



February 26, 1999

HOUSE BILL No. 1899

DIGEST OF HB 1899 (Updated February 25, 1999 3:05 pm - DI 58)

Citations Affected: IC 5-10; IC 5-16; IC 6-3; IC 6-5.5; IC 22-3; IC 22-4; IC 27-1; IC 27-14; noncode.

Synopsis: Various tax and labor matters. Allows members of the general assembly to participate in: (1) the self-insurance plan established by the state police department; (2) any self-insurance plans established by the state; or (3) a prepaid health care delivery plan established by the state. Provides that a former member of the general assembly who meets the criteria for participation in a group health insurance program provided to retired state employees or retired legislators may elect to participate in: (1) those group health insurance program; or (2) the self-insurance plan established by the state police department. Requires the committee that determines the common construction wage to determine a classification and skill level of labor to be employed on the project. Requires the committee to make wage determinations based on information presented at a public meeting. Redefines common construction wage. Provides that the common
(Continued next page)

Effective: January 1, 1999 (retroactive); July 1, 1999; January 1, 2000; January 1, 2001.

Harris, Friend

January 26, 1999, read first time and referred to Committee on Ways and Means.
February 25, 1999, amended, reported — Do Pass.

HB 1899—LS 8139/DI 58+



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construction wage law does not apply to a new construction project that costs less than \$150,000 or a maintenance, remodel, or repair project that costs less than \$100,000. Treats resident financial institutions the same as nonresident financial institutions for purposes of the financial institutions tax by providing that the tax is imposed upon the apportioned Indiana income of financial institutions. (Current law imposes the financial institutions tax on the adjusted gross income of resident financial institutions.) Phases in a reduced premiums tax rate to 1.75%. Provides a credit against the supplemental net income tax based on retaliatory taxes paid. Increases the compensation benefits per degree of permanent partial impairment for worker's compensation through 2002. Provides increases in the worker's compensation average weekly wage through 2001. Makes other changes concerning workers' compensation. Changes the base period for computation of unemployment benefits to the last four completed calendar quarters. (Current law provides that the base period for computation of unemployment benefits is the first four of the last five calendar quarters.) Phases in an increase to the earnings base used to compute unemployment compensation as follows: (1) a maximum of \$7,200 in a calendar quarter beginning on and after July 1, 2000; (2) a maximum of \$8,600 in a calendar quarter beginning on and after July 1, 2001; and (3) a maximum of \$10,000 in a calendar quarter beginning on and after July 1, 2002. (Current law provides that the earnings base used to compute unemployment compensation may not exceed \$5,800.) Provides that the maximum total amount of unemployment compensation benefits payable to an individual during any benefit period may not exceed 26 times the individual's weekly benefit, or 32% of the individual's wage credits with respect to the individual's base period, whichever is less. (Current law provides that the maximum total amount of unemployment compensation benefits payable to an individual during any benefit period may not exceed 26 times the individual's weekly benefit, or 28% of the individual's wage credits with respect to the individual's base period, whichever is less.) Decreases the minimum wage credit necessary to qualify for unemployment compensation to \$2,000 in the base period, and requires the total wage credits in the base period to equal at least 1.25 times the wages paid in the highest quarter. (Current law requires \$2,750 in the base period with \$1,650 in the last two quarters of the base period, and requires the total wage credits in the base period to equal or exceed 1.25 times the wages in the highest quarter.) Allows the worker's compensation board to perform an assessment at a rate not to exceed 3%. Allows the board to perform an assessment whenever necessary to ensure the continuation of compensation to fund beneficiaries. Increases the award period from 150 to 156 weeks. Authorizes a mutual insurance company (MIC) to reorganize as a mutual insurance holding company (MIHC) with one or more subsidiaries. Establishes principles for the protection of the surplus of an MIHC for the exclusive benefit of its members. Authorizes the formation of stock insurance company subsidiaries and intermediate stock holding companies as subsidiaries of an MIHC. Establishes requirements that any plan of reorganization or initial plan to issue stock must meet, including requirements that the plan be filed before July 1, 2001, that public hearings be held, and that the members of an MIC vote in favor of the plan after notice. Establishes certain requirements applying to mutual insurance holding companies, including the requirement to file annual reports with the insurance commissioner. Prohibits an MIHC and its subsidiaries and affiliates from taking certain actions, including the payment of special compensation to an officer or director for services associated with a stock offering.

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February 26, 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.

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HOUSE BILL No. 1899

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

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

- 1 SECTION 1. IC 5-10-8-6.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
3 **1, 1999]: Sec. 6.5. (a) A member of the general assembly may elect**
4 **to participate in either:**
5 (1) **the plan of self-insurance established by the state police**
6 **department under section 6 of this chapter;**
7 (2) **the plan of self-insurance established by the state**
8 **personnel department under section 7 of this chapter; or**
9 (3) **a prepaid health care delivery plan established under**
10 **section 7 of this chapter.**
11 (b) **A former member of the general assembly who meets the**
12 **criteria for participation in a group health insurance program**
13 **provided under section 8(e) or 8.1 of this chapter may elect to**
14 **participate in either:**
15 (1) **the plan of self-insurance established by the state police**

HB 1899—LS 8139/DI 58+



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**department under section 6 of this chapter; or
(2) a group health insurance program provided under section
8(e) or 8.1 of this chapter if the former member meets the
criteria for participation in that program.**

SECTION 2. IC 5-16-7-1 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Any firm, individual,
partnership, limited liability company, or corporation that is awarded
a contract by the state, a political subdivision, or a municipal
corporation for the construction of a public work, and any
subcontractor of the construction, shall pay for each class of work
described in subsection (c)(1) on the project a scale of wages that may
not be less than the common construction wage.

(b) For the purpose of ascertaining what the common construction
wage is in the county, the awarding governmental agency, before
advertising for the contract, shall set up a committee of five (5) persons
as follows:

- (1) One (1) person representing labor, to be named by the president of the state federation of labor.
- (2) One (1) person representing industry, to be named by the awarding agency.
- (3) A third member to be named by the governor.
- (4) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The owner of the project shall make the appointment under this subdivision.
- (5) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The legislative body (as defined in IC 36-1-2-9) for the county where the project is located shall make the appointment under this subdivision.

(c) As soon as appointed, the committee shall meet in the county where the project is located and determine in writing the following:

- (1) A classification of the labor to be employed in the performance of the contract for the project, divided, **where applicable**, into the following ~~three (3) classes:~~ **two (2) skill levels:**
 - (A) Skilled labor, **including journeymen.**
 - (B) ~~Semiskilled labor~~ **Apprentice labor.**
 - (C) ~~Unskilled labor.~~
- (2) The wage per hour to be paid ~~to~~ each of the ~~classes:~~ **classifications and skill levels.**

The committee is ~~not~~ required to ~~consider~~ **make determinations based**

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1 **on** information ~~not~~ presented to the committee at the meeting.
 2 IC 5-14-1.5 (open door law) applies to a meeting of the committee.

3 (d) The rate of wages determined under subsection (c) shall not be
 4 less than the common construction wage for each **trade or craft**
 5 **classification and each** of the ~~three (3) classes of wages~~ **two (2) skill**
 6 **levels** described in subsection (c) that are currently being paid in the
 7 county where the project is located.

