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.

HOUSE ENROLLED ACT No. 1062

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

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

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

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

SECTION 3. IC 22-4-2-17, AS AMENDED BY P.L.108-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. Except as provided in IC 22-4-11.5, "computation date" means June 30 of the year preceding the effective

date of new rates of contribution. ~~except that in the event, after having been legally terminated, an employer again becomes subject to this article during the last six (6) months of a calendar year and resumes the employer's former position with respect to the resources and liabilities of the experience account, then and in such case the employer's first "computation date" shall mean December 31 of the fourth consecutive calendar year of such subjectivity and thereafter "computation date" for such employer shall mean June 30.~~

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

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

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

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

SECTION 8. IC 22-4-4-1, AS AMENDED BY P.L.171-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. "Remuneration" whenever used in this article, unless the context clearly denotes otherwise, means all compensation

for personal services, including but not limited to commissions, bonuses, dismissal pay, vacation pay, sick pay (subject to the provisions of section ~~2(b)(2)~~ **2(c)(1)** of this chapter) payments in lieu of compensation for services, and cash value of all compensation paid in any medium other than cash. The reasonable cash value of compensation paid in any medium other than cash may be estimated and determined in accordance with rules prescribed by the department. Such term shall not, however, include the value of meals, lodging, books, tuition, or educational facilities furnished to a student while such student is attending an established school, college, university, hospital, or training course for services performed within the regular school term or school year, including the customary vacation days or periods falling within such school term or school year.

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

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

~~(1)~~ ~~That part of remuneration which, after remuneration equal to:~~

~~(A)~~ ~~seven thousand dollars ($7,000), has been paid in a calendar year to an individual by an employer or the employer's predecessor with respect to employment during any calendar year that begins after December 31, 1982, and before January 1, 2011; or~~

~~(B)~~ nine thousand five hundred dollars ($9,500) ~~has been~~ paid in a calendar year to an individual by an employer or the

employer's predecessor for employment during a calendar year that begins after December 31, 2010.

~~unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.~~

For the purposes of this ~~subdivision,~~ **subsection,** the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However, nothing in this ~~subdivision~~ **subsection** shall be taken as an approval or disapproval of any related federal legislation.

(c) The term "wages" may not include the following:

~~(2)~~ **(1)** The amount of any payment (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) made to, or on behalf of, an individual or any of the individual's dependents under a plan or system established by an employer which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

(A) retirement;

(B) sickness or accident disability, and in the case of payments made to an employee or any dependents, this clause shall exclude from the term "wages" only payments that are received under a worker's compensation or occupational diseases compensation law;

(C) medical or hospitalization expenses in connection with sickness or accident disability; or

(D) death.

~~(3)~~ **(2)** The amount of any payment made by an employer to an individual performing service for it (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of retirement.

~~(4)~~ **(3)** The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability made by an employer to, or on behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

~~(5)~~ **(4)** The amount of any payment made by an employer to, or on

behalf of, an individual performing services for it or to the individual's beneficiary:

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

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

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

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

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

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

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

(c) For calendar quarters beginning on and after July 1, 1999, and before July 1, 2000, "wage credits" means remuneration paid for

employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand eight hundred dollars ($5,800) and may not include payments that are excluded from the definition of wages under section ~~2(b)~~ **2** of this chapter.

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

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

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

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

(h) For calendar quarters beginning on and after July 1, 2004, and before July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and

3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand seven hundred thirty-three dollars ($8,733) and may not include payments that are excluded from the definition of wages under section ~~2(b)~~ **2** of this chapter.

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

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

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

(b) If:

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

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

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

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

SECTION 12. IC 22-4-6.5-9, AS ADDED BY P.L.33-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) A PEO may elect the PEO level reporting method, which uses the state employer account number and contribution rate of the PEO to report and pay all required contributions

to the unemployment compensation fund as required by IC 22-4-10.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Except as provided by IC 22-4-32-21(d), a PEO that elects to use the PEO level reporting method is liable for all contributions, interest, penalties, and surcharges until the effective date of an election under section 11 of this chapter by the PEO to change to the client level reporting method.

SECTION 14. IC 22-4-6.5-11, AS ADDED BY P.L.33-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2019]: Sec. 11. (a) A PEO using the PEO level reporting method may elect the client level reporting method, which uses the state employer account number and contribution rate of the client to report and pay all required contributions to the unemployment compensation fund as required by IC 22-4-10.

