

IC 22-4-2

Chapter 2. Definitions

IC 22-4-2-1

Benefits

Sec. 1. As used in this article, unless the context clearly requires otherwise, "benefits" means the money payments payable to an eligible individual as provided in this article with respect to his unemployment.

(Formerly: Acts 1947, c.208, s.201.) As amended by P.L.144-1986, SEC.87.

IC 22-4-2-2

Partial benefits

Sec. 2. "Partial benefits" means the weekly benefit amounts of any eligible individual who is partially and/or part-totally unemployed, less the deductible income as hereinafter defined.

(Formerly: Acts 1947, c.208, s.202; Acts 1953, c.177, s.1; Acts 1957, c.299, s.15.)

IC 22-4-2-3

Repealed

(Formerly: Acts 1947, c.208, s.203.) As amended by P.L.144-1986, SEC.88; P.L.18-1987, SEC.17. Repealed by P.L.171-2016, SEC.1.)

IC 22-4-2-3.5

Commissioner

Sec. 3.5. "Commissioner" refers to the commissioner of workforce development.

As added by P.L.21-1995, SEC.62.

IC 22-4-2-4

Contributions

Sec. 4. "Contributions" means the money payments to the unemployment insurance benefit fund required and provided by the terms of this article.

(Formerly: Acts 1947, c.208, s.204.) As amended by P.L.144-1986, SEC.89; P.L.18-1987, SEC.18.

IC 22-4-2-5

Repealed

(Repealed by P.L.21-1995, SEC.149.)

IC 22-4-2-6

State

Sec. 6. "State" means and includes the several states of the United States of America, the District of Columbia of the United States of

America, the Commonwealth of Puerto Rico, the Virgin Islands and the Dominion of Canada.

(Formerly: Acts 1947, c.208, s.206; Acts 1965, c.190, s.1; Acts 1967, c.310, s.1.) As amended by Acts 1977, P.L.262, SEC.1.

IC 22-4-2-7

Employment office

Sec. 7. "Employment office" means a free public employment office or branch thereof, maintained and operated by this state, any other state or jurisdiction, or by any agency or instrumentality of the United States of America, or where the context allows, maintained by any state as a part of a state-controlled system of public employment offices.

(Formerly: Acts 1947, c.208, s.207.)

IC 22-4-2-8

Employment and training services administration fund

Sec. 8. "Employment and training services administration fund" means the fund established by IC 22-4-24 from which administrative expenses under this article shall be paid, other than those to be paid from the special employment and training services fund, as provided in IC 22-4-25.

(Formerly: Acts 1947, c.208, s.208.) As amended by P.L.144-1986, SEC.90; P.L.18-1987, SEC.20.

IC 22-4-2-9

Fund

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, shall be deposited and from which all benefits provided under this article shall be paid.

(Formerly: Acts 1947, c.208, s.209; Acts 1971, P.L.355, SEC.1; Acts 1973, P.L.239, SEC.1.) As amended by P.L.18-1987, SEC.21; P.L.1-2007, SEC.160.

IC 22-4-2-10

Special employment and training services fund

Sec. 10. "Special employment and training services fund" means the special administrative fund created under IC 22-4-25.

(Formerly: Acts 1947, c.208, s.210.) As amended by P.L.144-1986, SEC.91; P.L.18-1987, SEC.22.

IC 22-4-2-11

Department

Sec. 11. "Department" means the department of workforce

development.

(Formerly: Acts 1947, c.208, s.211.) As amended by P.L.18-1987, SEC.23; P.L.21-1995, SEC.63.

IC 22-4-2-12

Base period

Sec. 12. "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit period: Provided, however, That for a claim computed in accordance with IC 1971, 22-4-22, the base period shall be the base period as outlined in the paying state's law.

(Formerly: Acts 1947, c.208, s.212; Acts 1971, P.L.355, SEC.2.)

IC 22-4-2-12.5

Base period; persons receiving worker's compensation 52 weeks or less

Sec. 12.5. Notwithstanding section 12 of this chapter, for an individual who during the "base period" as defined in that section has received worker's compensation benefits under IC 22-3-3 for a period of fifty-two (52) weeks or less, and as a result has not earned sufficient wage credits to meet the requirements of IC 22-4-14-5, "base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the last day that the individual was able to work, as a result of the individual's injury.

As added by P.L.226-1983, SEC.1. Amended by P.L.28-1988, SEC.68.

IC 22-4-2-13

Calendar quarter

Sec. 13. "Calendar quarter" means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31: Provided, That for due dates of state unemployment returns in each instance of quarterly return, the date shall be the last day of the month following the end of the quarter.

(Formerly: Acts 1947, c.208, s.213; Acts 1965, c.202, s.1.)