8 (e) The provisions of this chapter shall not apply to contracts let by
 9 the Indiana department of transportation for the construction of
 10 highways, streets, and bridges. IC 8-23-9 applies to state highway
 11 projects.

12 (f) A determination under subsection (c) shall be made and filed
 13 with the awarding agency at least two (2) weeks prior to the date fixed
 14 for the letting, and a copy of the determination shall be furnished upon
 15 request to any person desiring to bid on the contract. The schedule is
 16 open to the inspection of the public.

17 (g) If the committee appointed under subsection (b) fails to act and
 18 to file a determination under subsection (c) at or before the time
 19 required under subsection (f), the awarding agency shall make the
 20 determination, and its finding shall be final.

21 (h) It shall be a condition of a contract awarded under this chapter
 22 that the successful bidder and all subcontractors shall comply strictly
 23 with the determination made under this section.

24 (i) The provisions of this chapter do not apply to public projects in
 25 this state that would otherwise be subject to the provisions of this
 26 chapter that are to be paid for in whole or in part with funds granted by
 27 the federal government, unless the department of the federal
 28 government making the grant shall consent in writing that the
 29 provisions of this chapter are applicable to the project.

30 (j) Notwithstanding any other law, the provisions of this chapter
 31 apply to projects that will be:

- 32 (1) owned entirely; or
- 33 (2) leased with an option to purchase;

34 by the state or a political subdivision (as defined in IC 36-1-2-13).

35 (k) Notwithstanding any other law, this chapter does not apply to
 36 **new construction** projects in which the actual construction costs less
 37 than one hundred fifty thousand dollars (\$150,000) **or a maintenance,**
 38 **remodel, or repair project that costs less than one hundred**
 39 **thousand dollars (\$100,000).**

40 **(l) If a common wage is required, the committee appointed for**
 41 **the project under subsection (b) shall meet at a set time and at a**
 42 **designated public place each week.**



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1 SECTION 3. IC 5-16-7-4 IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 1999]: Sec. 4. The definitions in this section
 3 apply throughout this chapter:

4 (1) "Common construction wage" means a scale of wages for each
 5 **class classification** of work described in section 1(c)(1) of this
 6 chapter that is not less than the common construction wage of all
 7 construction wages being paid in the county where a project is
 8 located **for similar types of construction**, as determined by the
 9 committee described in section 1(b) of this chapter, ~~after having~~
 10 ~~considered:~~ **based on the evidence of the following:**

11 (A) Reports ~~from~~ **or survey data gathered by** the department
 12 of workforce development ~~and (B) or the United States~~
 13 **Department of Labor.**

14 **(B) Current wages payable to workers under the terms of**
 15 **applicable collective bargaining agreements between bona**
 16 **fide organizations of labor and employees that apply or**
 17 **pertain to the county in which the public work is located.**

18 (C) Any other **objectively verifiable** information showing
 19 **wages actually paid to construction workers in the county**
 20 **where the project is located** submitted by any person to the
 21 committee established under section 1(b) of this chapter.

22 **The determined scale of wages must include costs incurred or**
 23 **reasonably anticipated in providing benefits to workers for**
 24 **training and apprenticeships or other similar programs,**
 25 **medical care, hospital care, and pension benefits. However,**
 26 **this chapter does not require the purchase of or participation**
 27 **in a particular health insurance plan, pension plan, or benefits**
 28 **plan.**

29 (2) "State of Indiana" includes any officer, board, commission, or
 30 other agency authorized by law to award contracts for the
 31 performance of public work on behalf of the state, excepting as
 32 otherwise provided in this chapter.

33 (3) "Municipal corporation" includes any county, city, town, or
 34 school corporation, as well as any officer, board, commission, or
 35 other agency authorized by law to award contracts for the
 36 performance of public work on behalf of any such municipal
 37 corporation. The term also includes a redevelopment commission
 38 established under IC 36-7-14-3.

39 (4) "Public work" includes any public building, highway, street,
 40 alley, bridge, sewer, drain, improvement, or any other work of any
 41 nature or character whatsoever which is paid for out of public
 42 funds, excepting as otherwise provided in this chapter.



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1 (5) "Apprentice" means a person:

2 (A) employed and registered in a bona fide apprenticeship
3 program registered with the United States Department of
4 Labor, Employment and Training Administration, Bureau
5 of Apprenticeship and Training; or

6 (B) employed in the first ninety (90) days of probationary
7 employment as an apprentice in an apprenticeship
8 program, who is not individually registered in the
9 program, but who has been certified by the Bureau of
10 Apprenticeship and Training as eligible for probationary
11 employment as an apprentice.

12 SECTION 4. IC 6-3-8-7 IS ADDED TO THE INDIANA CODE AS
13 A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
14 JANUARY 1, 2000]: Sec. 7. (a) As used in this section "retaliatory
15 obligations" means any taxes, fines, penalties, fees, or other similar
16 obligations that are imposed by another state upon insurance
17 companies of Indiana, or their agents, that are greater than those
18 that are required for insurance companies organized in the other
19 state.

20 (b) An insurance company organized under the laws of Indiana
21 is entitled to a credit against the tax imposed under this chapter
22 equal to the following:

23 **STEP ONE: Determine the result of:**

24 (A) the sum of the retaliatory obligations paid to other
25 states; minus

26 (B) for all states included in clause (A), determine the sum
27 of the like obligations that would be imposed on the
28 taxpayer if it were treated like an insurance company
29 organized in each of these states.

30 **STEP TWO: Determine the result of:**

31 (A) the STEP TWO amount; multiplied by

32 (B) for the taxable years beginning in the following years:

33 (i) for 2000, twenty percent (20%);

34 (ii) for 2001, forty percent (40%);

35 (iii) for 2002, sixty percent (60%);

36 (iv) for 2003, twenty percent (80%); and

37 (v) for 2004 and thereafter, one hundred percent (100%).

38 If the STEP TWO amount exceeds the company's supplemental net
39 income tax liability, then the taxpayer may carry the excess over to
40 the immediately succeeding taxable years. The credit carryover
41 may not be used for any taxable year that begins more than five (5)
42 years after the year that the credit was determined. The amount of



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1 **the credit carryover from a taxable year shall be reduced to the**
 2 **extent that the carryover is used by the taxpayer to obtain a credit**
 3 **under this chapter for any subsequent taxable year.**

4 SECTION 5. IC 6-5.5-2-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
 6 Sec. 1. (a) There is imposed on each taxpayer a franchise tax measured
 7 by the taxpayer's ~~adjusted gross income~~ or apportioned income for the
 8 privilege of exercising its franchise or the corporate privilege of
 9 transacting the business of a financial institution in Indiana. The
 10 amount of the tax for a taxable year shall be determined by multiplying
 11 eight and one-half percent (8.5%) times the remainder of:

12 (1) the taxpayer's ~~adjusted gross income~~ or apportioned income;
 13 minus

14 (2) the taxpayer's deductible Indiana net operating losses as
 15 determined under this section; minus

16 (3) the taxpayer's net capital losses minus the taxpayer's net
 17 capital gains computed under the Internal Revenue Code for each
 18 taxable year or part of a taxable year beginning after December
 19 31, 1989, multiplied by the apportionment percentage applicable
 20 to the taxpayer under IC 6-5.5-2 for the taxable year of the loss.

21 A net capital loss for a taxable year is a net capital loss carryover to
 22 each of the five (5) taxable years that follow the taxable year in which
 23 the loss occurred.

