



Reprinted
April 9, 1999

ENGROSSED HOUSE BILL No. 2085

DIGEST OF HB 2085 (Updated April 8, 1999 3:50 pm - DI 51)

Citations Affected: IC 22-3; IC 22-4; IC 22-4.1.

Synopsis: Department of workforce development. Provides limited worker's compensation and workers' occupational disease coverage for unpaid student workers participating in school to work programs. Amends the date that employer contributions for unemployment compensation are due. Allows the release of certain confidential information by the department of workforce development to the state department of revenue and law enforcement agencies for legitimate governmental purposes. Defines "legal process" for the purpose of withholding child support payments from unemployment compensation. Creates a state workforce development fund, and specifies the purposes for which funds may be disbursed from the fund.

Effective: July 1, 1999.

Dvorak, Thompson

(SENATE SPONSORS — CRAYCRAFT, ZAKAS, LANANE)

January 27, 1999, read first time and referred to Committee on Labor and Employment.
February 25, 1999, amended, reported — Do Pass.
March 3, 1999, read second time, amended, ordered engrossed.
March 4, 1999, engrossed.
March 8, 1999, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

March 11, 1999, read first time and referred to Committee on Judiciary.
April 5, 1999, amended, reported favorably — Do Pass.
April 8, 1999, read second time, amended, ordered engrossed.

EH 2085—LS 8154/DI 71+



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April 9, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED HOUSE BILL No. 2085

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

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

- 1 SECTION 1. IC 22-3-2-6.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]: **Sec. 6.3. Except for remedies available under IC 5-2-6.1,
4 recovery under medical provisions of IC 22-3-2 through IC 22-3-6
5 is the exclusive right and remedy for:**
6 (1) **an employee described in IC 22-3-6-1(b)(10); and**
7 (2) **the personal representatives, dependents, or next of kin, at
8 common law or otherwise, of an employee described in
9 IC 22-3-6-1(b)(10);**
10 **on account of personal injury or death by accident arising out of
11 and in the course of employment.**
12 SECTION 2. IC 22-3-6-1 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 1999]: Sec. 1. In IC 22-3-2 through IC 22-3-6,
14 unless the context otherwise requires:
15 (a) "Employer" includes the state and any political subdivision, any
16 municipal corporation within the state, any individual or the legal

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1 representative of a deceased individual, firm, association, limited
2 liability company, or corporation or the receiver or trustee of the same,
3 using the services of another for pay. If the employer is insured, the
4 term includes the employer's insurer so far as applicable. However, the
5 inclusion of an employer's insurer within this definition does not allow
6 an employer's insurer to avoid payment for services rendered to an
7 employee with the approval of the employer. **The term also includes**
8 **an employer that provides on-the-job training under the federal**
9 **School to Work Opportunities Act (20 U.S.C. 6101 et seq.).**

10 (b) "Employee" means every person, including a minor, in the
11 service of another, under any contract of hire or apprenticeship, written
12 or implied, except one whose employment is both casual and not in the
13 usual course of the trade, business, occupation, or profession of the
14 employer.

15 (1) An executive officer elected or appointed and empowered in
16 accordance with the charter and bylaws of a corporation, other
17 than a municipal corporation or governmental subdivision or a
18 charitable, religious, educational, or other nonprofit corporation,
19 is an employee of the corporation under IC 22-3-2 through
20 IC 22-3-6.

21 (2) An executive officer of a municipal corporation or other
22 governmental subdivision or of a charitable, religious,
23 educational, or other nonprofit corporation may, notwithstanding
24 any other provision of IC 22-3-2 through IC 22-3-6, be brought
25 within the coverage of its insurance contract by the corporation by
26 specifically including the executive officer in the contract of
27 insurance. The election to bring the executive officer within the
28 coverage shall continue for the period the contract of insurance is
29 in effect, and during this period, the executive officers thus
30 brought within the coverage of the insurance contract are
31 employees of the corporation under IC 22-3-2 through IC 22-3-6.

32 (3) Any reference to an employee who has been injured, when the
33 employee is dead, also includes the employee's legal
34 representatives, dependents, and other persons to whom
35 compensation may be payable.

36 (4) An owner of a sole proprietorship may elect to include the
37 owner as an employee under IC 22-3-2 through IC 22-3-6 if the
38 owner is actually engaged in the proprietorship business. If the
39 owner makes this election, the owner must serve upon the owner's
40 insurance carrier and upon the board written notice of the
41 election. No owner of a sole proprietorship may be considered an
42 employee under IC 22-3-2 through IC 22-3-6 until the notice has

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- 1 been received. If the owner of a sole proprietorship is an
2 independent contractor in the construction trades and does not
3 make the election provided under this subdivision, the owner
4 must obtain an affidavit of exemption under IC 22-3-2-14.5.
- 5 (5) A partner in a partnership may elect to include the partner as
6 an employee under IC 22-3-2 through IC 22-3-6 if the partner is
7 actually engaged in the partnership business. If a partner makes
8 this election, the partner must serve upon the partner's insurance
9 carrier and upon the board written notice of the election. No
10 partner may be considered an employee under IC 22-3-2 through
11 IC 22-3-6 until the notice has been received. If a partner in a
12 partnership is an independent contractor in the construction trades
13 and does not make the election provided under this subdivision,
14 the partner must obtain an affidavit of exemption under
15 IC 22-3-2-14.5.
- 16 (6) Real estate professionals are not employees under IC 22-3-2
17 through IC 22-3-6 if:
- 18 (A) they are licensed real estate agents;
19 (B) substantially all their remuneration is directly related to
20 sales volume and not the number of hours worked; and
21 (C) they have written agreements with real estate brokers
22 stating that they are not to be treated as employees for tax
23 purposes.
- 24 (7) A person is an independent contractor in the construction
25 trades and not an employee under IC 22-3-2 through IC 22-3-6 if
26 the person is an independent contractor under the guidelines of
27 the United States Internal Revenue Service.
- 28 (8) An owner-operator that provides a motor vehicle and the
29 services of a driver under a written contract that is subject to
30 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor
31 carrier is not an employee of the motor carrier for purposes of
32 IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be
33 covered and have the owner-operator's drivers covered under a
34 worker's compensation insurance policy or authorized
35 self-insurance that insures the motor carrier if the owner-operator
36 pays the premiums as requested by the motor carrier. An election
37 by an owner-operator under this subdivision does not terminate
38 the independent contractor status of the owner-operator for any
39 purpose other than the purpose of this subdivision.
- 40 (9) A member or manager in a limited liability company may elect
41 to include the member or manager as an employee under
42 IC 22-3-2 through IC 22-3-6 if the member or manager is actually

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1 engaged in the limited liability company business. If a member or
 2 manager makes this election, the member or manager must serve
 3 upon the member's or manager's insurance carrier and upon the
 4 board written notice of the election. A member or manager may
 5 not be considered an employee under IC 22-3-2 through IC 22-3-6
 6 until the notice has been received.

