

Unemployment Insurance and Worker's Compensation



[Photo: Getty]

Prepared for the Amanda Qualls Campaign

April Sellers
Fall 2020

Table of Contents

Unemployment Insurance and Worker's Compensation	3
During the COVID-19 Pandemic: A Summary	3
Unemployment Insurance in Indiana	5
Worker's Compensation	8
Legislative Action in Indiana	11
Recently Passed Legislation	11
Recently Failed Legislation	14
Legislative Action in Other States	17
Arizona	17
Illinois	17
Ohio	17
Virginia	18
Relevant Advocacy Groups	18

Unemployment Insurance and Worker's Compensation During the COVID-19 Pandemic: A Summary

Following the declaration of a national emergency concerning the COVID-19 novel coronavirus outbreak, as well confirmed cases in Indiana, RV manufacturer Winnebago on March 23, 2020 announced that it would halt operations around the country, impacting 3,500 employees in Elkhart County.¹ Later that same day, Governor Eric Holcomb issued a statewide order directing the closure of "non-essential" businesses and prohibiting both public and private gatherings of more than ten people,² prompting representatives for Thor Industries and Barletta Boats, also major employers in Elkhart County, to state that their companies would close plants as well.³

As a result of the economic shutdown, the number of unemployment insurance claims filed in the state jumped from 2,312 in the week ending March 14, immediately after the World Health Organization declared COVID-19 a pandemic, to 53,608 in the week ending March 21.⁴ The latter figure represented a 2,873.3% increase over the same week in 2019.⁵ In Elkhart County, 9,844 initial claims were filed in the last full week of March — a number over three times higher than at any point during the Great Recession.⁶ The worst was yet to come: nearly one out of five workers in the state (17.5%) found themselves unemployed in the month of April.⁷ Though the reopening of businesses beginning in May brought the unemployment rate back down, as of

¹ Semmler, Ed. (2020, March 24). *Elkhart County faces thousands of manufacturing related layoffs*. South Bend Tribune. https://www.southbendtribune.com/news/business/elkhart-county-faces-thousands-of-manufacturing-related-layoffs/article_9a58de9e-6d4a-11ea-8e31-9fb1bac2a220.html

² *Ind. Executive Order No. 20-08* (2020, March 23), https://www.in.gov/gov/files/Executive_Order_20-08_Stay_at_Home.pdf

³ Semmler, Ed. *Elkhart County faces thousands of manufacturing related layoffs*.

⁴ Pete, Joseph S. (2020, March 31). *About 3.7% of working Hoosiers lose jobs in one week, unemployment claims skyrocket by 6,709%*. The Times of Northwest Indiana. https://www.nwitimes.com/business/local/about-3-7-of-working-hoosiers-lose-jobs-in-one-week-unemployment-claims-skyrocket-by/article_995ecfb7-b5b6-583c-b10f-d828bf04b21e.html

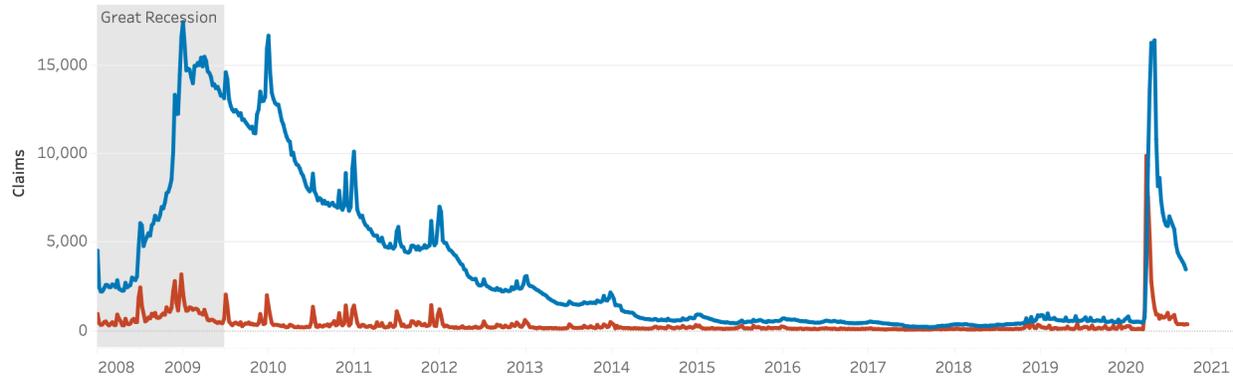
⁵ Pete, Joseph S. *About 3.7% of working Hoosiers lose jobs in one week, unemployment claims skyrocket by 6,709%*.

