interest on delinquent contributions and penalties  
16 collected under this article, together with any voluntary contributions  
17 tendered as a contribution to this fund, shall be paid into this fund. The  
18 money shall not be expended or available for expenditure in any  
19 manner which would permit their substitution for (or a corresponding  
20 reduction in) federal funds which would in the absence of ~~said the~~  
21 money be available to finance expenditures for the administration of  
22 this article, but nothing in this section shall prevent ~~said the~~ money  
23 from being used as a revolving fund to cover expenditures necessary  
24 and proper under the law for which federal funds have been duly  
25 requested but not yet received, subject to the charging of ~~such~~  
26 expenditures against ~~such the~~ funds when received. The money in this  
27 fund shall be used by the department for the payment of refunds of  
28 interest on delinquent contributions and penalties so collected, for the  
29 payment of costs of administration which are found not to have been  
30 properly and validly chargeable against federal grants or other funds  
31 received for or in the employment and training services administration  
32 fund, on and after July 1, 1945. ~~Such The~~ money shall be available  
33 either to satisfy the obligations incurred by the department directly, or  
34 by transfer by the department of the required amount from the special  
35 employment and training services fund to the employment and training  
36 services administration fund. The department shall order the transfer  
37 of ~~such the~~ funds or the payment of any ~~such~~ obligation or expenditure  
38 and ~~such the~~ funds shall be paid by the treasurer of state on requisition  
39 drawn by the department ~~directing the auditor of state to issue the~~  
40 ~~auditor's warrant therefor. Any such warrant shall be drawn by the state~~  
41 ~~auditor based upon vouchers and~~ certified by the commissioner. The  
42 money in this fund is ~~hereby~~ specifically made available to replace



1 within a reasonable time any money received by this state pursuant to  
 2 42 U.S.C. 502, as amended, which, because of any action or  
 3 contingency, has been lost or has been expended for purposes other  
 4 than or in amounts in excess of those approved by the United States  
 5 Department of Labor. The money in this fund shall be continuously  
 6 available to the department for expenditures in accordance with the  
 7 provisions of this section and for the prevention, detection, and  
 8 recovery of delinquent contributions, penalties, and improper benefit  
 9 payments, and shall not lapse at any time or be transferred to any other  
 10 fund, except as provided in this article. ~~Except as provided in~~  
 11 ~~subsection (c); after making the grants required under subsection (c);~~  
 12 ~~the department may expend an amount not to exceed five million~~  
 13 ~~dollars (\$5,000,000) in a state fiscal year for the purposes described in~~  
 14 ~~this subsection; unless an additional amount is approved by the budget~~  
 15 ~~committee.~~ Nothing in this section shall be construed to limit, alter, or  
 16 amend the liability of the state assumed and created by IC 22-4-28, or  
 17 to change the procedure prescribed in IC 22-4-28 for the satisfaction of  
 18 ~~such the~~ liability, except to the extent that ~~such the~~ liability may be  
 19 satisfied by and out of the funds of ~~such the~~ special employment and  
 20 training services fund created by this section. Each state fiscal year, the  
 21 commissioner shall make the training grants required under subsection  
 22 (c) before amounts are expended from the fund in accordance with this  
 23 section for any other purpose.

24 (b) If on December 31 the balance in the special employment and  
 25 training services fund exceeds eight million five hundred thousand  
 26 dollars (\$8,500,000), the department shall order, not later than thirty  
 27 (30) days after December 31, payment of the amount that exceeds eight  
 28 million five hundred thousand dollars (\$8,500,000) into the  
 29 unemployment insurance benefit fund.

30 (c) Subject to the availability of funds, on July 1 each year the  
 31 commissioner shall release the following amounts before expenditures  
 32 are made in accordance with this section for any other purpose:

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

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



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

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

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

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

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

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

21 (d) Each state educational institution described in subsection (c) is  
 22 entitled to keep ten percent (10%) of the funds released under  
 23 subsection (c) for the payment of costs of administering the funds. On  
 24 each June 30 following the release of the funds, any funds released  
 25 under subsection (c) not used by the state educational institutions under  
 26 subsection (c) shall be returned to the special employment and training  
 27 services fund.