7 **(10) An unpaid participant under the federal School to Work**
 8 **Opportunities Act (20 U.S.C. 6101 et seq.) is an employee.**

9 (c) "Minor" means an individual who has not reached seventeen
 10 (17) years of age.

11 (1) Unless otherwise provided in this subsection, a minor
 12 employee shall be considered as being of full age for all purposes
 13 of IC 22-3-2 through IC 22-3-6.

14 (2) If the employee is a minor who, at the time of the accident, is
 15 employed, required, suffered, or permitted to work in violation of
 16 IC 20-8.1-4-25, the amount of compensation and death benefits,
 17 as provided in IC 22-3-2 through IC 22-3-6, shall be double the
 18 amount which would otherwise be recoverable. The insurance
 19 carrier shall be liable on its policy for one-half (1/2) of the
 20 compensation or benefits that may be payable on account of the
 21 injury or death of the minor, and the employer shall be liable for
 22 the other one-half (1/2) of the compensation or benefits. If the
 23 employee is a minor who is not less than sixteen (16) years of age
 24 and who has not reached seventeen (17) years of age and who at
 25 the time of the accident is employed, suffered, or permitted to
 26 work at any occupation which is not prohibited by law, this
 27 subdivision does not apply.

28 (3) A minor employee who, at the time of the accident, is a
 29 student performing services for an employer as part of an
 30 approved program under IC 20-10.1-6-7 shall be considered a
 31 full-time employee for the purpose of computing compensation
 32 for permanent impairment under IC 22-3-3-10. The average
 33 weekly wages for such a student shall be calculated as provided
 34 in subsection (d)(4).

35 (4) The rights and remedies granted in this subsection to a minor
 36 under IC 22-3-2 through IC 22-3-6 on account of personal injury
 37 or death by accident shall exclude all rights and remedies of the
 38 minor, the minor's parents, or the minor's personal
 39 representatives, dependents, or next of kin at common law,
 40 statutory or otherwise, on account of the injury or death. This
 41 subsection does not apply to minors who have reached seventeen
 42 (17) years of age.



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1 (d) "Average weekly wages" means the earnings of the injured
2 employee in the employment in which the employee was working at the
3 time of the injury during the period of fifty-two (52) weeks
4 immediately preceding the date of injury, divided by fifty-two (52),
5 except as follows:

6 (1) If the injured employee lost seven (7) or more calendar days
7 during this period, although not in the same week, then the
8 earnings for the remainder of the fifty-two (52) weeks shall be
9 divided by the number of weeks and parts thereof remaining after
10 the time lost has been deducted.

11 (2) Where the employment prior to the injury extended over a
12 period of less than fifty-two (52) weeks, the method of dividing
13 the earnings during that period by the number of weeks and parts
14 thereof during which the employee earned wages shall be
15 followed, if results just and fair to both parties will be obtained.
16 Where by reason of the shortness of the time during which the
17 employee has been in the employment of the employee's employer
18 or of the casual nature or terms of the employment it is
19 impracticable to compute the average weekly wages, as defined
20 in this subsection, regard shall be had to the average weekly
21 amount which during the fifty-two (52) weeks previous to the
22 injury was being earned by a person in the same grade employed
23 at the same work by the same employer or, if there is no person so
24 employed, by a person in the same grade employed in the same
25 class of employment in the same district.

26 (3) Wherever allowances of any character made to an employee
27 in lieu of wages are a specified part of the wage contract, they
28 shall be deemed a part of his earnings.

29 (4) In computing the average weekly wages to be used in
30 calculating an award for permanent impairment under
31 IC 22-3-3-10 for a student employee in an approved training
32 program under IC 20-10.1-6-7, the following formula shall be
33 used. Calculate the product of:

34 (A) the student employee's hourly wage rate; multiplied by

35 (B) forty (40) hours.

36 The result obtained is the amount of the average weekly wages for
37 the student employee.

38 (e) "Injury" and "personal injury" mean only injury by accident
39 arising out of and in the course of the employment and do not include
40 a disease in any form except as it results from the injury.

41 (f) "Billing review service" refers to a person or an entity that
42 reviews a medical service provider's bills or statements for the purpose



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1 of determining pecuniary liability. The term includes an employer's
 2 worker's compensation insurance carrier if the insurance carrier
 3 performs such a review.

4 (g) "Billing review standard" means the data used by a billing
 5 review service to determine pecuniary liability.

6 (h) "Community" means a geographic service area based on zip
 7 code districts defined by the United States Postal Service according to
 8 the following groupings:

9 (1) The geographic service area served by zip codes with the first
 10 three (3) digits 463 and 464.

11 (2) The geographic service area served by zip codes with the first
 12 three (3) digits 465 and 466.

13 (3) The geographic service area served by zip codes with the first
 14 three (3) digits 467 and 468.

15 (4) The geographic service area served by zip codes with the first
 16 three (3) digits 469 and 479.

17 (5) The geographic service area served by zip codes with the first
 18 three (3) digits 460, 461 (except 46107), and 473.

19 (6) The geographic service area served by the 46107 zip code and
 20 zip codes with the first three (3) digits 462.

21 (7) The geographic service area served by zip codes with the first
 22 three (3) digits 470, 471, 472, 474, and 478.

23 (8) The geographic service area served by zip codes with the first
 24 three (3) digits 475, 476, and 477.

25 (i) "Medical service provider" refers to a person or an entity that
 26 provides medical services, treatment, or supplies to an employee under
 27 IC 22-3-2 through IC 22-3-6.