24 (b) The amount of net operating losses deductible under subsection
 25 (a) is an amount equal to the net operating losses computed under the
 26 Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2,
 27 that are:

28 (1) incurred in each taxable year, or part of a year, beginning after
 29 December 31, 1989; and

30 (2) attributable to Indiana.

31 (c) The following apply to determining the amount of net operating
 32 losses that may be deducted under subsection (a):

33 (1) The amount of net operating losses that is attributable to
 34 Indiana is the taxpayer's total net operating losses under the
 35 Internal Revenue Code for the taxable year of the loss, adjusted
 36 for the items set forth in IC 6-5.5-1-2, multiplied by the
 37 apportionment percentage applicable to the taxpayer under
 38 IC 6-5.5-2 for the taxable year of the loss.

39 (2) A net operating loss for any taxable year is a net operating loss
 40 carryover to each of the fifteen (15) taxable years that follow the
 41 taxable year in which the loss occurred.

42 (d) The following provisions apply to a combined return computing

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1 the tax on the basis of the income of the unitary group when the return
 2 is filed for more than one (1) taxpayer member of the unitary group for
 3 any taxable year:

4 (1) Any net capital loss or net operating loss attributable to
 5 Indiana in the combined return shall be prorated between each
 6 taxpayer member of the unitary group by the quotient of:

7 (A) the receipts of that taxpayer member attributable to
 8 Indiana under section 4 of this chapter; divided by

9 (B) the receipts of all taxpayer members of the unitary group
 10 attributable to Indiana.

11 (2) The net capital loss or net operating loss for that year, if any,
 12 to be carried forward to any subsequent year shall be limited to
 13 the capital gains or apportioned income for the subsequent year
 14 of that taxpayer, determined by the same receipts formula set out
 15 in subdivision (1).

16 SECTION 6. IC 6-5.5-2-3 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

18 Sec. 3. For a ~~nonresident~~ taxpayer that is not filing a combined return,
 19 the taxpayer's apportioned income consists of the taxpayer's adjusted
 20 gross income for that year multiplied by the quotient of:

21 (1) the taxpayer's total receipts attributable to transacting business
 22 in Indiana, as determined under IC 6-5.5-4; divided by

23 (2) the taxpayer's total receipts from transacting business in all
 24 taxing jurisdictions, as determined under IC 6-5.5-4.

25 SECTION 7. IC 6-5.5-2-4 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

27 Sec. 4. For a taxpayer filing a combined return for its unitary group, the
 28 group's apportioned income for a taxable year consists of:

29 (1) the aggregate adjusted gross income, from whatever source
 30 derived, of the ~~resident taxpayer members of the unitary group~~
 31 ~~and the nonresident~~ members of the unitary group; multiplied by

32 (2) the quotient of:

33 (A) all the receipts of the ~~resident taxpayer members of the~~
 34 ~~unitary group from whatever source derived plus the receipts~~
 35 ~~of the nonresident~~ taxpayer members of the unitary group that
 36 are attributable to transacting business in Indiana; divided by

37 (B) the receipts of all the members of the unitary group from
 38 transacting business in all taxing jurisdictions.

39 SECTION 8. IC 6-5.5-4-1 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

41 Sec. 1. This chapter applies to ~~the following~~:

42 ~~(†) Nonresident all~~ taxpayers.

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1 ~~(2) Nonresident members of a unitary group that file a combined~~
 2 ~~return.~~

3 SECTION 9. IC 22-3-3-4 IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) After an injury and prior to
 5 an adjudication of permanent impairment, the employer shall furnish
 6 or cause to be furnished, free of charge to the employee, an attending
 7 physician for the treatment of his injuries, and in addition thereto such
 8 surgical, hospital and nursing services and supplies as the attending
 9 physician or the worker's compensation board may deem necessary. If
 10 the employee is requested or required by the employer to submit to
 11 treatment outside the county of employment, the employer shall also
 12 pay the reasonable expense of travel, food, and lodging necessary
 13 during the travel, but not to exceed the amount paid at the time of the
 14 travel by the state to its employees under the state travel policies and
 15 procedures established by the department of administration and
 16 approved by the state budget agency.

17 (b) During the period of temporary total disability resulting from the
 18 injury, the employer shall furnish the physician services, and supplies,
 19 and the worker's compensation board may, on proper application of
 20 either party, require that treatment by the physician and services and
 21 supplies be furnished by or on behalf of the employer as the worker's
 22 compensation board may deem reasonably necessary.

23 **(c) No representative of the employer or insurance carrier,**
 24 **including case managers or rehabilitation nurses, may be present**
 25 **at any treatment of an injured employee without the express**
 26 **written consent of the employee and the treating medical**
 27 **personnel. At the time of any medical treatment that a**
 28 **representative of the employer wishes to attend, the representative**
 29 **of the employer shall inform the injured employee and treating**
 30 **medical personnel that their written consent is required before the**
 31 **attendance of the employer's representative. The employee's**
 32 **compensation and benefits may not be jeopardized in any way due**
 33 **to the employer's failure or refusal to complete a written waiver**
 34 **allowing the attendance of the employer's representative. The**
 35 **employer's representative may not in any way cause the employee**
 36 **to believe that the employee's compensation and benefits will be**
 37 **terminated if the employee fails or refuses to complete a written**
 38 **waiver allowing the attendance of the employer's representative.**
 39 **The written waivers shall be executed on forms prescribed by the**
 40 **board.**

41 ~~(c)~~ (d) After an employee's injury has been adjudicated by
 42 agreement or award on the basis of permanent partial impairment and

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1 within the statutory period for review in such case as provided in
 2 section 27 of this chapter, the employer may continue to furnish a
 3 physician or surgeon and other medical services and supplies, and the
 4 worker's compensation board may within the statutory period for
 5 review as provided in section 27 of this chapter, on a proper application
 6 of either party, require that treatment by that physician and other
 7 medical services and supplies be furnished by and on behalf of the
 8 employer as the worker's compensation board may deem necessary to
 9 limit or reduce the amount and extent of the employee's impairment.
 10 The refusal of the employee to accept such services and supplies, when
 11 provided by or on behalf of the employer, shall bar the employee from
 12 all compensation otherwise payable during the period of the refusal,
 13 and his right to prosecute any proceeding under IC 22-3-2 through
 14 IC 22-3-6 shall be suspended and abated until the employee's refusal
 15 ceases. The employee must be served with a notice setting forth the
 16 consequences of the refusal under this section. The notice must be in
 17 a form prescribed by the worker's compensation board. No
 18 compensation for permanent total impairment, permanent partial
 19 impairment, permanent disfigurement, or death shall be paid or payable
 20 for that part or portion of the impairment, disfigurement, or death
 21 which is the result of the failure of the employee to accept the
 22 treatment, services, and supplies required under this section. However,
 23 an employer may at any time permit an employee to have treatment for
 24 his injuries by spiritual means or prayer in lieu of the physician or
 25 surgeon and other medical services and supplies required under this
 26 section.

27 ~~(d)~~ (e) If, because of an emergency, or because of the employer's
 28 failure to provide an attending physician or surgical, hospital, or
 29 nursing services and supplies, or treatment by spiritual means or
 30 prayer, as required by this section, or because of any other good reason,
 31 a physician other than that provided by the employer treats the injured
 32 employee during the period of the employee's temporary total
 33 disability, or necessary and proper surgical, hospital, or nursing
 34 services and supplies are procured within the period, the reasonable
 35 cost of those services and supplies shall, subject to the approval of the
 36 worker's compensation board, be paid by the employer.