28 (e) ~~For the state fiscal year beginning July 1, 2017; and the state~~  
 29 ~~fiscal year beginning July 1, 2018; the five million dollar (\$5,000,000)~~  
 30 ~~maximum on expenditures by the department from the fund in a state~~  
 31 ~~fiscal year described in subsection (a) does not apply.~~

32 SECTION 37. IC 22-4-26-3, AS AMENDED BY P.L.171-2016,  
 33 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2019]: Sec. 3. The treasurer of state shall be ex officio  
 35 treasurer and custodian of the fund and shall administer the fund in  
 36 accordance with the provisions of this article and the directions of the  
 37 commissioner. ~~and shall pay all warrants drawn upon it in accordance~~  
 38 ~~with such rules as the department may prescribe.~~ All contributions  
 39 provided for in this article shall be paid to and collected by the  
 40 department. All contributions and other money payable to the fund as  
 41 provided in this article upon receipt thereof by the department shall be  
 42 paid to and deposited with the treasurer of state to the credit of the in





1     **a separate clearing account for the exclusive benefit of the**  
 2     unemployment insurance benefit fund. The commissioner shall  
 3     **immediately order the auditor of state to issue the auditor's warrant on**  
 4     **the treasurer of state immediately to forward such the** money and  
 5     deposit it, together with any money earned ~~thereby~~ while in the  
 6     treasurer's custody and any other money received by the treasurer for  
 7     the payment of benefits from any source other than the unemployment  
 8     trust fund, with the Secretary of the Treasury of the United States of  
 9     America to the credit of the unemployment trust fund. All money  
 10    belonging to the unemployment insurance benefit fund and not  
 11    otherwise deposited, invested, or paid over pursuant to the provisions  
 12    of this article may be deposited by the treasurer of state under the  
 13    direction of the commissioner in any banks or public depositories in  
 14    which general funds of the state may be deposited, but no public  
 15    deposit insurance charge or premium shall be paid out of money in the  
 16    unemployment insurance benefit fund, any other provisions of law to  
 17    the contrary notwithstanding. The treasurer of state shall, if required by  
 18    the Social Security Administration, give a separate bond conditioned  
 19    upon the faithful performance of the treasurer's duties as custodian of  
 20    the fund in an amount and with such sureties as shall be fixed and  
 21    approved by the governor. Premiums for the ~~said~~ bond shall be paid as  
 22    provided in IC 22-4-24.

23       SECTION 38. IC 22-4-26-4, AS AMENDED BY P.L.136-2018,  
 24    SECTION 114, IS AMENDED TO READ AS FOLLOWS  
 25    [EFFECTIVE JULY 1, 2019]: Sec. 4. ~~The commissioner, through the~~  
 26    ~~treasurer of state acting as its fiscal agent, department~~ shall, **on each**  
 27    **business day when the Federal Reserve is in operation**, requisition  
 28    ~~from time to time~~ from the unemployment trust fund ~~such~~ amounts ~~not~~  
 29    ~~exceeding the amount standing to its account in the unemployment~~  
 30    ~~trust fund~~ as it deems necessary for the payment of **authorized** benefits  
 31    for a **reasonable future period** and for refunds, but for no other purpose.  
 32    ~~Upon receipt thereof, the treasurer of state shall deposit such money in~~  
 33    ~~the unemployment insurance benefit fund in a special benefit account;~~  
 34    ~~and upon order of the commissioner, the auditor of state or the auditor's~~  
 35    ~~duly authorized agent shall issue the auditor's warrants for the payment~~  
 36    ~~of benefits and refunds by the treasurer of state. Any balance of money~~  
 37    ~~so requisitioned which remains unclaimed or unpaid in the special~~  
 38    ~~benefit account of the unemployment insurance benefit fund after the~~  
 39    ~~expiration of the period for which such sums are requisitioned shall~~  
 40    ~~either be deducted from estimates for, and may be utilized for the~~  
 41    ~~payment of; benefits and refunds during succeeding periods; or in the~~  
 42    ~~discretion of the commissioner shall be redeposited with the Secretary~~



1 of the Treasury of the United States to the credit of the unemployment  
2 trust fund as provided in section 3 of this chapter.

3 SECTION 39. IC 22-4-29-3 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. The commissioner,  
5 or the commissioner's duly authorized representative, shall immediately  
6 notify the employing unit of the assessment, ~~in writing by mail;~~ and  
7 ~~such the~~ assessment shall be final unless the employing unit protests  
8 ~~such the~~ assessment within fifteen (15) days after ~~the mailing of the~~  
9 ~~department sends the~~ notice.