28 (j) "Pecuniary liability" means the responsibility of an employer or
 29 the employer's insurance carrier for the payment of the charges for each
 30 specific service or product for human medical treatment provided
 31 under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or
 32 less than the charges made by medical service providers at the eightieth
 33 percentile in the same community for like services or products.

34 SECTION 3. IC 22-3-7-6.3 IS ADDED TO THE INDIANA CODE
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 36 1, 1999]: **Sec. 6.3. Except for remedies available under IC 5-2-6.1,
 37 recovery under the medical provisions of this chapter is the
 38 exclusive right and remedy for:**

39 (1) an employee described in section 9(b)(7) of this chapter;
 40 and

41 (2) the personal representatives, dependents, or next of kin, at
 42 common law or otherwise, of an employee described in section

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1 **9(b)(7) of this chapter;**
 2 **on account of disablement or death by occupational disease arising**
 3 **out of and in the course of employment.**

4 SECTION 4. IC 22-3-7-9 IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) As used in this chapter,
 6 "employer" includes the state and any political subdivision, any
 7 municipal corporation within the state, any individual or the legal
 8 representative of a deceased individual, firm, association, limited
 9 liability company, or corporation or the receiver or trustee of the same,
 10 using the services of another for pay. **The term also includes an**
 11 **employer that provides on-the-job training under the federal**
 12 **School to Work Opportunities Act (20 U.S.C. 6101 et seq.).** If the
 13 employer is insured, the term includes his insurer so far as applicable.
 14 However, the inclusion of an employer's insurer within this definition
 15 does not allow an employer's insurer to avoid payment for services
 16 rendered to an employee with the approval of the employer.

17 (b) As used in this chapter, "employee" means every person,
 18 including a minor, in the service of another, under any contract of hire
 19 or apprenticeship written or implied, except one whose employment is
 20 both casual and not in the usual course of the trade, business,
 21 occupation, or profession of the employer. For purposes of this chapter
 22 the following apply:

23 (1) Any reference to an employee who has suffered disablement,
 24 when the employee is dead, also includes his legal representative,
 25 dependents, and other persons to whom compensation may be
 26 payable.

27 (2) An owner of a sole proprietorship may elect to include himself
 28 as an employee under this chapter if he is actually engaged in the
 29 proprietorship business. If the owner makes this election, he must
 30 serve upon his insurance carrier and upon the board written notice
 31 of the election. No owner of a sole proprietorship may be
 32 considered an employee under this chapter unless the notice has
 33 been received. If the owner of a sole proprietorship is an
 34 independent contractor in the construction trades and does not
 35 make the election provided under this subdivision, the owner
 36 must obtain an affidavit of exemption under IC 22-3-7-34.5.

37 (3) A partner in a partnership may elect to include himself as an
 38 employee under this chapter if he is actually engaged in the
 39 partnership business. If a partner makes this election, he must
 40 serve upon his insurance carrier and upon the board written notice
 41 of the election. No partner may be considered an employee under
 42 this chapter until the notice has been received. If a partner in a



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1 partnership is an independent contractor in the construction trades
 2 and does not make the election provided under this subdivision,
 3 the partner must obtain an affidavit of exemption under
 4 IC 22-3-7-34.5.

5 (4) Real estate professionals are not employees under this chapter
 6 if:

7 (A) they are licensed real estate agents;

8 (B) substantially all their remuneration is directly related to
 9 sales volume and not the number of hours worked; and

10 (C) they have written agreements with real estate brokers
 11 stating that they are not to be treated as employees for tax
 12 purposes.

13 (5) A person is an independent contractor in the construction
 14 trades and not an employee under this chapter if the person is an
 15 independent contractor under the guidelines of the United States
 16 Internal Revenue Service.

17 (6) An owner-operator that provides a motor vehicle and the
 18 services of a driver under a written contract that is subject to
 19 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor
 20 carrier is not an employee of the motor carrier for purposes of this
 21 chapter. The owner-operator may elect to be covered and have the
 22 owner-operator's drivers covered under a worker's compensation
 23 insurance policy or authorized self-insurance that insures the
 24 motor carrier if the owner-operator pays the premiums as
 25 requested by the motor carrier. An election by an owner-operator
 26 under this subdivision does not terminate the independent
 27 contractor status of the owner-operator for any purpose other than
 28 the purpose of this subdivision.

29 **(7) An unpaid participant under the federal School to Work**
 30 **Opportunities Act (20 U.S.C. 6101 et seq.) is an employee.**

31 (c) As used in this chapter, "minor" means an individual who has
 32 not reached seventeen (17) years of age. A minor employee shall be
 33 considered as being of full age for all purposes of this chapter.
 34 However, if the employee is a minor who, at the time of the last
 35 exposure, is employed, required, suffered, or permitted to work in
 36 violation of the child labor laws of this state, the amount of
 37 compensation and death benefits, as provided in this chapter, shall be
 38 double the amount which would otherwise be recoverable. The
 39 insurance carrier shall be liable on its policy for one-half (1/2) of the
 40 compensation or benefits that may be payable on account of the
 41 disability or death of the minor, and the employer shall be wholly liable
 42 for the other one-half (1/2) of the compensation or benefits. If the

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1 employee is a minor who is not less than sixteen (16) years of age and
2 who has not reached seventeen (17) years of age, and who at the time
3 of the last exposure is employed, suffered, or permitted to work at any
4 occupation which is not prohibited by law, the provisions of this
5 subsection prescribing double the amount otherwise recoverable do not
6 apply. The rights and remedies granted to a minor under this chapter on
7 account of disease shall exclude all rights and remedies of the minor,
8 his parents, his personal representatives, dependents, or next of kin at
9 common law, statutory or otherwise, on account of any disease.

10 (d) This chapter does not apply to casual laborers as defined in
11 subsection (b), nor to farm or agricultural employees, nor to household
12 employees, nor to railroad employees engaged in train service as
13 engineers, firemen, conductors, brakemen, flagmen, baggagemen, or
14 foremen in charge of yard engines and helpers assigned thereto, nor to
15 their employers with respect to these employees. Also, this chapter
16 does not apply to employees or their employers with respect to
17 employments in which the laws of the United States provide for
18 compensation or liability for injury to the health, disability, or death by
19 reason of diseases suffered by these employees.