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

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

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

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

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

(b) Any employing unit (whether or not an employing unit at the time of acquisition) which acquires a distinct and segregable portion of the organization, trade, or business within this state of another employing unit which at the time of ~~such~~ **the** acquisition is an employer subject to this article. ~~only if the employment experience of the disposing employing unit combined with the employment of its predecessor or predecessors would have qualified such employing unit under section 1 of this chapter if the portion acquired had constituted its entire organization, trade, or business and the acquisition results in the operation or continuance of an organization, trade, or business.~~

(c) Any employing unit which, having become an employer under section 1, 2(a), 2(b), 2(d), 2(f), or 2(h) of this chapter, has not ceased to be an employer by compliance with the provisions of IC 22-4-9-2 and IC 22-4-9-3.

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

fully subject to this article.

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

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

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

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

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

SECTION 16. IC 22-4-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) As used in this article, "seasonal employer" means an employer that, because of

climatic conditions or the seasonal nature of a product or service, customarily operates all or a portion of its business only during a regularly recurring period or periods of less than twenty-six (26) weeks for all seasonal periods during a calendar year. An employer may be a seasonal employer with respect to a portion of its business only if that portion, under the usual and customary practice in the industry, is identifiable as a functionally distinct operation.

(b) As used in this article, "seasonal determination" means a decision made by the department after application ~~on prescribed forms~~ **in the form and manner prescribed by the department** as to the seasonal nature of the employer, the normal seasonal period or periods of the employer, and the seasonal operation of the employer covered by such determination.

SECTION 17. IC 22-4-8-3, AS AMENDED BY P.L.171-2016, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. "Employment" shall not include the following:

(1) Except as provided in section 2(i) of this chapter, service performed prior to January 1, 1978, in the employ of this state, any other state, any town or city, or political subdivision, or any instrumentality of any of them, other than service performed in the employ of a municipally owned public utility as defined in this article; or service performed in the employ of the United States of America, or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this article, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation statute, all of the provisions of this article shall be applicable to such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. However, if this state shall not be certified for any year by the Secretary of Labor under Section 3304 of the Internal Revenue Code the payments required of such instrumentalities with respect to ~~such~~ **that** year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in IC 22-4-32-19 with respect to contribution erroneously paid or wrongfully assessed.

(2) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; however, the department is authorized to enter into agreements with the proper agencies

under ~~such~~ **the** Act of Congress which agreements shall become effective ten (10) days after publication, ~~thereof,~~ in accordance with rules adopted by the department under IC 4-22-2, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under ~~such~~ **the** Act of Congress, or who have, after having acquired potential rights to unemployment compensation under ~~such~~ **the** Act of Congress, acquired rights to benefits under this article.

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

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

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

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

(D) in the employ of:

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

(ii) a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in item (i), but only if ~~such~~

the operators produce more than one-half (1/2) of the commodity with respect to which ~~such~~ **the** service is performed;

except the provisions of items (i) and (ii) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(E) on a farm operated for profit if ~~such~~ **the** service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

(4) As used in subdivision (3), "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(5) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in section 2(m) of this chapter.

(6) Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with ~~such~~ **the** vessel or aircraft when outside the United States.

(7) Service performed by an individual in the employ of child or spouse, and service performed by a child under the age of twenty-one (21) in the employ of a parent.

(8) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for ~~such~~ **the** service is fifty dollars ($50) or more and ~~such~~ **the** service is performed by an individual who is regularly employed by ~~such~~ **the** employing unit to perform ~~such~~ **the** service. For the purposes of this subdivision, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:

(A) on each of some of twenty-four (24) days during ~~such~~ **the** quarter ~~such~~ **that the** individual performs ~~such~~ **the** service for some portion of the day; or

(B) ~~such~~ **the** individual was regularly employed (as determined under clause (A)) by ~~such~~ **an** employing unit in the performance of ~~such~~ **a** service during the preceding calendar quarter.

(9) Service performed by an individual in any calendar quarter in the employ of any organization exempt from income tax under Section 501 of the Internal Revenue Code (except those services included in sections 2(i) and 2(j) of this chapter) if the remuneration for ~~such~~ **the** service is less than fifty dollars ~~($50)).~~ **($50).**

(10) Service performed in the employ of a hospital, if ~~such~~ **the** service is performed by a patient of ~~such~~ **the** hospital.