⁶ Indiana Department of Workforce Development Research and Analysis Division. (2020). *Indiana's weekly unemployment claims by industry sector* [data set]. State of Indiana. <https://www.hoosierdata.in.gov/infographics/weekly-unemployment-claims.asp>

⁷ Burris, Alexandria. (2020, September 17). *Indiana asks for \$300M in federal money to cover unemployment benefits*. South Bend Tribune. https://www.southbendtribune.com/news/local/indiana-asks-for-300m-in-federal-money-to-cover-unemployment-benefits/article_236bf550-f8e6-11ea-b093-8778f529e021.html

September 12, 2020, Indiana was continuing to pay benefits on over 110,000 claims, including 3,435 continuing claims in Elkhart County alone.⁸

Elkhart County weekly **initial** and **continued** unemployment claims (Total, All Industries)



(Graph from Indiana Department of Workforce Development)

As other states joined Indiana in lifting their shelter-in-place orders despite failing to meet the federally recommended 14-day decline in COVID-19 cases, anxieties about workplace safety grew.⁹ In Illinois, employees at a McDonald's sued the fast food company, with the goal of forcing it to provide adequate personal protective equipment for employees and require face coverings for customers.¹⁰ Even with the adoption of safety measures, such as distributing face masks to employees, Tyson Foods saw outbreaks in 24 of its meatpacking plants, "including two in Iowa that sickened more than 800 workers total."¹¹ Smithfield Foods likewise implemented safety measures and nonetheless had outbreaks at 11 of its plants.¹² As experts noted, in the event of illness, the main avenue of recourse for workers like the meatpacking employees and McDonald's plaintiffs

⁸ Indiana Department of Workforce Development Research and Analysis Division. *Indiana's weekly unemployment claims by industry sector* [data set].

⁹ Beachum, Lateshia. (2020, May 29). *What happens if you get coronavirus at work? Experts say it might be hard to prove.* Washington Post. <https://www.washingtonpost.com/nation/2020/05/29/workers-comp-coronavirus/>

¹⁰ Lucas, Amelia. (2020, May 19). *McDonald's workers in Chicago file lawsuit against fast-food chain for its coronavirus response.* CNBC. <https://www.cnbc.com/2020/05/19/mcdonalds-workers-in-chicago-file-suit-against-chain-for-coronavirus-response.html>

¹¹ Axon, R., Bagenstose, K., & Chadde, Sky. (2020, June 8). *Coronavirus outbreaks climb at U.S. meatpacking plants despite protections, Trump order.* USA Today. <https://www.usatoday.com/story/news/investigations/2020/06/06/meatpacking-plants-cant-shake-covid-19-cases-despite-trump-order/3137400001/>

¹² Axon, R., Bagenstose, K., & Chadde, Sky. *Coronavirus outbreaks climb at U.S. meatpacking plants despite protections, Trump order.*

is workers' compensation.¹³ However, as labor and employment law expert Emily Spieler observed, "The ability of people to prove they contracted this disease at work instead of somewhere else is difficult and is going to become increasingly more difficult... In some states, it's extremely difficult to get compensation for infectious-disease."¹⁴

Unemployment Insurance in Indiana

Unemployment insurance is a program that provides financial assistance to workers who find themselves unemployed through no fault of their own, and is funded by employer-paid contributions.¹⁵ In Indiana, unemployment insurance is available to individuals for 26 weeks,¹⁶ and the maximum weekly benefit amount is set at \$390.¹⁷ This amount has remained unchanged since 2005,¹⁸ when its purchasing power was equivalent to \$519.04 in today's dollars.¹⁹ In other words, a worker who receives the maximum weekly benefit in 2020 is having to live off approximately one-third less than what they would have received fifteen years ago. The maximum weekly benefit amount of \$390 represents a steady increase from \$288 in the year 2000 (\$433.20 in 2020).²⁰

Claims adjudicators consider three factors in determining whether a worker is eligible for benefits under the program:

- 1) How much money the worker earned in their "base period" (the first four of the last five completed calendar quarters before the week in which an initial claim application is filed);
- 2) Why the worker is unemployed (they must not have quit or been fired); and
- 3) Whether the worker is able, available, and actively seeking full-time work.²¹

¹³ Beachum, Lateshia. *What happens if you get coronavirus at work? Experts say it might be hard to prove.*

¹⁴ Beachum, Lateshia. *What happens if you get coronavirus at work? Experts say it might be hard to prove.*

¹⁵ Indiana Department of Workforce Development. (n.d.). *Indiana Unemployment*. State of Indiana. <https://www.in.gov/dwd/3474.htm>

¹⁶ Indiana Code 22-4-12-4.