IC 22-4-2-14

Week

Sec. 14. Except as provided in IC 22-4-5-3, "week" means a calendar week.

(Formerly: Acts 1947, c.208, s.214.) As amended by P.L.241-1987, SEC.1.

IC 22-4-2-15

Weekly benefit amount

Sec. 15. "Weekly benefit amount" means the amount of benefits an eligible individual would be entitled to receive for a particular week of total unemployment.

(Formerly: Acts 1947, c.208, s.215.)

IC 22-4-2-16

Annual payroll

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 22-4-10-6 or IC 22-4-10-7.

(Formerly: Acts 1947, c.208, s.216; Acts 1957, c.299, s.1.) As amended by P.L.144-1986, SEC.92.

IC 22-4-2-17

Computation date

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.

(Formerly: Acts 1947, c.208, s.217; Acts 1957, c.299, s.2.) As amended by P.L.144-1986, SEC.93; P.L.80-1990, SEC.9; P.L.202-1993, SEC.1; P.L.108-2006, SEC.1.

IC 22-4-2-17.5

Determination date

Sec. 17.5. "Determination date" means September 30 of each year.
As added by P.L.202-1993, SEC.2.

IC 22-4-2-18

Balance

Sec. 18. "Balance" means the amount standing to the credit or debit of the experience account as of the computation date.

(Formerly: Acts 1947, c.208, s.218; Acts 1953, c.177, s.2.)

IC 22-4-2-19

Agency

Sec. 19. "Agency" means any officer, board, commission, or other authority designated by an unemployment insurance law in force in any state or in Canada to administer the unemployment insurance fund for which provision is made by such unemployment insurance law.

(Formerly: Acts 1947, c.208, s.219.)

IC 22-4-2-20**Jurisdiction**

Sec. 20. "Jurisdiction" means any state or Canada.
(Formerly: Acts 1947, c.208, s.220.)

IC 22-4-2-21**Benefit period**

Sec. 21. "Benefit period" with respect to any individual means the fifty-two-consecutive-week period beginning with the first week as of which an insured worker first files an initial claim for determination of his insured status, and thereafter the fifty-two-consecutive-week period beginning with the first week as of which the individual next files an initial claim after the termination of his last preceding benefit period.
(Formerly: Acts 1947, c.208, s.221; Acts 1951, c.295, s.1; Acts 1953, c.177, s.3.) As amended by Acts 1977, P.L.2, SEC.74.

IC 22-4-2-22**Valid claim**

Sec. 22. "Valid claim" means a claim filed by an individual who has established qualifying wage credits and who is totally, partially, or part-totally unemployed; Provided, no individual in a benefit period may file a valid claim for a waiting period or benefit period rights with respect to any period subsequent to the expiration of such benefit period.
(Formerly: Acts 1947, c.208, s.222; Acts 1953, c.177, s.4.)

IC 22-4-2-23**Initial claim**

Sec. 23. "Initial claim" means a written application, in a form prescribed by the department, made by an individual for the determination of the individual's status as an insured worker.
(Formerly: Acts 1947, c.208, s.223; Acts 1953, c.177, s.5.) As amended by P.L.108-2006, SEC.2.

IC 22-4-2-24**Additional claim**

Sec. 24. "Additional claim" means a written application for a determination of benefit eligibility, made by an individual in a form 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.
(Formerly: Acts 1947, c.208, s.224; Acts 1953, c.177, s.6.) As amended by P.L.108-2006, SEC.3.

IC 22-4-2-25

Insured worker

Sec. 25. "Insured worker" means an individual who, with respect to a base period, meets the qualifying wage requirements of IC 22-4-14-5.

(Formerly: Acts 1947, c.208, s.225; Acts 1953, c.177, s.7.) As amended by P.L.144-1986, SEC.94.

IC 22-4-2-26**Insured work**

Sec. 26. "Insured work" means employment in the service of an employer.

(Formerly: Acts 1947, c.208, s.226; Acts 1953, c.177, s.8.)

IC 22-4-2-27**Repealed**

(Repealed by P.L.20-1986, SEC.16.)

IC 22-4-2-28**Repealed**

(Repealed by P.L.20-1986, SEC.16.)

IC 22-4-2-29**Insured unemployment**

Sec. 29. "Insured unemployment" means unemployment during a given week for which waiting period credit or benefits are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

(Formerly: Acts 1947, c.208, s.229; Acts 1967, c.310, s.4.)

IC 22-4-2-30**Hospital**

Sec. 30. For all purposes of this article, the term "hospital" means:

- (1) an institution defined in IC 16-18-2-179(b) and licensed by the state department of health; or
- (2) a state institution (as defined in IC 12-7-2-184).