20 (e) As used in this chapter, "disablement" means the event of
21 becoming disabled from earning full wages at the work in which the
22 employee was engaged when last exposed to the hazards of the
23 occupational disease by the employer from whom he claims
24 compensation or equal wages in other suitable employment, and
25 "disability" means the state of being so incapacitated.

26 (f) For the purposes of this chapter, no compensation shall be
27 payable for or on account of any occupational diseases unless
28 disablement, as defined in subsection (e), occurs within two (2) years
29 after the last day of the last exposure to the hazards of the disease
30 except for the following:

31 (1) In all cases of occupational diseases caused by the inhalation
32 of silica dust or coal dust, no compensation shall be payable
33 unless disablement, as defined in subsection (e), occurs within
34 three (3) years after the last day of the last exposure to the hazards
35 of the disease.

36 (2) In all cases of occupational disease caused by the exposure to
37 radiation, no compensation shall be payable unless disablement,
38 as defined in subsection (e), occurs within two (2) years from the
39 date on which the employee had knowledge of the nature of his
40 occupational disease or, by exercise of reasonable diligence,
41 should have known of the existence of such disease and its causal
42 relationship to his employment.

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1 (3) In all cases of occupational diseases caused by the inhalation
 2 of asbestos dust, no compensation shall be payable unless
 3 disablement, as defined in subsection (e), occurs within three (3)
 4 years after the last day of the last exposure to the hazards of the
 5 disease if the last day of the last exposure was before July 1, 1985.

6 (4) In all cases of occupational disease caused by the inhalation
 7 of asbestos dust in which the last date of the last exposure occurs
 8 on or after July 1, 1985, and before July 1, 1988, no compensation
 9 shall be payable unless disablement, as defined in subsection (e),
 10 occurs within twenty (20) years after the last day of the last
 11 exposure.

12 (5) In all cases of occupational disease caused by the inhalation
 13 of asbestos dust in which the last date of the last exposure occurs
 14 on or after July 1, 1988, no compensation shall be payable unless
 15 disablement (as defined in subsection (e)) occurs within
 16 thirty-five (35) years after the last day of the last exposure.

17 (g) For the purposes of this chapter, no compensation shall be
 18 payable for or on account of death resulting from any occupational
 19 disease unless death occurs within two (2) years after the date of
 20 disablement. However, this subsection does not bar compensation for
 21 death:

22 (1) where death occurs during the pendency of a claim filed by an
 23 employee within two (2) years after the date of disablement and
 24 which claim has not resulted in a decision or has resulted in a
 25 decision which is in process of review or appeal; or

26 (2) where, by agreement filed or decision rendered, a
 27 compensable period of disability has been fixed and death occurs
 28 within two (2) years after the end of such fixed period, but in no
 29 event later than three hundred (300) weeks after the date of
 30 disablement.

31 (h) As used in this chapter, "billing review service" refers to a
 32 person or an entity that reviews a medical service provider's bills or
 33 statements for the purpose of determining pecuniary liability. The term
 34 includes an employer's worker's compensation insurance carrier if the
 35 insurance carrier performs such a review.

36 (i) As used in this chapter, "billing review standard" means the data
 37 used by a billing review service to determine pecuniary liability.

38 (j) As used in this chapter, "community" means a geographic service
 39 area based on zip code districts defined by the United States Postal
 40 Service according to the following groupings:

41 (1) The geographic service area served by zip codes with the first
 42 three (3) digits 463 and 464.



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- 1 (2) The geographic service area served by zip codes with the first
- 2 three (3) digits 465 and 466.
- 3 (3) The geographic service area served by zip codes with the first
- 4 three (3) digits 467 and 468.
- 5 (4) The geographic service area served by zip codes with the first
- 6 three (3) digits 469 and 479.
- 7 (5) The geographic service area served by zip codes with the first
- 8 three (3) digits 460, 461 (except 46107), and 473.
- 9 (6) The geographic service area served by the 46107 zip code and
- 10 zip codes with the first three (3) digits 462.
- 11 (7) The geographic service area served by zip codes with the first
- 12 three (3) digits 470, 471, 472, 474, and 478.
- 13 (8) The geographic service area served by zip codes with the first
- 14 three (3) digits 475, 476, and 477.

15 (k) As used in this chapter, "medical service provider" refers to a
 16 person or an entity that provides medical services, treatment, or
 17 supplies to an employee under this chapter.

18 (l) As used in this chapter, "pecuniary liability" means the
 19 responsibility of an employer or the employer's insurance carrier for the
 20 payment of the charges for each specific service or product for human
 21 medical treatment provided under this chapter in a defined community,
 22 equal to or less than the charges made by medical service providers at
 23 the eightieth percentile in the same community for like services or
 24 products.

25 SECTION 5. IC 22-4-10-1 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Contributions shall
 27 accrue and become payable from each employer for each calendar year
 28 in which it is subject to this article with respect to wages paid during
 29 such calendar year except where the status of an employer is changed
 30 by cessation or disposition of business or appointment of a receiver,
 31 trustees, trustee in bankruptcy, or other fiduciary, contributions shall
 32 immediately become due and payable on the basis of wages paid or
 33 payable by such employer as of the date of the change of status. Such
 34 contributions shall be paid to the department in such manner as the
 35 commissioner may prescribe, and shall not be deducted, in whole or in
 36 part, from the remuneration of individuals in an employer's employ.
 37 When contributions are determined in accordance with Schedule A as
 38 provided in IC 22-4-11-3, the board may prescribe rules to require an
 39 estimated advance payment of contributions in whole or in part, if in
 40 the judgment of the board such advance payments will avoid a debit
 41 balance in the fund during the calendar quarter to which the advance
 42 payment applies. An adjustment shall be made following the quarter in

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1 which an advance payment has been made to reflect the difference
 2 between the estimated contribution and the contribution actually
 3 payable. Advance payment of contributions shall not be required for
 4 more than one (1) calendar quarter in any calendar year.

5 (a)(1) Any employer which is, or becomes, subject to this article
 6 by reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay
 7 contributions as provided under this article unless it elects to
 8 become liable for "payments in lieu of contributions" (as defined
 9 in IC 22-4-2-32).