10 SECTION 40. IC 22-4-29-4, AS AMENDED BY P.L.108-2006,  
11 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2019]: Sec. 4. If the employing unit protests ~~such the~~  
13 assessment ~~upon written request it in the form and manner~~  
14 **prescribed by the department, the employing unit** shall have an  
15 opportunity to be heard, and ~~such the~~ hearing shall be conducted by a  
16 liability administrative law judge pursuant to the provisions of  
17 IC 22-4-32-1 through IC 22-4-32-15. After the hearing the liability  
18 administrative law judge shall immediately notify the employing unit  
19 ~~in writing~~ of the finding, and the assessment, if any, so made shall be  
20 final, in the absence of judicial review proceedings as provided in this  
21 article, thirty (30) days after ~~such the~~ notice of appeal is issued.

22 SECTION 41. IC 22-4-32-1, AS AMENDED BY P.L.42-2011,  
23 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 JULY 1, 2019]: Sec. 1. A liability administrative law judge shall hear  
25 all matters pertaining to:

- 26 (1) the assessment of contributions, **payment in lieu of**  
27 **contributions, surcharge,** penalties, and interest;  
28 (2) which accounts, if any, benefits paid, or finally ordered to be  
29 paid, should be charged;  
30 (3) successorships, and related matters arising ~~therefrom;~~ **from a**  
31 **successorship,** including but not limited to:  
32 (A) the transfer of accounts;  
33 (B) the determination of rates of contribution; and  
34 (C) determinations under IC 22-4-11.5; ~~and~~  
35 (4) claims for refunds of contributions or adjustments; ~~thereon in~~  
36 ~~connection with subsequent contribution payments; and~~  
37 **(5) the definition of employment under IC 22-4-8;**

38 for which an employing unit has timely filed a protest under section 4  
39 of this chapter.

40 SECTION 42. IC 22-4-32-4, AS AMENDED BY P.L.108-2006,  
41 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2019]: Sec. 4. **(a)** An employing unit shall have fifteen (15)



1 calendar days, beginning on the date an initial determination is ~~mailed~~  
 2 **sent** to the employing unit, within which to protest in writing an initial  
 3 determination of the department with respect to **section 1 of this**  
 4 **chapter.**

- 5 (1) the assessments of contributions, penalties, and interest;
- 6 (2) the transfer of charges from an employer's account;
- 7 (3) merit rate calculations;
- 8 (4) successorships;
- 9 (5) the denial of claims for refunds and adjustments; and
- 10 (6) a determination under IC 22-4-11.5.

11 **(b) If a notice under this chapter is served through the United**  
 12 **States Postal Service, three (3) days must be added to a period that**  
 13 **commences upon service of notice.**

14 **(c) The filing of a document with the unemployment insurance**  
 15 **appeals division is complete on the earliest of the following dates**  
 16 **that apply to the filing:**

- 17 **(1) The date on which the document is delivered to the**  
 18 **unemployment insurance appeals division.**
- 19 **(2) The date of the postmark on the envelope containing the**  
 20 **document if the document is mailed to the unemployment**  
 21 **insurance appeals division by the United States Postal Service.**
- 22 **(3) The date on which the document is deposited with a**  
 23 **private carrier, as shown by a receipt issued by the carrier, if**  
 24 **the document is sent to the unemployment insurance appeals**  
 25 **division by a private carrier.**

26 SECTION 43. IC 22-4-32-10 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. A full and complete  
 28 record shall be kept of all proceedings had before the liability  
 29 administrative law judge, and all testimony shall be retained in a  
 30 suitable media such as an audio recording or a transcription by a court  
 31 reporter. The liability administrative law judge shall, at the timely  
 32 ~~written~~ request of the appellant **in the form and manner prescribed**  
 33 **by the department**, have a transcript prepared of all the proceedings  
 34 had before the liability administrative law judge, which shall contain  
 35 a transcript of all the testimony, together with all objections and rulings  
 36 ~~thereon~~, **on the testimony**, documents and papers introduced as  
 37 evidence or offered as evidence, and all rulings as to their admission  
 38 into evidence, which ~~said~~ **the** transcript shall be certified by the  
 39 liability administrative law judge and shall constitute the record on  
 40 appeal.