37 ~~(e)~~ (f) Regardless of when it occurs, where a compensable injury
 38 results in the amputation of a body part, the enucleation of an eye, or
 39 the loss of natural teeth, the employer shall furnish an appropriate
 40 artificial member, braces, and prosthodontics. The cost of repairs to or
 41 replacements for the artificial members, braces, or prosthodontics that
 42 result from a compensable injury pursuant to a prior award and are

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1 required due to either medical necessity or normal wear and tear,
 2 determined according to the employee's individual use, but not abuse,
 3 of the artificial member, braces, or prosthodontics, shall be paid from
 4 the second injury fund upon order or award of the worker's
 5 compensation board. The employee is not required to meet any other
 6 requirement for admission to the second injury fund.

7 ~~(f)~~ (g) If an accident arising out of and in the course of employment
 8 after June 30, 1997, results in the loss of or damage to an artificial
 9 member, a brace, an implant, eyeglasses, prosthodontics, or other
 10 medically prescribed device, the employer shall repair the artificial
 11 member, brace, implant, eyeglasses, prosthodontics, or other medically
 12 prescribed device or furnish an identical or a reasonably equivalent
 13 replacement.

14 ~~(g)~~ (h) This section may not be construed to prohibit an agreement
 15 between an employer and the employer's employees that has the
 16 approval of the board and that binds the parties to:

17 (1) medical care furnished by health care providers selected by
 18 agreement before or after injury; or

19 (2) the findings of a health care provider who was chosen by
 20 agreement.

21 SECTION 10. IC 22-3-3-6 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) After an injury
 23 and during the period of claimed resulting disability or impairment, the
 24 employee, if ~~so~~ requested by the employee's employer or ordered by the
 25 industrial board, shall submit to an examination at reasonable times
 26 and places by a duly qualified physician or surgeon designated and paid
 27 by the employer or by order of the worker's compensation board. The
 28 employee shall have the right to have present at any such examination
 29 any duly qualified physician or surgeon provided and paid for by the
 30 employee. No fact communicated to, or otherwise learned by, any
 31 physician or surgeon who may have attended or examined the
 32 employee, or who may have been present at any examination, shall be
 33 privileged, either in the hearings provided for in IC 22-3-2 through
 34 IC 22-3-6, or in any action at law brought to recover damages against
 35 any employer who is subject to the compensation provisions of
 36 IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in
 37 any way obstructs such examinations, the employee's right to
 38 compensation and his right to take or prosecute any proceedings under
 39 IC 22-3-2 through IC 22-3-6 shall be suspended until such refusal or
 40 obstruction ceases. No compensation shall at any time be payable for
 41 the period of suspension unless in the opinion of the worker's
 42 compensation board the circumstances justified the refusal or



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1 obstruction. The employee must be served with a notice setting forth
 2 the consequences of the refusal under this subsection. The notice must
 3 be in a form prescribed by the board.

4 (b) Any employer requesting an examination of any employee
 5 residing within Indiana shall pay, in advance of the time fixed for the
 6 examination, sufficient money to defray the necessary expenses of
 7 travel by the most convenient means to and from the place of
 8 examination, and the cost of meals and lodging necessary during the
 9 travel. If the method of travel is by automobile, the mileage rate to be
 10 paid by the employer shall be the rate currently being paid by the state
 11 to its employees under the state travel policies and procedures
 12 established by the department of administration and approved by the
 13 budget agency. If such examination or travel to or from the place of
 14 examination causes any loss of working time on the part of the
 15 employee, the employer shall reimburse the employee for such loss of
 16 wages upon the basis of the employee's average daily wage. When any
 17 employee injured in Indiana moves outside Indiana, the travel expense
 18 and the cost of meals and lodging necessary during the travel payable
 19 under this section shall be paid from the point in Indiana nearest to the
 20 employee's then residence to the place of examination. No travel and
 21 other expense shall be paid for any travel and other expense required
 22 outside Indiana.

23 (c) A duly qualified physician or surgeon provided and paid for by
 24 the employee may be present at an examination if the employee so
 25 desires. In all cases where the examination is made by a physician or
 26 surgeon engaged by the employer and the injured employee has no
 27 physician or surgeon present at such examination, it shall be the duty
 28 of the physician or surgeon making the examination to deliver to the
 29 injured employee, or the employee's representative, a statement in
 30 writing of the conditions evidenced by such examination. The
 31 statement shall disclose all facts that are reported by such physician or
 32 surgeon to the employer. Such statement shall be furnished to the
 33 employee or the employee's representative, as soon as practicable, but
 34 not later than thirty (30) days before the time the case is set for hearing.
 35 The statement may be submitted by either party as evidence by that
 36 physician or surgeon at a hearing before the worker's compensation
 37 board if the statement meets the requirements of subsection ~~(e)~~ (f). If
 38 such physician or surgeon fails or refuses to furnish the employee or
 39 the employee's representative with such statement thirty (30) days
 40 before the hearing, then the statement may not be submitted as
 41 evidence, and such physician or surgeon shall not be permitted to
 42 testify before the worker's compensation board as to any facts learned



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1 in such examination. All of the requirements of this subsection apply
2 to all subsequent examinations requested by the employer.

3 **(d) No representative of the employer or insurance carrier,**
4 **including case managers or rehabilitation nurses, may be present**
5 **at any examination of an injured employee without the express**
6 **written consent of the employee and the treating medical**
7 **personnel. At the time of any medical examination that a**
8 **representative of the employer wishes to attend, the representative**
9 **of the employer shall inform the injured employee and treating**
10 **medical personnel that their written consent is required before the**
11 **attendance of the employer's representative. The employee's**
12 **compensation and benefits may not be jeopardized in any way due**
13 **to the employer's failure or refusal to complete a written waiver**
14 **allowing the attendance of the employer's representative. The**
15 **employer's representative may not in any way cause the employee**
16 **to believe that the employee's compensation and benefits will be**
17 **terminated if the employee fails or refuses to complete a written**
18 **waiver allowing the attendance of the employer's representative.**
19 **The written waivers shall be executed on forms prescribed by the**
20 **board.**

21 ~~(d)~~ **(e)** In all cases where an examination of an employee is made by
22 a physician or surgeon engaged by the employee, and the employer has
23 no physician or surgeon present at such examination, it shall be the
24 duty of the physician or surgeon making the examination to deliver to
25 the employer or the employer's representative a statement in writing of
26 the conditions evidenced by such examination. The statement shall
27 disclose all facts that are reported by such physician or surgeon to the
28 employee. Such statement shall be furnished to the employer or the
29 employer's representative as soon as practicable, but not later than
30 thirty (30) days before the time the case is set for hearing. The
31 statement may be submitted by either party as evidence by that
32 physician or surgeon at a hearing before the worker's compensation
33 board if the statement meets the requirements of subsection ~~(e)~~ **(f)**. If
34 such physician or surgeon fails or refuses to furnish the employer, or
35 the employer's representative, with such statement thirty (30) days
36 before the hearing, then the statement may not be submitted as
37 evidence, and such physician or surgeon shall not be permitted to
38 testify before the industrial board as to any facts learned in such
39 examination. All of the requirements of this subsection apply to all
40 subsequent examinations made by a physician or surgeon engaged by
41 the employee.