¹⁷ I.C. 22-4-12-2(b).

¹⁸ *State Unemployment Funds: Going for Broke? The Indiana Experience*. (2010, July 28). Indiana Legislative Services Agency. <https://www.ncsl.org/Portals/1/Documents/employ/Unemployment-PIETY-IN-LegSum2010.pdf?ver=2010-08-17-103931-723>

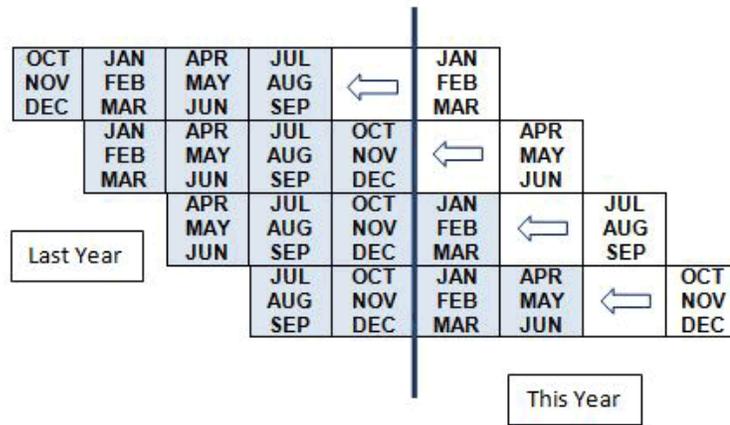
¹⁹ *Inflation Calculator*. (n.d.). US Inflation Calculator. <https://www.usinflationcalculator.com/>

²⁰ *State Unemployment Funds: Going for Broke? The Indiana Experience*.

²¹ Indiana Department of Workforce Development. (2020, June 23). *Unemployment Insurance Claimant Handbook*. State of Indiana. https://www.in.gov/dwd/files/Claimant_Handbook.pdf

How to Figure Your Base Period

Find the month you filed your claim in the **white** boxes. The calendar quarters in the **blue** boxes on the same line make up your base period.



Josh Richardson, chief of staff at the Department of Workforce Development explained that, coming into 2020, staffing at the agency was commensurate with the historically low claims volumes and unemployment rates of the previous year.²² Thus, when the number of unemployment insurance claims suddenly spiked in March, the agency was overwhelmed.²³ In normal times, claims adjudicators typically receive 12 weeks of training followed by a six-month introductory period, during which they are prepared for handling a variety of claimant issues.²⁴ In response to the pandemic, however, the Department of Workforce Development shortened its training line in order to expedite the process, resulting in new employees acting more like specialists, capable of handling only certain issues.²⁵ Unsurprisingly, then, multiple people reported jammed phone lines, having to wait for hours trying to reach the agency, and issues taking weeks to be resolved.²⁶ One individual who had two part-time jobs prior to the pandemic shared her frustrating experience with the Indianapolis Star in August: she applied for benefits under the regular unemployment insurance program in April and was denied, then applied for pandemic unemployment assistance in May and received a payment that the

²² Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

²³ Burris, Alexandria. (2020, August 2). *Pandemic exposes gaps in Indiana unemployment insurance program.* Indianapolis Star. <https://www.indystar.com/story/money/2020/08/02/indiana-unemployment-insurance-program-gaps-exposed-coronavirus-pandemic/3278136001/>

²⁴ Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

²⁵ Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

²⁶ Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

Department of Workforce Development later informed her was an overpayment.²⁷ She was forced to pay the money back to the agency and, four months after filing her initial claim, was still waiting to be approved for benefits.²⁸