(Formerly: Acts 1971, P.L.355, SEC.3.) As amended by P.L.2-1992, SEC.742; P.L.2-1993, SEC.131.

IC 22-4-2-31**Eligible postsecondary educational institution**

Sec. 31. (a) "Eligible postsecondary educational institution" for the purposes of this article, means an educational institution that:

- (1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;
- (2) is legally authorized in this state to provide a program of

education beyond high school;

(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(4) is a public or other nonprofit institution.

(b) Notwithstanding subsection (a), the term includes all colleges and universities in Indiana.

(Formerly: Acts 1971, P.L.355, SEC.4.) As amended by P.L.2-2007, SEC.289.

IC 22-4-2-32

Payment in lieu of contributions

Sec. 32. "Payment in lieu of contributions" means the required reimbursements by employers of benefits paid attributable to services performed for such employers which are liable to make these payments as provided in IC 22-4-10-1. These payments shall equal the full amount of regular benefits and the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 paid that are attributable to services in the employ of such liable employers.

(Formerly: Acts 1971, P.L.355, SEC.5.) As amended by P.L.175-2009, SEC.2.

IC 22-4-2-33

New work

Sec. 33. The term "new work" wherever used in this article including IC 1971, 22-4-15-2 means (a) work offered to an individual by an employer with whom he has never had a contract of employment; (b) work offered to an individual by his last employer or any other employer with whom he does not have a contract of employment at the time the offer is made; and (c) work offered to an individual by his present employer of (i) different duties from those he has agreed to perform in his existing contract of employment or (ii) different terms or conditions of employment from those in his existing contract.

(Formerly: Acts 1971, P.L.355, SEC.6.)

IC 22-4-2-34

Extended benefit period; "on" and "off" indicators; additional definitions

Sec. 34. (a) With respect to benefits for weeks of unemployment beginning after August 13, 1981, "extended benefit period" means a period which begins with the third week after a week for which there is a state "on" indicator and ends with the later of the following:

(1) The third week after the first week for which there is a state

"off" indicator.

(2) The thirteenth consecutive week of such period.

(b) However, no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

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

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

(2) equaled or exceeded five percent (5%).

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

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

(1) the average rate of total unemployment in Indiana, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three (3) months for which data for all states are published before the close of the week, equals or exceeds six and five-tenths percent (6.5%); and

(2) the average rate of total unemployment in Indiana, seasonally adjusted, as determined by the United States Secretary of Labor, for the three (3) month period referred to in subdivision (1) equals or exceeds one hundred ten percent (110%) of the average for either or both of the corresponding three (3) month periods ending in the two (2) preceding calendar years.

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

Act of 2009 (P.L. 111-5).

(e) There is a state "off" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the requirements of subsection (c) have not been met.

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

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

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

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

(h) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 8501 through 8525) payable to an individual under the provisions of this article for weeks of unemployment in the individual's "eligibility period". Pursuant to Section 3304 of the Internal Revenue Code extended benefits are not payable to interstate claimants filing claims in an agent state which is not in an extended benefit period, against the liable state of Indiana when the state of Indiana is in an extended benefit period. This prohibition does not apply to the first two (2) weeks claimed that would, but for this prohibition, otherwise be payable. However, only one (1) such two (2) week period will be granted on an extended claim. Notwithstanding any other provisions of this chapter, with respect to benefits for weeks of unemployment beginning after October 31, 1981, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this clause, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not

below zero (0)) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(i) "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit period which begin in an extended benefit period and, if the individual's benefit period ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period. For any weeks of unemployment beginning after February 17, 2009, and before January 1, 2012, an individual's eligibility period (as described in Section 203(c) of the Federal-State Unemployment Compensation Act of 1970) is, for purposes of any determination of eligibility for extended compensation under state law, considered to include any week that begins:

- (1) after the date as of which the individual exhausts all rights to emergency unemployment compensation; and
- (2) during an extended benefit period that began on or before the date described in subdivision (1).

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

- (1) has received, prior to such week, all of the regular benefits including dependent's allowances that were available to the individual under this article or under the law of any other state (including benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. 8501 through 8525) in the individual's current benefit period that includes such week. However, for the purposes of this subsection, an individual shall be deemed to have received all of the regular benefits that were available to the individual although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit period or although a nonmonetary decision denying benefits is pending, the individual may subsequently be determined to be entitled to added regular benefits;
- (2) may be entitled to regular benefits with respect to future weeks of unemployment but such benefits are not payable with respect to such week of unemployment by reason of seasonal limitations in any state unemployment insurance law; or
- (3) having had the individual's benefit period expire prior to such week, has no, or insufficient, wages on the basis of which the individual could establish a new benefit period that would include such week;

and has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Act of 1974, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor, and has not received and is not seeking

unemployment benefits under the unemployment compensation law of Canada; but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, the individual is considered an exhaustee.