10 (2) Except as provided in subsection (a)(4), the election to
 11 become liable for "payments in lieu of contributions" must be
 12 filed with the department on a form prescribed by the
 13 commissioner not later than thirty-one (31) days following the
 14 date upon which such entity qualifies as an employer under this
 15 article, and shall be for a period of not less than two (2) calendar
 16 years.

17 (3) Any employer which makes an election in accordance with
 18 subdivisions (1) through (2) will continue to be liable for
 19 "payments in lieu of contributions" until it files with the
 20 commissioner a written notice terminating its election. This notice
 21 must be filed not later than thirty (30) days prior to the beginning
 22 of the taxable year for which such termination shall first be
 23 effective.

24 (4) Any employer which qualifies to elect to become liable for
 25 "payments in lieu of contributions" and has been paying
 26 contributions under this article for a period subsequent to January
 27 1, 1972, may change to a reimbursable basis by filing with the
 28 department not later than thirty (30) days prior to the beginning
 29 of any taxable year a written notice of election to become liable
 30 for payments in lieu of contributions. Such election shall not be
 31 terminable by the organization for that and the next year.

32 (b)(1) Employers making "payments in lieu of contributions"
 33 under subsection (a) shall make reimbursement payments
 34 monthly. At the end of each calendar month the department shall
 35 bill each such employer (or group of employers) for an amount
 36 equal to the full amount of regular benefits plus one-half (1/2) of
 37 the amount of extended benefits paid during such month that is
 38 attributable to services in the employ of such employers or group
 39 of employers. Governmental entities of this state and its political
 40 subdivisions electing to make "payments in lieu of contributions"
 41 shall be billed by the department at the end of each calendar
 42 month for an amount equal to the full amount of regular benefits



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plus the full amount of extended benefits paid during the month that is attributable to service in the employ of the governmental entities.

(2) Payment of any bill rendered under subdivision (1) shall be made not later than ~~thirty-one (31)~~ **thirty (30)** days after such bill was 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 in accordance with subdivision (4).

(3) Payments made by any employer under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the employer.

(4) 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.

(5) 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.

(c) Two (2) or more employers that have elected to become liable for "payments in lieu of contributions" in accordance with subsection (a) may file a joint application with 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 employers. Such group account shall be established as provided in regulations prescribed by the commissioner.

SECTION 6. IC 22-4-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) With respect to initial claims filed for any week beginning on and after July 6, 1980, and before July 7, 1985, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in ~~his~~ **the individual's** benefit period shall be paid for the week, if properly claimed, benefits at the rate of four and three-tenths percent (4.3%) of the individual's wage credits in the calendar quarter during the

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1 individual's base period in which the wage credits were highest.
2 However, the weekly benefit amount may not exceed:

- 3 (1) eighty-four dollars (\$84) if the eligible and qualified
4 individual has no dependents;
5 (2) ninety-nine dollars (\$99) if the eligible and qualified
6 individual has one (1) dependent;
7 (3) one hundred thirteen dollars (\$113) if the eligible and
8 qualified individual has two (2) dependents;
9 (4) one hundred twenty-eight dollars (\$128) if the eligible and
10 qualified individual has three (3) dependents; or
11 (5) one hundred forty-one dollars (\$141) if the eligible and
12 qualified individual has four (4) or more dependents.

13 With respect to initial claims filed for any week beginning on and
14 after July 7, 1985, and before July 6, 1986, each eligible individual who
15 is totally unemployed (as defined in IC 22-4-3-1) in any week in the
16 individual's benefit period shall be paid for the week, if properly
17 claimed, benefits at the rate of four and three-tenths percent (4.3%) of
18 the individual's wage credits in the calendar quarter during the
19 individual's base period in which the wage credits were highest.
20 However, the weekly benefit amount may not exceed:

- 21 (1) ninety dollars (\$90) if the eligible and qualified individual has
22 no dependents;
23 (2) one hundred six dollars (\$106) if the eligible and qualified
24 individual has one (1) dependent;
25 (3) one hundred twenty-one dollars (\$121) if the eligible and
26 qualified individual has two (2) dependents;
27 (4) one hundred thirty-seven dollars (\$137) if the eligible and
28 qualified individual has three (3) dependents; or
29 (5) one hundred fifty-one dollars (\$151) if the eligible and
30 qualified individual has four (4) or more dependents.

31 With respect to initial claims filed for any week beginning on and
32 after July 6, 1986, and before July 7, 1991, each eligible individual who
33 is totally unemployed (as defined in IC 22-4-3-1) in any week in the
34 individual's benefit period shall be paid for the week, if properly
35 claimed, benefits at the rate of four and three-tenths percent (4.3%) of
36 the individual's wage credits in the calendar quarter during the
37 individual's base period in which the wage credits were highest.
38 However, the weekly benefit amount may not exceed:

- 39 (1) ninety-six dollars (\$96) if the eligible and qualified individual
40 has no dependents;
41 (2) one hundred thirteen dollars (\$113) if the eligible and
42 qualified individual has one (1) dependent;



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- 1 (3) one hundred twenty-nine dollars (\$129) if the eligible and
- 2 qualified individual has two (2) dependents;
- 3 (4) one hundred forty-seven dollars (\$147) if the eligible and
- 4 qualified individual has three (3) dependents; or
- 5 (5) one hundred sixty-one dollars (\$161) if the eligible and
- 6 qualified individual has four (4) or more dependents.

7 With respect to initial claims filed for any week beginning on and
 8 after July 7, 1991, benefits shall be paid in accordance with subsections
 9 (d) through ~~(j)~~ (k).

10 For the purpose of this subsection and subsections (e) through (g),
 11 the term "dependent" means lawful husband or wife, natural child,
 12 adopted child, stepchild, if such stepchild is not receiving aid to
 13 dependent children under the welfare program, or child placed in the
 14 claimant's home for adoption by an authorized placement agency or a
 15 court of law, provided such child is under eighteen (18) years of age
 16 and that such dependent claimed has received more than one-half (1/2)
 17 the cost of support from the claimant during ninety (90) days (or for
 18 duration of relationship, if less) immediately preceding the claimant's
 19 benefit year beginning date, but only if such dependent who is the
 20 lawful husband or wife is unemployed and currently ineligible for
 21 Indiana benefits because of insufficient base period wages. The number
 22 and status of dependents shall be determined as of the beginning of the
 23 claimant's benefit period and shall not be changed during that benefit
 24 period.