The pandemic has helped expose other problems that existed in the unemployment insurance system even prior to this year. One was its failure to keep up with the rise of the gig economy. According to Annelies Goger, a David M. Rubenstein fellow at the Brookings Institution's Metropolitan Policy Program, "Since the Great Recession, fewer and fewer people that were unemployed were actually protected under that old system because they kind of eroded all of the qualifying factors."²⁹ Economist Christopher O'Leary noted that Indiana was paying benefits to only 18% of unemployed people in 2018, the latest year for which data was available. Fearing an economic collapse that might result from the lack of safety net "for people who would fall through the coverage gap," Congress approved the creation of a pandemic unemployment assistance program, providing up to 39 weeks of benefit payments.³⁰

Another problem was the state's low solvency level. Although there is no federal requirement for the amount of funds a state should have in its unemployment insurance trust fund, O'Leary notes that the United States Department of Labor recommends states have at least 1.48% of their payrolls in reserves.³¹ Indiana had only three-quarters of the recommended 1.48% on hand.³² According to the Labor Department, Indiana's solvency level was at .51 at the beginning of the year, with a fund balance of \$895.3 million.³³ Since March 1, the state has paid out more than \$1.2 billion in benefits to unemployed Hoosiers.³⁴ Expecting its trust fund to be out of money by the end of September, Indiana has had to seek a \$300 million loan from the federal government to cover the shortfall.³⁵

²⁷ Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

²⁸ Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

²⁹ Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

³⁰ Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

³¹ Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

³² Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

³³ Burris, Alexandria. *Pandemic exposes gaps in Indiana unemployment insurance program.*

³⁴ Burris, Alexandria. (2020, September 17). *Indiana asks for \$300M in federal money to cover unemployment benefits.* South Bend Tribune. https://www.southbendtribune.com/news/local/indiana-asks-for-300m-in-federal-money-to-cover-unemployment-benefits/article_236bf550-f8e6-11ea-b093-8778f529e021.html

³⁵ Burris, Alexandria. *Indiana asks for \$300M in federal money to cover unemployment benefits.*

Recommendations

One of the recommendations for strengthening the unemployment insurance system is to treat the end of temporary and seasonal workers' assignments as involuntary termination of employment, rendering them eligible for benefits and preventing them from falling through the coverage gap.³⁶

Another suggestion is work sharing. Work sharing benefits, which would be paid from state unemployment trust funds, allow employers who face a temporary decline in business to reduce hours and wages for all employees (or a group of employees) rather than lay off their workforce, which helps them "avoid the future expense of recruiting, hiring, and training new employees when the economy improves."³⁷ Affected workers would be eligible to collect pro-rated unemployment insurance checks to supplement their reduced income.³⁸

And, finally, as of 2016, only 18 states had enough in their reserves to pay unemployment insurance benefits "for at least one year under recession-like conditions."³⁹ During non-emergencies and healthy economy periods, states should work toward ensuring that at least 1% of their payrolls are in reserves, and maintain that target, linking their state unemployment tax rates "to trust fund reserves so that rates automatically increase when the trust fund is forecasted to dip below" the target during economic expansions.⁴⁰

Worker's Compensation

In Indiana, worker's compensation, which covers employees from their first day on the job, provides "medical, rehabilitation and income benefits" for workplace injuries and

³⁶ West, R., Dutta-Gupta, I., Grant, K., Boteach, M., McKenna, C., & Conti, J. (2016, July 7). *Where States Are and Where They Should Be on Unemployment Protections*. Center for American Progress. <https://www.americanprogress.org/issues/poverty/reports/2016/07/07/140883/where-states-are-and-where-they-should-be-on-unemployment-protections/>

³⁷ National Employment Law Project, Center for Law and Social Policy. (2016, July 6). *Work Sharing: An Alternative to Layoffs*. National Employment Law Project. <https://www.nelp.org/publication/work-sharing-an-alternative-to-layoffs/>

³⁸ National Employment Law Project, *Work Sharing: An Alternative to Layoffs*.

³⁹ West, R., Dutta-Gupta, I., Grant, K., Boteach, M., McKenna, C., & Conti, J. *Where States Are and Where They Should Be on Unemployment Protections*.