(11) Service performed in the employ of a school or eligible postsecondary educational institution if the service is performed:

(A) by a student who is enrolled and is regularly attending classes at the school or eligible postsecondary educational institution; or

(B) by the spouse of ~~such~~ a student, if ~~such~~ **the** spouse is advised, at the time ~~such~~ **the** spouse commences to perform ~~such~~ **the** service, that:

(i) the employment of ~~such~~ **the** spouse to perform ~~such~~ **the** service is provided under a program to provide financial assistance to ~~such~~ **the** student by the school or eligible postsecondary educational institution; and

(ii) ~~such~~ **the** employment will not be covered by any program of unemployment insurance.

(12) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at ~~such~~ **the** institution, which combines academic instruction with work experience, if ~~such~~ **the** service is an integral part of ~~such~~ **the** program, and ~~such~~ **the** institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(13) Service performed in the employ of a government foreign to the United States of America, including service as a consular or other officer or employee or a nondiplomatic representative.

(14) Service performed in the employ of an instrumentality wholly owned by a government foreign to that of the United States of America, if the service is of a character similar to that performed in foreign countries by employees of the United States of America or of an instrumentality ~~thereof,~~ **of the United States of America,** and if the department finds that the Secretary of

State of the United States has certified to the Secretary of the Treasury of the United States that the government, foreign to the United States, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in such country by employees of the United States and of instrumentalities ~~thereof.~~ **of the United States.**

(15) Service performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four (4) year course in a medical school chartered or approved pursuant to state law.

(16) Service performed by an individual as an insurance producer or as an insurance solicitor, if all ~~such~~ service performed by ~~such~~ **the** individual is performed for remuneration solely by way of commission.

(17) Service performed by an individual:

(A) under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

(B) in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by the individual at a fixed price, the individual's compensation being based on the retention of the excess of ~~such~~ **the** price over the amount at which the newspapers or magazines are charged to the individual, whether or not the individual is guaranteed a minimum amount of compensation for ~~such~~ **the** service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(18) Service performed in the employ of an international organization **to the extent the services are excluded from employment under 26 CFR 31.3306(c)(16).**

(19) Except as provided in IC 22-4-7-1, services covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law in accordance with an arrangement pursuant to IC 22-4-22-1 through IC 22-4-22-5, during the effective period of such election.

(20) If the service performed during one-half (1/2) or more of any

pay period by an individual for an employing unit constitutes employment, all the services of ~~such~~ **the** individual for ~~such~~ **the** period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any pay period by ~~such~~ an individual do not constitute employment, then none of the services of ~~such~~ **the** individual for ~~such~~ **the** period shall be deemed to be employment. As used in this ~~subsection,~~ **subdivision,** "pay period" means a period of not more than thirty-one (31) consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit. This ~~subsection~~ **subdivision** shall not be applicable with respect to services performed in a pay period by any ~~such~~ individual where any ~~such~~ service is excepted by subdivision (2).

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

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

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

SECTION 19. IC 22-4-9-4, AS AMENDED BY P.L.108-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. Any employing unit not otherwise subject to this article which files ~~with the~~ **in the form and manner prescribed by the** department its ~~written~~ election to become an employer subject to this article for not less than two (2) calendar years shall, with the ~~written~~ approval of ~~such~~ **the** election by the department, become an employer subject to this article to the same extent as all other employers as of the date stated in such approval. However, the voluntary election of ~~any such~~ **an** employer shall become inoperative if ~~such~~ **the** employing unit becomes an employer by reason of IC 22-4-7-1.

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

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

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

"payments in lieu of contributions" (as defined in IC 22-4-2-32).

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

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

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

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

(g) Payment of any bill rendered under subsection (f) shall be made not later than thirty (30) days after ~~such~~ **the** bill was **sent** ~~mailed~~ to ~~the last known address of~~ the employer ~~or was otherwise delivered to it, unless there has been an application for review and redetermination filed under subsection (i).~~ **by the department.**

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

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

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

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

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

SECTION 23. IC 22-4-10-6, AS AMENDED BY P.L.33-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2019]: Sec. 6. (a) Except as provided by IC 22-4-6.5, when:

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

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

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

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

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

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

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

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

(c) Except as provided by IC 22-4-6.5 or IC 22-4-11.5, the successor employer, if an employer prior to the acquisition, shall pay at the rate of contribution originally assigned to it for the calendar year in which the acquisition occurs, until the end of that year. If not an employer prior to the acquisition, the ~~successor employer shall pay the rate~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The contribution rates of both employers shall be recalculated, and the recalculated rate made effective on the **first day of the calendar year during which the transfer occurred if the** effective date of the transfer described in subsection (a) **is before April 1, and the first day of the subsequent calendar year, if the effective date of the transfer described in subsection (a) is after March 31.**

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

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

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 **by issuing a determination of eligibility** and **shall** establish the amount of the overpayment. For an overpayment described in:

(1) subsections (c) and (d), the department has four (4) years from the date of the department's discovery of the overpayment to send notification to the individual of possible overpayment; and

(2) 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.~~ **send notification to the individual of possible 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 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 subsection not later than ten (10) years following the date the determination of eligibility becomes final, including 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.