25 With respect to initial claims filed for any week beginning on and
 26 after July 6, 1980, the term "dependent" shall include a person with a
 27 disability over eighteen (18) years of age who is a child of the claimant
 28 and who receives more than one-half (1/2) the cost of his support from
 29 the claimant during the ninety (90) day period immediately preceding
 30 the claimant's benefit year beginning date. "Child" includes a natural
 31 child, an adopted child, a stepchild of claimant, if the stepchild is not
 32 receiving aid to dependent children under the welfare program, or a
 33 child placed in the claimant's home for adoption by an authorized
 34 placement agency or a court of law. The term "disabled" means an
 35 individual who by reason of physical or mental defect or infirmity,
 36 whether congenital or acquired by accident, injury, or disease, is totally
 37 or partially prevented from achieving the fullest attainable physical,
 38 social, economic, mental, and vocational participation in the normal
 39 process of living.

40 For the purpose of this subsection, the term "dependent" includes a
 41 child for whom claimant is the court appointed legal guardian.

42 On and after July 6, 1980, and before July 7, 1991, if the weekly

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1 benefit amount is less than forty dollars (\$40), the board, through the
 2 commissioner, shall pay benefits at the rate of forty dollars (\$40) per
 3 week. On and after July 7, 1991, if the weekly benefit amount is less
 4 than fifty dollars (\$50), the board, through the commissioner, shall pay
 5 benefits at the rate of fifty dollars (\$50) per week. If such weekly
 6 benefit amount is not a multiple of one dollar (\$1), it shall be computed
 7 to the next lower multiple of one dollar (\$1).

8 (b) Each eligible individual who is partially or part-totally
 9 unemployed in any week shall be paid with respect to such week a
 10 benefit in an amount equal to his weekly benefit amount, less his
 11 deductible income, if any, for such week. If such partial benefit is not
 12 a multiple of one dollar (\$1), it shall be computed to the next lower
 13 multiple of one dollar (\$1). **Except for an individual who is totally**
 14 **unemployed, an individual who is not partially or part-totally**
 15 **unemployed is not eligible for any benefit.** The board may prescribe
 16 rules governing the payment of such partial benefits, and may provide,
 17 with respect to individuals whose earnings cannot reasonably be
 18 computed on a weekly basis, that such benefits may be computed and
 19 paid on other than a weekly basis; however, such rules shall secure
 20 results reasonably equivalent to those provided in the analogous
 21 provisions of this section.

22 (c) The weekly extended benefit amount payable to an individual for
 23 a week of total unemployment in the individual's eligibility period shall
 24 be an amount equal to the weekly benefit amount payable to the
 25 individual during the individual's applicable benefit period, prior to any
 26 reduction of such weekly benefit amount.

27 (d) With respect to initial claims filed for any week beginning on
 28 and after July 7, 1991, and before July 1, 1995, each eligible individual
 29 who is totally unemployed (as defined in IC 22-4-3-1) in any week in
 30 the individual's benefit period shall be paid for the week, if properly
 31 claimed, benefits at the rate of:

32 (1) five percent (5%) of the first one thousand dollars (\$1,000) of
 33 the individual's wage credits in the calendar quarter during the
 34 individual's base period in which the wage credits were highest;
 35 and

36 (2) four percent (4%) of the individual's remaining wage credits
 37 in the calendar quarter during the individual's base period in
 38 which the wage credits were highest.

39 However, the weekly benefit amount may not exceed the amount
 40 specified in subsections (e) through (i).

41 (e) With respect to initial claims filed for any week beginning on
 42 and after July 7, 1991, and before July 5, 1992, the weekly benefit

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- 1 amount may not exceed:
- 2 (1) one hundred sixteen dollars (\$116) if the eligible and qualified
- 3 individual has no dependents;
- 4 (2) one hundred thirty-four dollars (\$134) if the eligible and
- 5 qualified individual has one (1) dependent;
- 6 (3) one hundred fifty-three dollars (\$153) if the eligible and
- 7 qualified individual has two (2) dependents; or
- 8 (4) one hundred seventy-one dollars (\$171) if the eligible and
- 9 qualified individual has three (3) or more dependents.
- 10 (f) With respect to initial claims filed for any week beginning on
- 11 and after July 5, 1992, and before July 4, 1993, the weekly benefit
- 12 amount may not exceed:
- 13 (1) one hundred forty dollars (\$140) if the eligible and qualified
- 14 individual has no dependents;
- 15 (2) one hundred sixty dollars (\$160) if the eligible and qualified
- 16 individual has one (1) dependent; or
- 17 (3) one hundred eighty-one dollars (\$181) if the eligible and
- 18 qualified individual has two (2) or more dependents.
- 19 (g) With respect to initial claims filed for any week beginning on
- 20 and after July 4, 1993, and before July 3, 1994, the weekly benefit
- 21 amount may not exceed:
- 22 (1) one hundred seventy dollars (\$170) if the eligible and
- 23 qualified individual has no dependents; or
- 24 (2) one hundred ninety-two dollars (\$192) if the eligible and
- 25 qualified individual has one (1) or more dependents.
- 26 (h) With respect to initial claims filed for any week beginning on or
- 27 after July 3, 1994, and before July 1, 1995, the weekly benefit amount
- 28 may not exceed two hundred two dollars (\$202).
- 29 (i) With respect to initial claims filed for any week on or after July
- 30 1, 1995, the weekly benefit amount will equal the amount that results
- 31 from applying the percentages provided in subsections (j) through (†)
- 32 (k) to the applicable maximum wage credits under IC 22-4-4-3.
- 33 (j) With respect to initial claims filed for any week beginning on and
- 34 after July 1, 1995, and before July 1, 1997, each eligible individual who
- 35 is totally unemployed (as defined in IC 22-4-3-1) in any week in the
- 36 individual's benefit period shall be paid for the week, if properly
- 37 claimed, benefits at the rate of:
- 38 (1) five percent (5%) of the first one thousand seven hundred fifty
- 39 dollars (\$1,750) of the individual's wage credits in the calendar
- 40 quarter during the individual's base period in which the wage
- 41 credits were highest; and
- 42 (2) four percent (4%) of the individual's remaining wage credits

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1 in the calendar quarter during the individual's base period in
2 which the wage credits were highest.