⁴⁰ West, R., Dutta-Gupta, I., Grant, K., Boteach, M., McKenna, C., & Conti, J. *Where States Are and Where They Should Be on Unemployment Protections*.

is paid for by employers.⁴¹ With exceptions pertaining to certain workers including railroad employees, municipal firefighters, and independent contractors,⁴² state law requires every employer and employee to comply with statutory provisions "to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment."⁴³ Among these requirements are that employers carry worker's compensation insurance unless they have received authorization to self-insure;⁴⁴ that they provide free medical care for an employee's injury "prior to an adjudication of permanent impairment";⁴⁵ and that employees who are partially disabled as a result of a workplace injury must accept "employment suitable to [their] capacity procured for [them]" or forgo compensation.⁴⁶ The burden of proving that an injury or illness is work-related falls on the employee.⁴⁷ However, the burden of proof falls on a defendant employer if the injury or illness is allegedly due to the employee's intentional or reckless behavior, for which compensation is disallowed.⁴⁸

A 2015 report comparing worker's compensation benefits among the states showed that Indiana tended to provide for payments higher than the national average.⁴⁹ ⁵⁰ The maximum compensation for loss of an arm in Indiana, for example, was \$202,050, compared to the national average of \$169,878.⁵¹ In fact, the only body parts for which Indiana's maximum compensation was lower than the national average were the hand (\$144,810 vs. \$144,930), thumb (\$37,208 vs. \$42,432), index finger (\$24,272 vs. \$24,474), and ear (\$23,755 vs. \$38,050).⁵²

⁴¹ Workers Compensation Board of Indiana. (n.d.). *Who Is Eligible?* State of Indiana. <https://www.in.gov/wcb/2382.htm>

⁴² I.C. 22-3-2-2(b)-(d)

⁴³ I.C. 22-3-2-2(a).

⁴⁴ I.C. 22-3-2-5.

⁴⁵ I.C. 22-3-3-4(a).

⁴⁶ I.C. 22-3-3-11.

⁴⁷ I.C. 22-3-2-2(a).

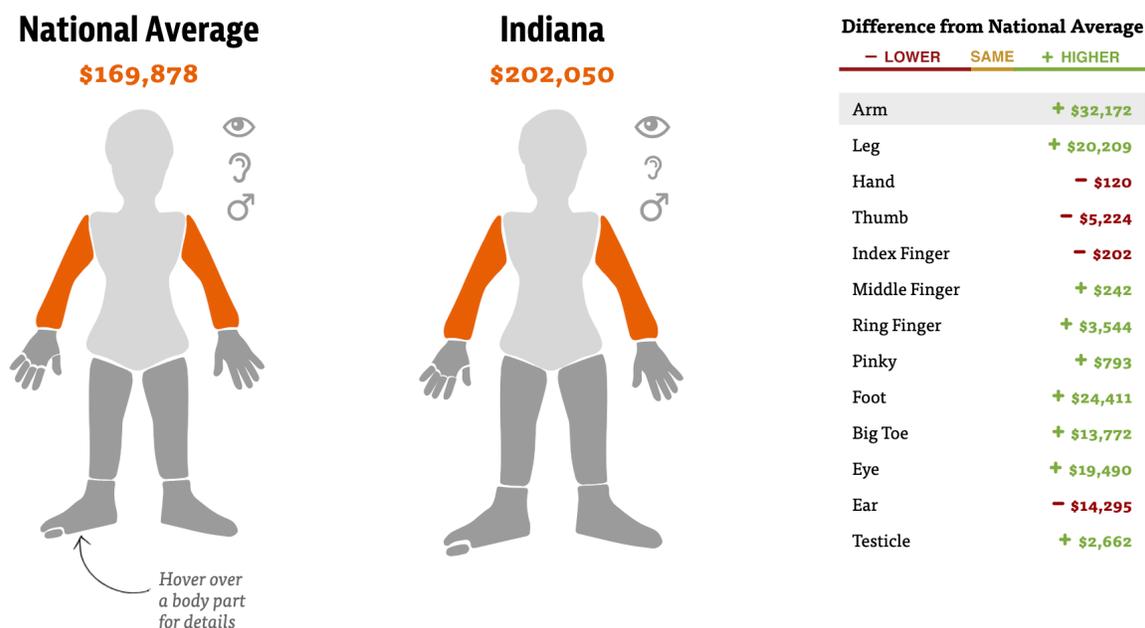
⁴⁸ I.C. 22-3-28.

⁴⁹ Groeger, L., & Grabell, M. (2015, March 5). *Workers' Comp Benefits: How Much is a Limb Worth?* ProPublica. <https://projects.propublica.org/graphics/workers-compensation-benefits-by-limb#Indiana>

⁵⁰ Figures reflected the maximum compensation for amputations, except for the ear, which was calculated for loss.