42 ~~(e)~~ **(f)** All statements of physicians or surgeons required by this



1 section, whether those engaged by employee or employer, shall contain
2 the following information:

- 3 (1) The history of the injury, or claimed injury, as given by the
4 patient.
- 5 (2) The diagnosis of the physician or surgeon concerning the
6 patient's physical or mental condition.
- 7 (3) The opinion of the physician or surgeon concerning the causal
8 relationship, if any, between the injury and the patient's physical
9 or mental condition, including the physician's or surgeon's reasons
10 for the opinion.
- 11 (4) The opinion of the physician or surgeon concerning whether
12 the injury or claimed injury resulted in a disability or impairment
13 and, if so, the opinion of the physician or surgeon concerning the
14 extent of the disability or impairment and the reasons for the
15 opinion.
- 16 (5) The original signature of the physician or surgeon.

17 Notwithstanding any hearsay objection, the worker's compensation
18 board shall admit into evidence a statement that meets the requirements
19 of this subsection unless the statement is ruled inadmissible on other
20 grounds.

21 ~~(f)~~ (g) Delivery of any statement required by this section may be
22 made to the attorney or agent of the employer or employee and such
23 action shall be construed as delivery to the employer or employee.

24 ~~(g)~~ (h) Any party may object to a statement on the basis that the
25 statement does not meet the requirements of subsection ~~(e)~~ (f). The
26 objecting party must give written notice to the party providing the
27 statement and specify the basis for the objection. Notice of the
28 objection must be given no later than twenty (20) days before the
29 hearing. Failure to object as provided in this subsection precludes any
30 further objection as to the adequacy of the statement under subsection
31 ~~(e)~~ (f).

32 ~~(h)~~ (i) The employer upon proper application, or the worker's
33 compensation board, shall have the right in any case of death to require
34 an autopsy at the expense of the party requesting the same. If, after a
35 hearing, the worker's compensation board orders an autopsy and such
36 autopsy is refused by the surviving spouse or next of kin, then any
37 claim for compensation on account of such death shall be suspended
38 and abated during such refusal. The surviving spouse or dependent
39 must be served with a notice setting forth the consequences of the
40 refusal under this subsection. The notice must be in a form prescribed
41 by the worker's compensation board. No autopsy, except one performed
42 by or on the authority or order of the coroner in the discharge of the

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1 coroner's duties, shall be held in any case by any person, without notice
 2 first being given to the surviving spouse or next of kin, if they reside in
 3 Indiana or their whereabouts can reasonably be ascertained, of the time
 4 and place thereof, and reasonable time and opportunity given such
 5 surviving spouse or next of kin to have a representative or
 6 representatives present to witness same. However, if such notice is not
 7 given, all evidence obtained by such autopsy shall be suppressed on
 8 motion duly made to the worker's compensation board.

9 SECTION 11. IC 22-3-3-10 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) With respect to
 11 injuries in the following schedule occurring prior to April 1, 1951, the
 12 employee shall receive in addition to temporary total disability benefits
 13 not exceeding twenty-six (26) weeks on account of the injuries, a
 14 weekly compensation of fifty-five percent (55%) of the employee's
 15 average weekly wages. With respect to injuries in the following
 16 schedule occurring on and after April 1, 1951, and prior to July 1,
 17 1971, the employee shall receive in addition to temporary total
 18 disability benefits not exceeding twenty-six (26) weeks on account of
 19 the injuries, a weekly compensation of sixty percent (60%) of the
 20 employee's average weekly wages. With respect to injuries in the
 21 following schedule occurring on and after July 1, 1971, and before July
 22 1, 1977, the employee shall receive in addition to temporary total
 23 disability benefits not exceeding twenty-six (26) weeks on account of
 24 the injuries, a weekly compensation of sixty percent (60%) of the
 25 employee's average weekly wages not to exceed one hundred dollars
 26 (\$100) average weekly wages, for the periods stated for the injuries.
 27 With respect to injuries in the following schedule occurring on and
 28 after July 1, 1977, and before July 1, 1979, the employee shall receive,
 29 in addition to temporary total disability benefits not exceeding
 30 twenty-six (26) weeks on account of the injury, a weekly compensation
 31 of sixty percent (60%) of his average weekly wages, not to exceed one
 32 hundred twenty-five dollars (\$125) average weekly wages, for the
 33 period stated for the injury. With respect to injuries in the following
 34 schedule occurring on and after July 1, 1979, and before July 1, 1988,
 35 the employee shall receive, in addition to temporary total disability
 36 benefits not to exceed fifty-two (52) weeks on account of the injury, a
 37 weekly compensation of sixty percent (60%) of the employee's average
 38 weekly wages, not to exceed one hundred twenty-five dollars (\$125)
 39 average weekly wages, for the period stated for the injury. With respect
 40 to injuries in the following schedule occurring on and after July 1,
 41 1988, and before July 1, 1989, the employee shall receive, in addition
 42 to temporary total disability benefits not exceeding seventy-eight (78)

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1 weeks on account of the injury, a weekly compensation of sixty percent
 2 (60%) of the employee's average weekly wages, not to exceed one
 3 hundred sixty-six dollars (\$166) average weekly wages, for the period
 4 stated for the injury.

5 With respect to injuries in the following schedule occurring on and
 6 after July 1, 1989, and before July 1, 1990, the employee shall receive,
 7 in addition to temporary total disability benefits not exceeding
 8 seventy-eight (78) weeks on account of the injury, a weekly
 9 compensation of sixty percent (60%) of the employee's average weekly
 10 wages, not to exceed one hundred eighty-three dollars (\$183) average
 11 weekly wages, for the period stated for the injury.

12 With respect to injuries in the following schedule occurring on and
 13 after July 1, 1990, and before July 1, 1991, the employee shall receive,
 14 in addition to temporary total disability benefits not exceeding
 15 seventy-eight (78) weeks on account of the injury, a weekly
 16 compensation of sixty percent (60%) of the employee's average weekly
 17 wages, not to exceed two hundred dollars (\$200) average weekly
 18 wages, for the period stated for the injury.

19 (1) Amputation: For the loss by separation of the thumb, sixty
 20 (60) weeks, of the index finger forty (40) weeks, of the second
 21 finger thirty-five (35) weeks, of the third or ring finger thirty (30)
 22 weeks, of the fourth or little finger twenty (20) weeks, of the hand
 23 by separation below the elbow joint two hundred (200) weeks, or
 24 the arm above the elbow two hundred fifty (250) weeks, of the big
 25 toe sixty (60) weeks, of the second toe thirty (30) weeks, of the
 26 third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks,
 27 of the fifth or little toe ten (10) weeks, and for loss occurring
 28 before April 1, 1959, by separation of the foot below the knee
 29 joint one hundred fifty (150) weeks and of the leg above the knee
 30 joint two hundred (200) weeks; for loss occurring on and after
 31 April 1, 1959, by separation of the foot below the knee joint, one
 32 hundred seventy-five (175) weeks and of the leg above the knee
 33 joint two hundred twenty-five (225) weeks. The loss of more than
 34 one (1) phalange of a thumb or toes shall be considered as the loss
 35 of the entire thumb or toe. The loss of more than two (2)
 36 phalanges of a finger shall be considered as the loss of the entire
 37 finger. The loss of not more than one (1) phalange of a thumb or
 38 toe shall be considered as the loss of one-half (1/2) of the thumb
 39 or toe and compensation shall be paid for one-half (1/2) of the
 40 period for the loss of the entire thumb or toe. The loss of not more
 41 than one (1) phalange of a finger shall be considered as the loss
 42 of one-third (1/3) of the finger and compensation shall be paid for