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

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

~~(c) Any interested party may file an appeal regarding a seasonal~~

~~determination within fifteen (15) calendar days after the determination by the department and obtain review of the determination in accordance with IC 22-4-32.~~

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

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

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

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

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

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

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

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

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

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

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

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the

claimant and the employer or employers directly involved or connected with the issue raised as to the validity of ~~such~~ **the** claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial ~~thereof,~~ **of the claim,** and of the cause for which the claimant left the claimant's work, of ~~such~~ **the** determination and the reasons ~~thereof.~~ **for the determination.**

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

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

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

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

(j) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may

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

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

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

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

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

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

(d) If a hearing so scheduled has not commenced within at least sixty (60) minutes of the time for which it was scheduled, then a party involved in the hearing may request a continuance of the hearing. Upon submission of a request for continuance of a hearing under circumstances provided in this section, the continuance shall be

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

(1) is not prepared to meet; and

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

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

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

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

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

(1) open to inspection; and

(2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review

board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

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

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

(d) The department may release the following information:

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

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

(A) The purpose of conducting a survey.

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

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

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

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

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

~~(4) Information obtained from any person in the administration of this article and the records of the department relating to the~~

~~unemployment tax or the payment of benefits for use by the following governmental entities:~~

~~(A) an agency of the United States;~~

~~(B) an agency of the state; or~~

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

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

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

(1) if:

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

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

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

(f) The department may disclose confidential information:

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

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

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

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

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

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

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

(1) The claimant must be notified before any release of

information.

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

~~(g)~~ **(h)** An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), ~~or~~ (f), **or (g);** or

(2) of any governmental entity listed in subsection ~~(d)(4)~~ **(f)** who recklessly violates subsection ~~(d)(4);~~ **(f);**

commits a Class B misdemeanor.

~~(h)~~ **(i)** An employee of the Indiana economic development corporation, the budget agency, or the legislative services agency who violates subsection (d), ~~or~~ (e), **or (f)** commits a Class B misdemeanor.

~~(i)~~ **(j)** An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential.

~~(j)~~ **(k)** The department may charge a reasonable processing fee not to exceed two dollars ($2) for each record that provides information about an individual's last known employer released in compliance with a court order under subsection (b).

SECTION 33. IC 22-4-19-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. Any employing unit which negligently or ~~wilfully~~ **willfully** fails to submit any report of information required for the proper administration of this article demanded by the commissioner within ten (10) days after request for the same is sent to the employing unit by registered mail shall be assessed a penalty of twenty-five dollars ($25).

SECTION 34. IC 22-4-19-13, AS AMENDED BY P.L.177-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. (a) An employer that is required to be provided a notice or report under this section is entitled to delivery of the notice or report by the United States Postal Service using first class mail. If an employer wants to receive notices and reports by mail, the employer shall notify the department ~~on a~~ **in the** form ~~provided~~ **and manner prescribed** by the department.

(b) Where an employer makes an offer of employment directly to a claimant, promptly giving written notice to the department of ~~such~~ **the** offer, or when ~~any such~~ **the** employer makes ~~such~~ **an** offer of employment in writing through the department, the commissioner, the deputy, or an authorized representative of the state or the United States employment service, which offer shall specify ~~such~~ **the** claimant by name, and when ~~such~~ **the** claimant ~~thereafter~~ fails to register subsequent to the receipt of ~~such~~ **the** offer of employment by the

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

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

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

(e) Whenever a determination is made with respect to the validity of any claim for benefits, or the eligibility of any claimant for benefits, which involves the cancellation of wage credits or benefit rights, the imposition of any disqualification, period of ineligibility or penalty, or the denial ~~thereof,~~ **of the claim,** a notice shall promptly be provided to ~~such~~ **the** claimant and to each employer directly involved or connected with the issue raised as to the validity of ~~such~~ **the** claim, the eligibility of ~~such~~ **the** claimant for benefits, or the imposition of a disqualification period of ineligibility or penalty, or the denial ~~thereof.~~ **of the claim.** ~~Such~~ **The** employer or ~~such~~ **the** claimant may protest ~~any such~~ **a** determination within ~~such~~ **the** time limits and in ~~such~~ **the** manner as

provided in IC 22-4-17-2 and upon ~~said~~ **the** protest shall be entitled to a hearing as provided in IC 22-4-17-2 and IC 22-4-17-3.