⁵¹ Groeger, L., & Grabell, M. *Workers' Comp Benefits: How Much is a Limb Worth?*

⁵² Groeger, L., & Grabell, M. *Workers' Comp Benefits: How Much is a Limb Worth?*



Infographic from Workers' Comp Benefits: How Much is a Limb Worth?

The state's neighbors operate their worker's compensation programs in much the same way, requiring nearly every employer with at least one employee to maintain worker's compensation insurance unless they have shown themselves capable of self-insurance. Ohio provides the exception. There, employees are covered through the state insurance fund, making Ohio "the largest state-operated provider of workers' compensation insurance in the United States."⁵³

Whereas Indiana and Illinois both provide that temporary disabilities are to be paid at a rate of two-thirds an employee's average weekly rate for the 52 weeks immediately preceding the injury or illness,⁵⁴ Ohio again offers a contrast. Payments for the first 12 weeks after the date of injury or illness equal 72% of the worker's average wages for "the six weeks and/or seven days prior to the date of injury."⁵⁵ After 12 weeks of missed work, compensation is paid at the same rate as in Indiana.⁵⁶

⁵³ Bureau of Workers' Compensation. (n.d.). *Bureau of Workers' Compensation Home Page*. State of Ohio. <https://info.bwc.ohio.gov/wps/portal/gov/bwc>

⁵⁴ I.C. 22-3-3-10(i); 820 Illinois Compiled Statutes 305/8(b).

⁵⁵ Bureau of Worker's Compensation. (n.d.) *What is temporary total compensation?* State of Ohio. <https://www.bwc.ohio.gov/worker/claiminfo/benefits/TempTotal.asp>

⁵⁶ Bureau of Worker's Compensation. *What is temporary total compensation?*

Legislative Action in Indiana

The following section summarizes legislative action that has been taken within the last two years. The font colors used below indicate the party to which the legislator belongs, where blue is 'Democratic' and red is 'Republican.'

Recently Passed Legislation

• **Public Law 72-2020/Senate Bill No. 258**

<i>Author Name (District)</i>	<i>* = co-author</i>
Sen. Eric Koch (44)	Sen. Michael Crider (28)
Sen. James Tomes (49)	Sen. Lonnie Randolph* (2)
<i>Sponsor Name (District)</i>	
Rep. Randall Frye (67)	Rep. Steve Bartels (74)
Rep. Sheila Klinker (27)	Rep. Ryan Lauer (59)

Permits the state worker's compensation rating bureau to recommend a premium or rate discount toward worker's compensation insurance to political subdivisions and volunteer fire departments that implement best practices.

• **Public Law 119-2020/House Bill No. 1244**

<i>Author Name (District)</i>	<i>* = co-author</i>
Rep. Ann Vermilion (31)	Rep. Daniel Leonard* (50)
<i>Sponsor Name (District)</i>	
Sen. Philip Boots (23)	Sen. Chip Perfect (43)
Sen. Lonnie Randolph (2)	

Provides that, in unemployment appeals, proceedings before an administrative law judge are *de novo* (decided without reference to conclusions made by the previous court to hear the issue). Requires DWD to adopt rules defining acceptable types of work search activities, the number of such activities to be completed in any week, requirements for

producing documentation, and the requirement to apply to and accept suitable jobs referred by DWD.

• **Public Law 139-2020/Senate Bill No. 269**

<i>Author Name (District)</i>	<i>* = co-author</i>
Sen. Jon Ford (38)	Sen. Philip Boots (23)
Sen. Ronald Grooms (46)	Sen. Karen Tallian* (4)
<i>Sponsor Name (District)</i>	
Rep. Matt Lehman (79)	Rep. Heath VanNatter (38)

Makes the following changes to current law concerning worker's compensation and occupation diseases compensation: 1) Directs employers (or their insurance carriers) to file a report of payment with the worker's compensation board ("board"), no later than 14 days from the date that the first installment is due (shortens timeframe from 15 days); 2) Requires employers to notify certain employees of the employer's intent to terminate the employee's temporary total disability benefits; 3) Changes the basis for determining compensation amounts for visual impairments arising from injuries occurring on or after July 1, 1991; and 4) Adjusts the length of time for which files and records must be retained.