41 SECTION 44. IC 22-4-32-19, AS AMENDED BY P.L.175-2009,  
 42 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2019]: Sec. 19. (a) The department may grant an application  
 2 for adjustment or refund, make an adjustment or refund, or set off a  
 3 refund as follows:

4 (1) Not later than four (4) years after the date upon which any  
 5 contributions or interest ~~thereon on the contributions~~ were paid;  
 6 **assessed**, an employing unit which has paid ~~such the~~  
 7 contributions or interest ~~thereon on the contributions~~ may make  
 8 application for an adjustment or a refund of ~~such the~~  
 9 contributions or an adjustment ~~thereon~~ in connection with  
 10 subsequent contribution payments. The department shall  
 11 ~~thereupon~~ determine whether or not ~~such the~~ contribution or  
 12 interest, or any portion ~~thereof~~, **of the contribution or interest**,  
 13 was erroneously paid or wrongfully assessed.

14 (2) The department may grant ~~such an~~ application in whole or in  
 15 part and may make an adjustment, without interest, in connection  
 16 with subsequent contribution payments or refund ~~such the~~  
 17 amounts, without interest, from the fund. Adjustments or refund  
 18 may be made on the commissioner's own initiative.

19 (3) Any adjustments or refunds of interest or penalties collected  
 20 for contributions due under IC 22-4-10-1 shall be charged to and  
 21 paid from the special employment and training services fund  
 22 created by IC 22-4-25.

23 (4) The department may set off any refund available to an  
 24 employer under this section against any delinquent contributions,  
 25 payments in lieu of contributions, and the interest and penalties,  
 26 if any, related to the delinquent payments and assessments.

27 (b) Any decision by the department to:

- 28 (1) grant an application for adjustment or refund;  
 29 (2) make an adjustment or refund on its own initiative; or  
 30 (3) set off a refund;

31 constitutes the initial determination referred to in section 4 of this  
 32 chapter and is subject to hearing and review as provided in sections 1  
 33 through 15 of this chapter.

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

38 SECTION 45. IC 22-4-32-21, AS AMENDED BY P.L.33-2013,  
 39 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2019]: Sec. 21. (a) Any individual, group of individuals, or  
 41 other legal entity, whether or not an employing unit which acquires all  
 42 or part of the organization, trade, or business within this state of an



1 employer or which acquires all or part of the assets of ~~such the~~  
 2 organization, trade or business, shall notify the commissioner in ~~writing~~  
 3 ~~by registered mail the form and manner prescribed by the~~  
 4 ~~department~~ not later than five (5) days prior to the acquisition.

5 (b) Unless ~~such the~~ notice is given, the commissioner shall have the  
 6 right to proceed against either the predecessor or successor, in  
 7 personam or in rem, for the collection of contributions and interest due  
 8 or accrued and unpaid by the predecessor, as of the date of ~~such the~~  
 9 acquisition, and the amount of ~~such the~~ liability shall, in addition, be  
 10 a lien against the property or assets so acquired which shall be prior to  
 11 all other liens. However, the lien shall not be valid as against one who  
 12 acquires from the successor any interest in the property or assets in  
 13 good faith, for value and without notice of the lien.

14 (c) On ~~written~~ request **in the form and manner prescribed by the**  
 15 **department** after the acquisition is completed, the commissioner shall  
 16 furnish the successor with a ~~written~~ statement of the amount of  
 17 contributions and interest due or accrued and unpaid by the predecessor  
 18 as of the date of ~~such the~~ acquisition, and the liability of the successor  
 19 and the amount of the lien shall in no event exceed the reasonable  
 20 value of the property or assets acquired by the successor from the  
 21 predecessor or the amount disclosed by ~~such the~~ statement, whichever  
 22 is the lesser.

23 (d) An acquirer described in subsection (a) or a professional  
 24 employer organization under IC 22-4-6.5 may file a request for  
 25 clearance in the **form and** manner prescribed by the department at  
 26 least five (5) business days before an acquisition or transfer. After  
 27 filing a request, the acquirer or professional employer organization is  
 28 entitled to receive a statement indicating whether an account being  
 29 acquired or transferred is in good standing with the department as of  
 30 the date of the transfer. If the statement shows that the account that is  
 31 being acquired or transferred is in good standing with the department  
 32 at the time of the transfer, and the department later discovers an  
 33 outstanding liability associated with the acquired or transferred  
 34 account, the department:

35 (1) may not assess a delinquent employer rate modification under  
 36 IC 22-4-11-2 based on the account for which a statement was  
 37 made under this subsection; and

38 (2) in the case of a PEO, shall administratively separate the  
 39 acquired or transferred client account from the PEO until the  
 40 liability is recovered.