3 However, the weekly benefit amount may not exceed the amount
4 specified in subsection (i).

5 (k) With respect to initial claims filed for any week beginning on
6 and after July 1, 1997, each eligible individual who is totally
7 unemployed (as defined in IC 22-4-3-1) in any week in the individual's
8 benefit period shall be paid for the week, if properly claimed, benefits
9 at the rate of:

10 (1) five percent (5%) of the first two thousand dollars (\$2,000) of
11 the individual's wage credits in the calendar quarter during the
12 individual's base period in which the wage credits were highest;
13 and

14 (2) four percent (4%) of the individual's remaining wage credits
15 in the calendar quarter during the individual's base period in
16 which the wage credits were highest.

17 SECTION 7. IC 22-4-19-6 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) Each employing
19 unit shall keep true and accurate records containing information the
20 department considers necessary. These records are:

- 21 (1) open to inspection; and
- 22 (2) subject to being copied;

23 by an authorized representative of the department at any reasonable
24 time and as often as may be necessary. The commissioner, the review
25 board, or an administrative law judge may require from any employing
26 unit any verified or unverified report, with respect to persons employed
27 by it, which is considered necessary for the effective administration of
28 this article.

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

36 (c) A claimant at a hearing before an administrative law judge or the
37 review board shall be supplied with information from the records
38 referred to in this section to the extent necessary for the proper
39 presentation of the subject matter of the appearance. The commissioner
40 may make the information necessary for a proper presentation of a
41 subject matter before an administrative law judge or the review board
42 available to an agency of the United States or an Indiana state agency.

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- (d) The commissioner may release the following information:
 - (1) Summary statistical data may be released to the public.
 - (2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the department of commerce only for the following purposes:
 - (A) The purpose of conducting a survey.
 - (B) The purpose of aiding the officers or employees of the department of commerce in providing economic development assistance through program development, research, or other methods.
 - (C) Other purposes consistent with the goals of the department of commerce and not inconsistent with those of the department.
 - (3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.
 - (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) department of state revenue; or**
 - (B) state or local law enforcement agencies;****only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.**
- (e) The commissioner may make information available under subsection ~~(d)~~ **(d)(1), (d)(2), or (d)(3)** only:
 - (1) if:
 - (A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or
 - (B) there is an agreement that the employer specific information released to the department of commerce or budget agency 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) An employee:
 - (1)** of the department who recklessly violates subsection (a), (c),

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1 (d), or (e); or
 2 **(2) of any governmental entity listed in subsection (d)(4) of**
 3 **this chapter who recklessly violates subsection (d)(4) of this**
 4 **chapter;**

5 commits a Class B misdemeanor.

6 (g) An employee of the department of commerce or the budget
 7 agency who violates subsection (d) or (e) commits a Class B
 8 misdemeanor.

9 SECTION 8. IC 22-4-39-1 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this
 11 chapter:

12 (1) "Child support obligations" includes only obligations which are
 13 being enforced pursuant to a plan described in Section 454 of the
 14 Social Security Act which has been approved by the Secretary of
 15 Health and Human Services under Title IV-D of the Social Security
 16 Act.

17 (2) "**Legal process**" means a writ, an order, a summons, or
 18 **other process in the nature of garnishment that is issued by:**

19 **(A) a court with jurisdiction in a state, territory, or possession**
 20 **of the United States;**

21 **(B) a court with jurisdiction in a foreign country with which**
 22 **the United States has entered into an agreement that requires**
 23 **the United States to honor the process; or**

24 **(C) an authorized official acting under an order of a court**
 25 **with jurisdiction or under state or local law.**

26 (3) "State or local child support enforcement agency" means any
 27 agency of any state or a political subdivision of the state operating
 28 pursuant to a plan described in subdivision (1).

29 (4) "Unemployment compensation" means any compensation
 30 payable under this article (including amounts payable by the
 31 department pursuant to an agreement under any federal law providing
 32 for compensation, assistance, or allowances with respect to
 33 unemployment).

34 SECTION 9. IC 22-4-39-3 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The department shall
 36 deduct and withhold from any unemployment compensation payable to
 37 an individual that owes child support obligations: ~~as defined in section~~
 38 ~~† of this chapter:~~

39 (1) the amount specified by the individual to the department to be
 40 deducted and withheld under this section, if neither subdivision

41 (2) nor (3) is applicable;

42 (2) the amount (if any) determined pursuant to an agreement

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1 submitted to the department under Section 454(20)(B)(1) of the
 2 Social Security Act by the state or local child support enforcement
 3 agency, unless subdivision (3) is applicable; or
 4 (3) any amount otherwise required to be so deducted and withheld
 5 from the unemployment compensation pursuant to legal process
 6 (as that term is defined in Section 462(e) of the Social Security
 7 Act) properly served upon the department.

8 SECTION 10. IC 22-4.1-1-4 IS ADDED TO THE INDIANA CODE
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 10 1, 1999]: **Sec. 4. "Fund" refers to the state workforce development
 11 fund established under IC 22-4.1-6-1.**

12 SECTION 11. IC 22-4.1-6 IS ADDED TO THE INDIANA CODE
 13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 1999]:

15 **Chapter 6. State Workforce Development Fund**

16 **Sec. 1. (a) The state workforce development fund is established
 17 to receive and disburse workforce development funds under this
 18 chapter. The department shall administer the fund.**

19 **(b) Money appropriated for the programs described in section 2
 20 of this chapter may be used for the costs of administering those
 21 programs.**

22 **(c) Money in the fund at the end of a state fiscal year does not
 23 revert to the state general fund but remains available to the
 24 department for expenditure consistent with this chapter.**

25 **Sec. 2. Money in the fund may be used for the following
 26 purposes at the discretion of the department, based upon the
 27 priorities necessary to achieve the department's goals:**

28 **(1) To build the capacity and strengthen the quality of
 29 services of programs offering basic skills services and having
 30 a substantial volunteer component, including staff and
 31 volunteer development, outreach, equipment, software,
 32 training materials, and community linkages.**

33 **(2) For workforce literacy programs providing essential and
 34 basic education skills training to raise skills and productivity
 35 in the workplace.**