• **Public Law 158-2020/House Bill No. 1111**

<i>Author Name (District)</i>	<i>* = co-author</i>
Rep. Daniel Leonard (50)	Rep. Doug Miller* (48)
<i>Sponsor Name (District)</i>	
Rep. John Ruckelshaus (30)	Sen. Philip Boots (23)
Sen. Blake Doriot (12)	Sen. Karen Tallian (4)
Sen. Lonnie Randolph (2)	Sen. James Buck (21)

Creates a new schedule of employer contribution rates for calendar years after December 31, 2020, maintaining current range of rates. Specifies that Schedule C applies for calendar years 2021 through 2025.

• **Public Law 66-2018/House Bill No. 1036 (2018)**

<i>Author Name (District)</i>	<i>* = co-author</i>
Rep. Daniel Leonard (50)	Rep. Matt Lehman* (79)
Rep. Richard Hamm* (56)	
<i>Sponsor Name (District)</i>	
Sen. Philip Boots (23)	Sen. James Buck (21)
Sen. Karen Tallian (4)	Sen. Lonnie Randolph (2)

Excluded worker's compensation and occupational diseases compensation payments from the definition of "wages" for unemployment insurance purposes. Allows individuals to request a review by the commissioner of DWD of an adverse decision following an administrative hearing in which the individual contests income withholding to repay unemployment insurance benefit overpayments.

OTHER RECENTLY PASSED LEGISLATION OF NOTE

- **Public Law 63-2019/Senate Bill No. 130 (2019)** - Amends the definition of "employment" to include service performed by a driver who provides drive away operations, if employed by a state or local government entity, a federally recognized Indiana tribe, or a nonprofit organization, *unless* the vehicle being driven is the commodity being delivered and the driver is an independent contractor.
- **Public Law 167-2019/House Bill No. 1182 (2019)** - Provides that, for worker's compensation purposes, an employee who leaves to work as a volunteer firefighter or member of a volunteer emergency medical services association is considered an employee of the firefighting unit while in the performance of duties as a volunteer firefighter or volunteer member. Increases the maximum amount of burial expenses that employers must pay under the worker's compensation and worker's occupational diseases compensation acts, from \$7,500 to \$10,000.

Recently Failed Legislation

All following bills are from the 2020 legislative session, unless otherwise noted in parentheses.

• Senate Bill No. 202

<i>Author Name (District)</i>	<i>* = co-author</i>
Sen. Karen Tallian (4)	Sen. Philip Boots (23)
Sen. Lonnie Randolph* (2)	

<i>Sponsor Name (District)</i>	
Rep. Matt Lehman (79)	Rep. Heath VanNatter (38)
Rep. Lisa Beck (19)	

Sought to increase benefits for injuries and disablements by 2% each year for three years, beginning July 1, 2020.

• Senate Bill No. 298

<i>Author Name (District)</i>	<i>* = co-author</i>
Sen. Jean Leising (42)	

Proposed drug testing individuals as a condition of their initial eligibility for unemployment benefits if the individual was discharged by their most recent employer as a result of unlawful drug use, or if the individual is one for whom suitable work is only available in certain occupations that regularly conduct drug testing.

• Senate Bill No. 308

<i>Author Name (District)</i>	<i>* = co-author</i>
Sen. David Niezgodski (10)	Sen. J.D. Ford (29)

Current law holds that an individual is "not totally unemployed, part-totally unemployed, or partially unemployed" for a given week if they are on a vacation week and are not receiving pay because of the terms of the employment contract or because of "the

employer's regular vacation policy and practice." This bill would have reinstated unemployment benefits for persons who work at an educational institution.

• **Senate Bill No. 309**

<i>Author Name (District)</i>	<i>* = co-author</i>
Sen. David Niezgodski (10)	Sen. Travis Holdman (19)
Sen. J.D. Ford* (29)	Sen. Lonnie Randolph* (2)
<i>Sponsor Name (District)</i>	
Rep. Lisa Beck (19)	Rep. Michael Karickhoff (30)
Rep. Ross Deal (7)	

Would have required the worker's compensation board, along with the departments of state revenue, labor, and workforce development, to report annually (for three years, beginning November 2020) to an interim study committee on employment and labor: the number of employers determined to have improperly classified at least one worker as an independent contractor; the number of such improperly classified workers; a calculation of actual revenue not collected/costs to the state as a result of the improper classification; the amount of penalties and interest assessed against the employers and the amount collected; and the criteria used by the department to classify workers.