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

(l) With respect to compensation for weeks of unemployment beginning after March 1, 2011, and ending on the later of December 10, 2011, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), in addition to the tests for a state "on" indicator under subsections (c) and (d), there is a state "on" indicator for a week if:

- (1) the average rate of insured unemployment for the period consisting of the week and the immediately preceding twelve (12) weeks equals or exceeds five percent (5%); and
- (2) the average rate of insured unemployment for the period consisting of the week and the immediately preceding twelve (12) weeks equals or exceeds one hundred twenty percent (120%) of the average rates of insured unemployment for the corresponding thirteen (13) week period ending in each of the preceding three (3) calendar years.

(m) There is a state "off" indicator for a week based on the rate of insured unemployment only if the rate of insured unemployment for the period consisting of the week and the immediately preceding twelve (12) weeks does not result in an "on" indicator under subsection (c)(1).

(n) With respect to compensation for weeks of unemployment beginning after March 1, 2011, and ending on the later of December 10, 2011, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), in addition to the tests for a state "on" indicator under subsections (c), (d), and (l) there is a state "on" indicator for a week if:

- (1) the average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three (3) months for which data for all states are published before the close of the week equals or exceeds six and one-half percent (6.5%); and
- (2) the average rate of total unemployment in Indiana (seasonally adjusted), as determined by the United States

Secretary of Labor, for the three (3) month period referred to in subdivision (1) equals or exceeds one hundred ten percent (110%) of the average for any or all of the corresponding three (3) month periods ending in the three (3) preceding calendar years.

(o) There is a state "off" indicator for a week based on the rate of total unemployment only if the rate of total unemployment for the period consisting of the most recent three (3) months for which data for all states are published before the close of the week does not result in an "on" indicator under subsection (d)(1).

*(Formerly: Acts 1971, P.L.355, SEC.7; Acts 1973, P.L.239, SEC.2.)
As amended by Acts 1977, P.L.262, SEC.4; Acts 1981, P.L.209, SEC.3; Acts 1982, P.L.95, SEC.2; P.L.2-1987, SEC.27; P.L.18-1987, SEC.24; P.L.21-1995, SEC.64; P.L.175-2009, SEC.3; P.L.12-2011, SEC.1; P.L.171-2016, SEC.2.*

IC 22-4-2-35

Credit reserve ratio

Sec. 35. An employer's credit reserve ratio is determined on the basis of the relationship that the credit balance shown by his experience account as of the computation date bears to the wages paid by the employer or his predecessors for the employment during the thirty-six (36) months immediately preceding the computation date.

As added by Acts 1977, P.L.262, SEC.5.

IC 22-4-2-36

Debit reserve ratio

Sec. 36. An employer's debit reserve ratio is determined on the basis of the relationship that the debit balance shown by his experience account as of the computation date bears to the wages paid by the employer or his predecessors for employment during the thirty-six (36) months immediately preceding the computation date.

As added by Acts 1977, P.L.262, SEC.6.

IC 22-4-2-37

School

Sec. 37. For the purposes of IC 22-4-8-2(j)(3)(C), "school" means an educational institution that is accredited and approved by the Indiana state board of education and is an academic school system, whereby a student may progressively advance, starting with the first grade through the twelfth grade. This includes all accredited public and parochial schools which are primary, secondary, or preparatory schools. "School" does not include:

- (1) a kindergarten, not a part of the public or parochial school system;
- (2) a day care center;
- (3) an organization furnishing psychiatric care and treatment;

(4) an organization furnishing training or rehabilitation for individuals with an intellectual disability or a physical disability, which organization is not a part of the public or parochial school system; or

(5) an organization offering preschool training, not a part of the public or parochial school system.

As added by Acts 1977, P.L.262, SEC.7. Amended by P.L.20-1984, SEC.195; P.L.99-1988, SEC.23; P.L.23-1993, SEC.128; P.L.99-2007, SEC.186; P.L.117-2015, SEC.36.

IC 22-4-2-38

Review board

Sec. 38. As used in this article, "review board" means the unemployment insurance review board.

As added by P.L.18-1987, SEC.25.

IC 22-4-2-39

Liability administrative law judge

Sec. 39. As used in this article, "liability administrative law judge" means a person who is:

(1) employed as an administrative law judge under IC 22-4-17-4; and

(2) authorized to hear matters described in IC 22-4-32-1.

As added by P.L.108-2006, SEC.4.

IC 22-4-2-40

Repealed

(As added by P.L.12-2011, SEC.2. Repealed by P.L.121-2014, SEC.6.)