36 **(3) For technical assistance to providers of workplace literacy
 37 and basic education to enhance the providers' capacity to link
 38 with employers and document productivity gains resulting
 39 from training.**

40 **(4) To establish a common data base, reporting system, and
 41 evaluation system related to workforce literacy and other
 42 incumbent worker programs, and to develop performance**



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- 1 **standards.**
- 2 **(5) To provide training for dislocated workers under**
- 3 **IC 22-4-41.**
- 4 **(6) To provide training for workers who are at risk of**
- 5 **becoming dislocated workers because of a lack of skills.**
- 6 **(7) To provide comprehensive job training and related**
- 7 **services for economically disadvantaged, unemployed, and**
- 8 **underemployed individuals, including recruitment,**
- 9 **counseling, remedial education, vocational training, job**
- 10 **development, job placement, and other appropriate services**
- 11 **to enable each individual to secure and retain employment at**
- 12 **the individual's maximum capacity.**
- 13 **(8) To leverage federal funds in order to increase the**
- 14 **resources available to carry out the purposes of this section.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 2085, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 11, line 11, after "\$1)." insert "**Except for an individual who is totally unemployed, an individual who is not partially or part-totally unemployed is not eligible for any benefit.**".

Page 14, line 20, after "by" delete "a" and insert "**the following**".

Page 14, line 20, delete "agency, including a".

Page 14, line 20, after "including a" insert "**entities:**".

Page 14, begin a new line block indented, between lines 20 and 21 and insert:

"(A) department of state revenue; or

(B) federal, state, or local law enforcement agencies;

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

Page 14, delete lines 21 through 24.

Page 14, line 38, after "employee" insert ":".

Page 14, line 38, before "of" begin a new line block indented and insert:

"(1)".

Page 14, line 39, after "(e)" insert "; **or**"

Page 14, line 39, before "commits" begin a new line block indented and insert:

"(2) of any governmental entity listed in subsection (d)(4) of this chapter who recklessly violates subsection (d)(4) of this chapter;".

Page 14, line 39, beginning with "commits" begin a new line blocked left.

and when so amended that said bill do pass.

(Reference is to HB 2085 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 2085 be amended to read as follows:

Page 11, line 13, delete "An individual who".

Page 11, delete line 14.

Page 11, line 15, delete "eligible for any benefit."

(Reference is to HB 2085 as printed February 26, 1999.)

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SENATE MOTION

Mr. President: I move that Senator Zakas be added as a second sponsor and Senator Lanane be added as cosponsor of House Bill 2085.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill No. 2085, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-3-2-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 6.3. Except for remedies available under IC 5-2-6.1, recovery under IC 22-3-2 through IC 22-3-6 for medical, surgical, hospital and nurses' services and supplies is the exclusive right and remedy for:**

(1) an employee described in IC 22-3-6-1(b)(10); and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of an employee described in IC 22-3-6-1(b)(10);

on account of personal injury or death by accident."

Page 8, line 2, after "(31)" insert "**thirty (30)**".

Page 8, line 2, reset in roman "days after".

Page 8, line 2, delete "the last day of the".

Page 8, line 3, delete "month in which".

Page 14, line 23, delete "federal, state," and insert "**state**".

Page 14, line 24, begin a new line block indented beginning with "only".

Page 15, line 16, delete ":".

Page 15, line 17, delete "(A)".

Page 15, run in lines 16 through 17.

Page 15, line 18, delete "(i)" begin a new line double block indented and insert:

"(A)".

Page 15, line 18, delete "or an administrative agency".

Page 15, line 20, delete "(ii)" begin a new line double block indented and insert:

"(B)".

Page 15, line 20, delete "or an administrative agency".

Page 15, line 24, delete "(iii)" begin a new line double block indented and insert:

"(C)".

Page 15, line 25, delete "or an administrative agency".

Page 15, line 26, delete "; and" and insert ".".

Page 15, delete lines 27 through 31.

EH 2085—LS 8154/DI 71+



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Page 16, delete lines 14 through 17.

Page 17, line 23, delete "leverage" and insert "**attract**".

Page 17, line 23, after "funds" insert "**in order**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 2085 as reprinted March 4, 1999.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 2085 be amended to read as follows:

Page 1, line 4, after "under" insert "**medical provisions of**".

Page 1, line 4, delete "for medical, surgical,".

Page 1, line 5, "hospital and nurses' services and supplies".

Page 1, line 11, delete "." and insert "**arising out of and in the course of employment.**".

Page 6, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 3. IC 22-3-7-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 6.3. Except for remedies available under IC 5-2-6.1, recovery under the medical provisions of this chapter is the exclusive right and remedy for:**

(1) an employee described in section 9(b)(7) of this chapter; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of an employee described in section 9(b)(7) of this chapter;

on account of disablement or death by occupational disease arising out of and in the course of employment.

SECTION 4. IC 22-3-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. **The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).** If the employer is insured, the term includes his insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes his legal representative,

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dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include himself as an employee under this chapter if he is actually engaged in the proprietorship business. If the owner makes this election, he must serve upon his insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-7-34.5.

(3) A partner in a partnership may elect to include himself as an employee under this chapter if he is actually engaged in the partnership business. If a partner makes this election, he must serve upon his insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under IC 22-3-7-34.5.

(4) Real estate professionals are not employees under this chapter if:

- (A) they are licensed real estate agents;
- (B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and
- (C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(6) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor carrier is not an employee of the motor carrier for purposes of this chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as

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requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(7) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee.

(c) As used in this chapter, "minor" means an individual who has not reached seventeen (17) years of age. A minor employee shall be considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last exposure, is employed, required, suffered, or permitted to work in violation of the child labor laws of this state, the amount of compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, his parents, his personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to their employers with respect to these employees. Also, this chapter does not apply to employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom he claims compensation or equal wages in other suitable employment, and

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"disability" means the state of being so incapacitated.

(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

(1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2) years from the date on which the employee had knowledge of the nature of his occupational disease or, by exercise of reasonable diligence, should have known of the existence of such disease and its causal relationship to his employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

(1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a

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decision which is in process of review or appeal; or

(2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under this chapter.

(l) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products."



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Renumber all SECTIONS consecutively.

(Reference is to EHB 2085 as printed April 6, 1999.)

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