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1 one-third (1/3) the period for the loss of the entire finger. The loss
 2 of more than one (1) phalange of the finger but not more than two
 3 (2) phalanges of the finger, shall be considered as the loss of
 4 one-half (1/2) of the finger and compensation shall be paid for
 5 one-half (1/2) of the period for the loss of the entire finger.
 6 (2) For the loss by separation of both hands or both feet or the
 7 total sight of both eyes, or any two (2) such losses in the same
 8 accident, five hundred (500) weeks.
 9 (3) For the permanent and complete loss of vision by enucleation
 10 or its reduction to one-tenth (1/10) of normal vision with glasses,
 11 one hundred seventy-five (175) weeks.
 12 (4) For the permanent and complete loss of hearing in one (1) ear,
 13 seventy-five (75) weeks, and in both ears, two hundred (200)
 14 weeks.
 15 (5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of
 16 both testicles, one hundred fifty (150) weeks.
 17 (b) With respect to injuries in the following schedule occurring prior
 18 to April 1, 1951, the employee shall receive in lieu of all other
 19 compensation on account of the injuries, a weekly compensation of
 20 fifty-five percent (55%) of the employee's average weekly wages. With
 21 respect to injuries in the following schedule occurring on and after
 22 April 1, 1951, and prior to April 1, 1955, the employee shall receive in
 23 lieu of all other compensation on account of the injuries a weekly
 24 compensation of sixty percent (60%) of the employee's average weekly
 25 wages. With respect to injuries in the following schedule occurring on
 26 and after April 1, 1955, and prior to July 1, 1971, the employee shall
 27 receive in addition to temporary total disability benefits not exceeding
 28 twenty-six (26) weeks on account of the injuries, a weekly
 29 compensation of sixty percent (60%) of the employee's average weekly
 30 wages. With respect to injuries in the following schedule occurring on
 31 and after July 1, 1971, and before July 1, 1977, the employee shall
 32 receive in addition to temporary total disability benefits not exceeding
 33 twenty-six (26) weeks on account of the injuries, a weekly
 34 compensation of sixty percent (60%) of the employee's average weekly
 35 wages, not to exceed one hundred dollars (\$100) average weekly
 36 wages, for the period stated for such injuries respectively. With respect
 37 to injuries in the following schedule occurring on and after July 1,
 38 1977, and before July 1, 1979, the employee shall receive, in addition
 39 to temporary total disability benefits not exceeding twenty-six (26)
 40 weeks on account of the injury, a weekly compensation of sixty percent
 41 (60%) of the employee's average weekly wages not to exceed one
 42 hundred twenty-five dollars (\$125) average weekly wages, for the

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1 period stated for the injury. With respect to injuries in the following
 2 schedule occurring on and after July 1, 1979, and before July 1, 1988,
 3 the employee shall receive, in addition to temporary total disability
 4 benefits not exceeding fifty-two (52) weeks on account of the injury, a
 5 weekly compensation of sixty percent (60%) of the employee's average
 6 weekly wages not to exceed one hundred twenty-five dollars (\$125)
 7 average weekly wages for the period stated for the injury. With respect
 8 to injuries in the following schedule occurring on and after July 1,
 9 1988, and before July 1, 1989, the employee shall receive, in addition
 10 to temporary total disability benefits not exceeding seventy-eight (78)
 11 weeks on account of the injury, a weekly compensation of sixty percent
 12 (60%) of the employee's average weekly wages, not to exceed one
 13 hundred sixty-six dollars (\$166) average weekly wages, for the period
 14 stated for the injury.

15 With respect to injuries in the following schedule occurring on and
 16 after July 1, 1989, and before July 1, 1990, the employee shall receive,
 17 in addition to temporary total disability benefits not exceeding
 18 seventy-eight (78) weeks on account of the injury, a weekly
 19 compensation of sixty percent (60%) of the employee's average weekly
 20 wages, not to exceed one hundred eighty-three dollars (\$183) average
 21 weekly wages, for the period stated for the injury.

22 With respect to injuries in the following schedule occurring on and
 23 after July 1, 1990, and before July 1, 1991, the employee shall receive,
 24 in addition to temporary total disability benefits not exceeding
 25 seventy-eight (78) weeks on account of the injury, a weekly
 26 compensation of sixty percent (60%) of the employee's average weekly
 27 wages, not to exceed two hundred dollars (\$200) average weekly
 28 wages, for the period stated for the injury.

29 (1) Loss of use: The total permanent loss of the use of an arm,
 30 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
 31 as the equivalent of the loss by separation of the arm, hand,
 32 thumb, finger, leg, foot, toe, or phalange, and compensation shall
 33 be paid for the same period as for the loss thereof by separation.

34 (2) Partial loss of use: For the permanent partial loss of the use of
 35 an arm, hand, thumb, finger, leg, foot, toe, or phalange,
 36 compensation shall be paid for the proportionate loss of the use of
 37 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

38 (3) For injuries resulting in total permanent disability, five
 39 hundred (500) weeks.

40 (4) For any permanent reduction of the sight of an eye less than a
 41 total loss as specified in subsection (a)(3), compensation shall be
 42 paid for a period proportionate to the degree of such permanent

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1 reduction without correction or glasses. However, when such
 2 permanent reduction without correction or glasses would result in
 3 one hundred percent (100%) loss of vision, but correction or
 4 glasses would result in restoration of vision, then in such event
 5 compensation shall be paid for fifty percent (50%) of such total
 6 loss of vision without glasses, plus an additional amount equal to
 7 the proportionate amount of such reduction with glasses, not to
 8 exceed an additional fifty percent (50%).

9 (5) For any permanent reduction of the hearing of one (1) or both
 10 ears, less than the total loss as specified in subsection (a)(4),
 11 compensation shall be paid for a period proportional to the degree
 12 of such permanent reduction.

13 (6) In all other cases of permanent partial impairment,
 14 compensation proportionate to the degree of such permanent
 15 partial impairment, in the discretion of the worker's compensation
 16 board, not exceeding five hundred (500) weeks.

17 (7) In all cases of permanent disfigurement which may impair the
 18 future usefulness or opportunities of the employee, compensation,
 19 in the discretion of the worker's compensation board, not
 20 exceeding two hundred (200) weeks, except that no compensation
 21 shall be payable under this subdivision where compensation is
 22 payable elsewhere in this section.

23 (c) With respect to injuries in the following schedule occurring on
 24 and after July 1, 1991, the employee shall receive in addition to
 25 temporary total disability benefits, not exceeding one hundred
 26 twenty-five (125) weeks on account of the injury, compensation in an
 27 amount determined under the following schedule to be paid weekly at
 28 a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's
 29 average weekly wages during the fifty-two (52) weeks immediately
 30 preceding the week in which the injury occurred.