41 (e) The remedies prescribed by this section are in addition to all  
 42 other existing remedies against the predecessor or successor.



1 SECTION 46. IC 22-4-32-23, AS AMENDED BY P.L.118-2017,  
 2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2019]: Sec. 23. (a) As used in this section:

4 (1) "Dissolution" refers to dissolution of a corporation under  
 5 IC 23-0.5-6, IC 23-1-45, IC 23-1-47, or IC 23-1-48, or dissolution  
 6 under Indiana law of an association, a joint venture, an estate, a  
 7 partnership, a limited liability partnership, a limited liability  
 8 company, a joint stock company, or an insurance company  
 9 (referred to as a "noncorporate entity" in this section).

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

14 (3) "Withdrawal" refers to the withdrawal of a foreign corporation  
 15 from Indiana under IC 23-0.5-5-7.

16 (b) The officers and directors of a corporation effecting dissolution,  
 17 liquidation, or withdrawal or the appropriate individuals of a  
 18 noncorporate entity shall do the following:

19 (1) File all necessary documents with the department in a timely  
 20 manner as required by this article.

21 (2) Make all payments of contributions to the department in a  
 22 timely manner as required by this article.

23 (3) File with the department a ~~form~~ of notification within thirty  
 24 (30) days of the adoption of a resolution or plan **in the form and**  
 25 **manner prescribed by the department.** The ~~form~~ of notification  
 26 ~~shall be prescribed by the department and~~ may require  
 27 information concerning:

28 (A) the corporation's or noncorporate entity's assets;

29 (B) the corporation's or noncorporate entity's liabilities;

30 (C) details of the plan or resolution;

31 (D) the names and addresses of corporate officers, directors,  
 32 and shareholders or the noncorporate entity's owners,  
 33 members, or trustees;

34 (E) a copy of the minutes of the shareholders' meeting or the  
 35 noncorporate entity's meeting at which the plan or resolution  
 36 was formally adopted; and

37 (F) such other information as the department may require.

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

41 (c) Unless a clearance is issued under subsection (g), for a period of  
 42 one (1) year following the filing of the ~~form~~ of notification with the



1 department, the corporate officers and directors of a corporation and  
 2 the chief executive of a noncorporate entity remain personally liable,  
 3 subject to IC 23-1-35-1(e), for any acts or omissions that result in the  
 4 distribution of corporate or noncorporate entity assets in violation of  
 5 the interests of the state. An officer or director of a corporation or a  
 6 chief executive of a noncorporate entity held liable for an unlawful  
 7 distribution under this subsection is entitled to contribution:

8 (1) from every other director who voted for or assented to the  
 9 distribution, subject to IC 23-1-35-1(e); and

10 (2) from each shareholder, owner, member, or trustee for the  
 11 amount the shareholder, owner, member, or trustee accepted.

12 (d) The corporation's officers' and directors' and the noncorporate  
 13 entity's chief executive's personal liability includes all contributions,  
 14 penalties, interest, and fees associated with the collection of the  
 15 liability due the department. In addition to the penalties provided  
 16 elsewhere in this article, a penalty of up to thirty percent (30%) of the  
 17 unpaid contributions may be imposed on the corporate officers and  
 18 directors and the noncorporate entity's chief executive for failure to  
 19 take reasonable steps to set aside corporate assets to meet the liability  
 20 due the department.

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

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

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

39 (1) the:

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

41 (B) chief executive of the noncorporate entity has;

42 met the requirements of subsection (b); and



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

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

10 SECTION 47. IC 22-4-32-24 IS REPEALED [EFFECTIVE JULY  
 11 1, 2019]. ~~Sec. 24.~~ (a) This section applies to notices given under  
 12 sections 4, 7, 8, and 9 of this chapter.

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

- 14 (1) the assessment of contributions, penalties, and interest;
- 15 (2) the transfer of charges from an employer's account;
- 16 (3) successorships and related matters arising from  
 17 successorships;
- 18 (4) claims for refunds and adjustments;
- 19 (5) violations under IC 22-4-11.5;
- 20 (6) decisions; and
- 21 (7) notices of intention to appeal or seek judicial review.