• **Senate Bill No. 392**

<i>Author Name (District)</i>	<i>* = co-author</i>
Sen. Eric Bassler (39)	

Would have established a work sharing unemployment insurance program.

OTHER RECENTLY FAILED LEGISLATION OF NOTE

- **Senate Bill No. 201** - Sought to require assorted departments to share information concerning instances in which construction contractors paid workers in cash, and establish a payroll fraud task force to investigate suspected instances of employee misclassification, among other things.
- **Senate Bill No. 393** - Would have created an exemption from worker's compensation and occupational diseases coverage for members of certain religious sects that oppose the acceptance of public or private insurance benefits.
- **Senate Bill 16 (2019)** - Proposed creating an interim study committee to study whether an individual can be subject to disqualification from eligibility for unemployment benefits as a result of being discharged from employment due to circumstances directly related to individual's filing for a protective order.

Legislative Action in Other States

In response to the COVID-19 pandemic, several state legislatures have moved to provide for the millions of workers who have found themselves unemployed or underemployed, as well as those essential workers who are at higher risk of exposure to the virus. While the demographics, economies, and political climates of those states may vary from Indiana's, these ideas — and in some cases, successes — may nonetheless provide useful guidance as Indiana looks to better prepare itself and its workers for future public emergencies.

Arizona

Bill: HB 2911

Status: Introduced in 2020

If enacted, Arizona House Bill 2911 would authorize the state's Department of Economic Security to establish an alternative unemployment insurance program for workers who became unemployed as a result of the COVID-19 pandemic but who do not meet the usual benefit eligibility requirements, and allow for the waiver of job search and waiting week requirements.⁵⁷

Illinois

Bill: HB 2455

Status: Signed into law in 2020

Creates a rebuttable presumption that police officers, fire fighters, other first responders and front-line workers who are exposed to and contract COVID-19 did so while in the course of the employment, allowing for workers' compensation coverage.⁵⁸

Ohio

Bill: HB 571, HB 605, HB 633

Status: Introduced in 2020

⁵⁷ HB 2911, 54th Legis., 2nd Reg. Sess. (Ariz. 2020). <https://legiscan.com/AZ/text/HB2911/2020>

⁵⁸ HB 2455, 101st Gen. Assemb., Reg. Sess. (Ill. 2020). <https://www.ilga.gov/legislation/101/HB/PDF/10100HB2455lv.pdf>

HB 571, HB 605, and HB 633 propose amending Ohio's Workers' Compensation Law to make COVID-19 an occupational disease for first responders,⁵⁹ food processing or retail food establishment workers,⁶⁰ and workers in nursing homes, residential care facilities, and health care facilities,⁶¹ respectively.

Bill: HB 573

Status: Introduced in 2020

Going further than the previous bills, which target workers in specific fields, HB 573 would make COVID-19 an occupation disease for "an[y] employee who was required to work by the employee's employer outside of the employee's home" during the declared emergency.⁶²

Virginia

Bill: SB 548

Status: Signed into law in 2020

Re-establishes a work-sharing program, which Virginia allowed to expire in 2016. Permits employers to reduce employees' normal work hours up to 60% and makes unemployment benefits available to employees for those lost hours.⁶³

Relevant Advocacy Groups

Center for American Progress	https://www.americanprogress.org/
Indiana Chamber of Commerce	https://www.indianachamber.com/
National Employment Law Project	https://www.nelp.org/
Worker's Injury Law & Advocacy Group	https://www.wilg.org/index.cfm

⁵⁹ HB 571, 133rd Gen. Assemb., Reg. Sess. (Ohio 2020). <https://legiscan.com/OH/text/HB571/2019>

⁶⁰ HB 605, 133rd Gen. Assemb., Reg. Sess. (Ohio 2020). <https://legiscan.com/OH/text/HB605/2019>

⁶¹ HB 633, 133rd Gen. Assemb., Reg. Sess. (Ohio 2020). <https://legiscan.com/OH/text/HB633/2019>

⁶² HB 573, 133rd Gen. Assemb., Reg. Sess. (Ohio 2020). <https://legiscan.com/OH/text/HB573/2019>

⁶³ SB 548, 161st Gen. Assemb., Reconvened Sess. (Va. 2020). <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+SB548ER2+pdf>