- 31 (1) Amputation: For the loss by separation of the thumb, twelve
- 32 (12) degrees of permanent impairment; of the index finger, eight
- 33 (8) degrees of permanent impairment; of the second finger, seven
- 34 (7) degrees of permanent impairment; of the third or ring finger,
- 35 six (6) degrees of permanent impairment; of the fourth or little
- 36 finger, four (4) degrees of permanent impairment; of the hand by
- 37 separation below the elbow joint, forty (40) degrees of permanent
- 38 impairment; of the arm above the elbow, fifty (50) degrees of
- 39 permanent impairment; of the big toe, twelve (12) degrees of
- 40 permanent impairment; of the second toe, six (6) degrees of
- 41 permanent impairment; of the third toe, four (4) degrees of
- 42 permanent impairment; of the fourth toe, three (3) degrees of

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- 1 permanent impairment; of the fifth or little toe, two (2) degrees of
2 permanent impairment; by separation of the foot below the knee
3 joint, thirty-five (35) degrees of permanent impairment; and of the
4 leg above the knee joint, forty-five (45) degrees of permanent
5 impairment.
- 6 (2) Amputations occurring on or after July 1, 1997: For the loss
7 by separation of any of the body parts described in subdivision (1)
8 on or after July 1, 1997, the dollar values per degree applying on
9 the date of the injury as described in subsection (d) shall be
10 multiplied by two (2). However, the doubling provision of this
11 subdivision does not apply to a loss of use that is not a loss by
12 separation.
- 13 (3) The loss of more than one (1) phalange of a thumb or toe shall
14 be considered as the loss of the entire thumb or toe. The loss of
15 more than two (2) phalanges of a finger shall be considered as the
16 loss of the entire finger. The loss of not more than one (1)
17 phalange of a thumb or toe shall be considered as the loss of
18 one-half (1/2) of the degrees of permanent impairment for the loss
19 of the entire thumb or toe. The loss of not more than one (1)
20 phalange of a finger shall be considered as the loss of one-third
21 (1/3) of the finger and compensation shall be paid for one-third
22 (1/3) of the degrees payable for the loss of the entire finger. The
23 loss of more than one (1) phalange of the finger but not more than
24 two (2) phalanges of the finger shall be considered as the loss of
25 one-half (1/2) of the finger and compensation shall be paid for
26 one-half (1/2) of the degrees payable for the loss of the entire
27 finger.
- 28 (4) For the loss by separation of both hands or both feet or the
29 total sight of both eyes or any two (2) such losses in the same
30 accident, one hundred (100) degrees of permanent impairment.
- 31 (5) For the permanent and complete loss of vision by enucleation
32 or its reduction to one-tenth (1/10) of normal vision with glasses,
33 thirty-five (35) degrees of permanent impairment.
- 34 (6) For the permanent and complete loss of hearing in one (1) ear,
35 fifteen (15) degrees of permanent impairment, and in both ears,
36 forty (40) degrees of permanent impairment.
- 37 (7) For the loss of one (1) testicle, ten (10) degrees of permanent
38 impairment; for the loss of both testicles, thirty (30) degrees of
39 permanent impairment.
- 40 (8) Loss of use: The total permanent loss of the use of an arm, a
41 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
42 considered as the equivalent of the loss by separation of the arm,

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1 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
2 shall be paid in the same amount as for the loss by separation.
3 However, the doubling provision of subdivision (2) does not
4 apply to a loss of use that is not a loss by separation.

5 (9) Partial loss of use: For the permanent partial loss of the use of
6 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
7 phalange, compensation shall be paid for the proportionate loss of
8 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

9 (10) For injuries resulting in total permanent disability, the
10 amount payable for impairment or five hundred (500) weeks of
11 compensation, whichever is greater.

12 (11) For any permanent reduction of the sight of an eye less than
13 a total loss as specified in subsection (a)(3), the compensation
14 shall be paid in an amount proportionate to the degree of a
15 permanent reduction without correction or glasses. However,
16 when a permanent reduction without correction or glasses would
17 result in one hundred percent (100%) loss of vision, then
18 compensation shall be paid for fifty percent (50%) of the total loss
19 of vision without glasses, plus an additional amount equal to the
20 proportionate amount of the reduction with glasses, not to exceed
21 an additional fifty percent (50%).

22 (12) For any permanent reduction of the hearing of one (1) or both
23 ears, less than the total loss as specified in subsection (a)(4),
24 compensation shall be paid in an amount proportionate to the
25 degree of a permanent reduction.

26 (13) In all other cases of permanent partial impairment,
27 compensation proportionate to the degree of a permanent partial
28 impairment, in the discretion of the worker's compensation board,
29 not exceeding one hundred (100) degrees of permanent
30 impairment.

31 (14) In all cases of permanent disfigurement which may impair
32 the future usefulness or opportunities of the employee,
33 compensation, in the discretion of the worker's compensation
34 board, not exceeding forty (40) degrees of permanent impairment
35 except that no compensation shall be payable under this
36 subdivision where compensation is payable elsewhere in this
37 section.

38 (d) Compensation for permanent partial impairment shall be paid
39 according to the degree of permanent impairment for the injury
40 determined under subsection (c) and the following:

41 (1) With respect to injuries occurring on and after July 1, 1991,
42 and before July 1, 1992, for each degree of permanent impairment

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1 from one (1) to thirty-five (35), five hundred dollars (\$500) per
2 degree; for each degree of permanent impairment from thirty-six
3 (36) to fifty (50), nine hundred dollars (\$900) per degree; for each
4 degree of permanent impairment above fifty (50), one thousand
5 five hundred dollars (\$1,500) per degree.
6 (2) With respect to injuries occurring on and after July 1, 1992,
7 and before July 1, 1993, for each degree of permanent impairment
8 from one (1) to twenty (20), five hundred dollars (\$500) per
9 degree; for each degree of permanent impairment from
10 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
11 per degree; for each degree of permanent impairment from
12 thirty-six (36) to fifty (50), one thousand three hundred dollars
13 (\$1,300) per degree; for each degree of permanent impairment
14 above fifty (50), one thousand seven hundred dollars (\$1,700) per
15 degree.
16 (3) With respect to injuries occurring on and after July 1, 1993,
17 and before July 1, 1997, for each degree of permanent impairment
18 from one (1) to ten (10), five hundred dollars (\$500) per degree;
19 for each degree of permanent impairment from eleven (11) to
20 twenty (20), seven hundred dollars (\$700) per degree; for each
21 degree of permanent impairment from twenty-one (21) to
22 thirty-five (35), one thousand dollars (\$1,000) per degree; for
23 each degree of permanent impairment from thirty-six (36) to fifty
24 (50), one thousand four hundred dollars (\$1,400) per degree; for
25 each degree of permanent impairment above fifty (50), one
26 thousand seven hundred dollars (\$1,700) per degree.
27 (4) With respect to injuries occurring on and after July 1, 1997,
28 and before July 1, 1998, for each degree of permanent impairment
29 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
30 degree; for each degree of permanent impairment from eleven
31 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
32 for each degree of permanent impairment from thirty-six (36) to
33 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
34 for each degree of permanent impairment above fifty (50), one
35 thousand seven hundred dollars (\$1,700) per degree.
36 (5) With respect to injuries occurring on and after July 1, 1998,
37 and before July 1, 1999, for each degree of permanent impairment
38 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
39 degree; for each degree of permanent impairment from eleven
40 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
41 for each degree of permanent impairment from thirty-six (36) to
42 fifty (50), one thousand four hundred dollars (\$1,400) per degree;

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1 for each degree of permanent impairment above fifty (50), one
2 thousand seven hundred dollars (\$1,700) per degree.