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

25 (d) The filing of a document with the unemployment insurance  
 26 appeals division or review board is complete on the earliest of the  
 27 following dates that apply to the filing:

- 28 (1) The date on which the document is delivered to the  
 29 unemployment insurance appeals division or review board.
- 30 (2) The date of the postmark on the envelope containing the  
 31 document if the document is mailed to the unemployment  
 32 insurance appeals division or review board by the United States  
 33 Postal Service.
- 34 (3) The date on which the document is deposited with a private  
 35 carrier, as shown by a receipt issued by the carrier, if the  
 36 document is sent to the unemployment insurance appeals division  
 37 or review board by a private carrier.

38 SECTION 48. An emergency is declared for this act.





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1062, 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:

Page 23, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 27. IC 22-4-13-1, AS AMENDED BY P.L.183-2015, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015 (RETROACTIVE)]: Sec. 1. (a) Whenever an individual receives benefits or extended benefits to which the individual is not entitled under:

(1) this article; or

(2) the unemployment insurance law of the United States;

the department shall establish that an overpayment has occurred and establish the amount of the overpayment. For an overpayment described in subsection (e), the department has four (4) years from the date of the overpayment to establish that the overpayment occurred and the amount of the overpayment.

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

(c) Any individual who knowingly:

(1) makes, or causes to be made by another, a false statement or representation of a material fact knowing it to be false; or

(2) fails, or causes another to fail, to disclose a material fact; and as a result thereof has received any amount as benefits to which the individual is not entitled under this article, shall be liable to repay such amount, with interest at the rate of one-half percent (0.5%) per month, to the department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article.

(d) Any individual who fails to report wages received during a week in which benefits were paid or because of the subsequent receipt of income deductible from benefits which is allocable to the week or weeks for which benefits were paid and as a result is not entitled to such benefits under this article shall be liable to repay such amount to the department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article.

(e) An individual who for any reason not described in subsection (c) or (d) has received any amount as benefits to which the individual is not entitled under this article is liable to repay that amount to the

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department for the unemployment insurance benefit fund or to have that amount deducted from any benefits otherwise payable to the individual under this article.

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

(g) Where it is finally determined by a deputy, an administrative law judge, the review board, or a court of competent jurisdiction that an individual has received benefits to which the individual is not entitled under this article, the department shall relieve the affected employer's experience account of any benefit charges directly resulting from such overpayment, except as provided under IC 22-4-11-1.5. However, an employer's experience account will not be relieved of the charges resulting from an overpayment of benefits which has been created by a retroactive payment by such employer directly or indirectly to the claimant for a period during which the claimant claimed and was paid benefits unless the employer reports such payment by the end of the calendar quarter following the calendar quarter in which the payment was made or unless and until the overpayment has been collected. Those employers electing to make payments in lieu of contributions shall not have their account relieved as the result of any overpayment unless and until such overpayment has been repaid to the unemployment insurance benefit fund.

(h) Where any individual is liable to repay any amount to the department for the unemployment insurance benefit fund for the restitution of benefits to which the individual is not entitled under this article, the amount due may be collectible without interest, except as otherwise provided in subsection (c), by civil action in the name of the state of Indiana, on relation of the department, which remedy by civil action shall be in addition to all other existing remedies and to the methods for collection provided in this article. **The department must commence a civil action as described in this section not later than ten (10) years after the later of the following:**

- (1) The date the department establishes that an overpayment has occurred.**
- (2) The date that the determination of an overpayment becomes final following the exhaustion of all appeals.**



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

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

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

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

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

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

Page 31, line 41, strike "mailed".

Page 31, line 41, delete "or otherwise" and insert "**sent**".

Page 31, line 42, delete "delivered".

Page 44, after line 33, begin a new paragraph and insert:

"SECTION 47. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1062 as introduced.)

VANNATTER

Committee Vote: yeas 8, nays 4.

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#### COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1062, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 22, line 7, strike "(a)".

Page 22, line 13, strike "Except as provided in subsection (b)".



Page 22, line 14, delete "unless" and insert "Unless".

Page 22, strike lines 21 through 28.

and when so amended that said bill do pass.

(Reference is to HB 1062 as printed January 29, 2019.)

BOOTS, Chairperson

Committee Vote: Yeas 8, Nays 3.