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

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

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

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

(1) The employer's account has been delinquent for at least seven (7) years.

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

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

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

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

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

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

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

(2) Four million dollars ($4,000,000) to the state educational institution instituted and incorporated under IC 21-22-2-1 for training provided to participants in joint labor and management

apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

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

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

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

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

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

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

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

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

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

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

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

~~payment of, benefits and refunds during succeeding periods, or in the discretion of the commissioner shall be redeposited with the Secretary of the Treasury of the United States to the credit of the unemployment trust fund as provided in section 3 of this chapter.~~

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

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

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

(1) the assessment of contributions, **payment in lieu of contributions, surcharge,** penalties, and interest;

(2) which accounts, if any, benefits paid, or finally ordered to be paid, should be charged;

(3) successorships, and related matters arising ~~therefrom,~~ **from a successorship,** including but not limited to:

(A) the transfer of accounts;

(B) the determination of rates of contribution; and

(C) determinations under IC 22-4-11.5; ~~and~~

(4) claims for refunds of contributions or adjustments; ~~thereon in connection with subsequent contribution payments;~~ **and**

(5) the definition of employment under IC 22-4-8;

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

SECTION 42. IC 22-4-32-4, AS AMENDED BY P.L.108-2006,

SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. **(a)** An employing unit shall have fifteen (15) calendar days, beginning on the date an initial determination is ~~mailed~~ **sent** to the employing unit, within which to protest in writing an initial determination of the department with respect to **section 1 of this chapter.**

~~(1) the assessments of contributions, penalties, and interest;~~

~~(2) the transfer of charges from an employer's account;~~

~~(3) merit rate calculations;~~

~~(4) successorships;~~

~~(5) the denial of claims for refunds and adjustments; and~~

~~(6) a determination under IC 22-4-11.5.~~

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

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

(1) The date on which the document is delivered to the unemployment insurance appeals division.

(2) The date of the postmark on the envelope containing the document if the document is mailed to the unemployment insurance appeals division by the United States Postal Service.

(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the unemployment insurance appeals division by a private carrier.

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

SECTION 44. IC 22-4-32-19, AS AMENDED BY P.L.175-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 19. (a) The department may grant an application for adjustment or refund, make an adjustment or refund, or set off a refund as follows:

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

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

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

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

(b) Any decision by the department to:

(1) grant an application for adjustment or refund;

(2) make an adjustment or refund on its own initiative; or

(3) set off a refund;

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

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

SECTION 45. IC 22-4-32-21, AS AMENDED BY P.L.33-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 21. (a) Any individual, group of individuals, or

other legal entity, whether or not an employing unit which acquires all or part of the organization, trade, or business within this state of an employer or which acquires all or part of the assets of ~~such~~ **the** organization, trade or business, shall notify the commissioner in ~~writing by registered mail~~ **the form and manner prescribed by the department** not later than five (5) days prior to the acquisition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) details of the plan or resolution;

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

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

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

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

(c) Unless a clearance is issued under subsection (g), for a period of one (1) year following the filing of the ~~form of~~ notification with the department, the corporate officers and directors of a corporation and the chief executive of a noncorporate entity remain personally liable, subject to IC 23-1-35-1(e), for any acts or omissions that result in the distribution of corporate or noncorporate entity assets in violation of the interests of the state. An officer or director of a corporation or a chief executive of a noncorporate entity held liable for an unlawful distribution under this subsection is entitled to contribution:

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

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

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

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

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

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

(1) the:

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

(B) chief executive of the noncorporate entity has;

met the requirements of subsection (b); and

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

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

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

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

~~(1) the assessment of contributions, penalties, and interest;~~

~~(2) the transfer of charges from an employer's account;~~

~~(3) successorships and related matters arising from successorships;~~

~~(4) claims for refunds and adjustments;~~

~~(5) violations under IC 22-4-11.5;~~

~~(6) decisions; and~~

~~(7) notices of intention to appeal or seek judicial review.~~

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

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

~~(1) The date on which the document is delivered to the unemployment insurance appeals division or review board.~~

~~(2) The date of the postmark on the envelope containing the document if the document is mailed to the unemployment insurance appeals division or review board by the United States Postal Service.~~

~~(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the unemployment insurance appeals division or review board by a private carrier.~~

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

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____