3 (6) With respect to injuries occurring on and after July 1, 1999,
4 **and before July 1, 2000**, for each degree of permanent
5 impairment from one (1) to ten (10), nine hundred dollars (\$900)
6 per degree; for each degree of permanent impairment from eleven
7 (11) to thirty-five (35), one thousand one hundred dollars
8 (\$1,100) per degree; for each degree of permanent impairment
9 from thirty-six (36) to fifty (50), one thousand six hundred dollars
10 (\$1,600) per degree; for each degree of permanent impairment
11 above fifty (50), two thousand dollars (\$2,000) per degree.

12 (7) **With respect to injuries occurring on and after July 1,**
13 **2000, and before July 1, 2001**, for each degree of permanent
14 **impairment from one (1) to ten (10), nine hundred fifty**
15 **dollars (\$950) per degree; for each degree of permanent**
16 **impairment from eleven (11) to thirty-five (35), one thousand**
17 **four hundred fifty dollars (\$1,450) per degree; for each degree**
18 **of permanent impairment from thirty-six (36) to fifty (50), one**
19 **thousand eight hundred dollars (\$1,800) per degree; for each**
20 **degree of permanent impairment above fifty (50), two**
21 **thousand six hundred dollars (\$2,600) per degree.**

22 (8) With respect to injuries occurring on and after July 1,
23 2001, and before July 1, 2002, for each degree of permanent
24 impairment from one (1) to ten (10), one thousand dollars
25 (\$1,000) per degree; for each degree of permanent
26 impairment from eleven (11) to thirty-five (35), one thousand
27 eight hundred fifty dollars (\$1,850) per degree; for each
28 degree of permanent impairment from thirty-six (36) to fifty
29 (50), two thousand seven hundred dollars (\$2,700) per degree;
30 for each degree of permanent impairment above fifty (50),
31 three thousand four hundred dollars (\$3,400) per degree.

32 (9) With respect to injuries occurring on and after July 1,
33 2002, for each degree of permanent impairment from one (1)
34 to ten (10), one thousand fifty dollars (\$1,050) per degree; for
35 each degree of permanent impairment from eleven (11) to
36 thirty-five (35), two thousand four hundred dollars (\$2,400)
37 per degree; for each degree of permanent impairment from
38 thirty-six (36) to fifty (50), three thousand five hundred
39 dollars (\$3,500) per degree; for each degree of permanent
40 impairment above fifty (50), four thousand four hundred
41 dollars (\$4,400) per degree.

42 (e) The average weekly wages used in the determination of

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1 compensation for permanent partial impairment under subsections (c)
2 and (d) shall not exceed the following:

3 (1) With respect to injuries occurring on or after July 1, 1991, and
4 before July 1, 1992, four hundred ninety-two dollars (\$492).

5 (2) With respect to injuries occurring on or after July 1, 1992, and
6 before July 1, 1993, five hundred forty dollars (\$540).

7 (3) With respect to injuries occurring on or after July 1, 1993, and
8 before July 1, 1994, five hundred ninety-one dollars (\$591).

9 (4) With respect to injuries occurring on or after July 1, 1994, and
10 before July 1, 1997, six hundred forty-two dollars (\$642).

11 (5) With respect to injuries occurring on or after July 1, 1997, and
12 before July 1, 1998, six hundred seventy-two dollars (\$672).

13 (6) With respect to injuries occurring on or after July 1, 1998, and
14 before July 1, 1999, seven hundred two dollars (\$702).

15 (7) With respect to injuries occurring on or after July 1, 1999, and
16 before July 1, 2000, seven hundred thirty-two dollars (\$732).

17 (8) With respect to injuries occurring on or after July 1, 2000, **and**
18 **before July 1, 2001**, seven hundred sixty-two dollars (\$762).

19 (9) **With respect to injuries occurring on or after July 1, 2001,**
20 **and before July 1, 2002, eight hundred seven dollars (\$807).**

21 (10) **With respect to injuries occurring on or after July 1,**
22 **2002, eight hundred forty dollars (\$840).**

23 SECTION 12. IC 22-3-3-13 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) If an employee
25 who from any cause, had lost, or lost the use of, one (1) hand, one (1)
26 arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent
27 industrial accident becomes permanently and totally impaired by
28 reason of the loss, or loss of use of, another such member or eye, the
29 employer shall be liable only for the compensation payable for such
30 second injury. However, in addition to such compensation and after the
31 completion of the payment therefor, the employee shall be paid the
32 remainder of the compensation that would be due for such total
33 permanent impairment out of a special fund known as the second injury
34 fund, and created in the manner described in subsection (b).

35 (b) **Whenever in the discretion of the chairman of the workers**
36 **compensation board it is necessary to perform an assessment in**
37 **order to ensure that fund beneficiaries, including applicants under**
38 **IC 22-3-3-4(e), continue to receive compensation in a timely**
39 **manner for a reasonable prospective period, the board shall send**
40 **notice to all insurance carriers insuring employers who are or may**
41 **be liable under this article to pay compensation for personal**
42 **injuries to or death of their employees under this article and to all**



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1 **employers carrying the employer's own risk stating that an**
 2 **assessment is necessary.** Every insurance carrier insuring employers
 3 who are or may be liable under this article to pay compensation for
 4 personal injuries to or death of their employees under this article and
 5 every employer carrying the employer's own risk, ~~shall, on or before~~
 6 ~~April 10 of each year, within thirty (30) days of the board's mailing~~
 7 **of notice that an assessment is necessary,** pay to the worker's
 8 compensation board for the benefit of said fund, a sum ~~equal to one~~
 9 **percent (1%) not to exceed three percent (3%)** of the total amount of
 10 all worker's compensation paid to injured employees or their
 11 beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year
 12 next preceding the due date of such payment. **Compensation to be**
 13 **considered for purposes of calculating the assessment shall include**
 14 **payments for temporary total disability, temporary partial**
 15 **disability, permanent total disability, and permanent partial**
 16 **impairment, but shall exclude payments for medical payments.** If
 17 the amount to the credit of the second injury fund as of April 1 of any
 18 year exceeds five hundred thousand dollars (\$500,000), the payments
 19 of one percent (1%) shall not be assessed or collected during the
 20 ensuing year. But when on April 1 of any year the amount to the credit
 21 of the fund is less than five hundred thousand dollars (\$500,000), the
 22 payments of one percent (1%) of the total amount of all worker's
 23 compensation paid to injured employees or their beneficiaries under
 24 IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that
 25 date shall be resumed and paid into such fund:

26 (c) The sums shall be paid by the worker's compensation board to
 27 the treasurer of state, to be deposited in a special account known as the
 28 second injury fund. The funds are not a part of the general fund of the
 29 state. Any balance remaining in the account at the end of any fiscal
 30 year shall not revert to the general fund. The funds shall be used only
 31 for the payment of awards of compensation and expense of medical
 32 examinations or treatment made and ordered by the board and
 33 chargeable against the fund pursuant to this section, and shall be paid
 34 for that purpose by the treasurer of state upon award or order of the
 35 board.

36 (d) If an employee who is entitled to compensation under IC 22-3-2
 37 through IC 22-3-6 either:

- 38 (1) exhausts the maximum benefits under section 22 of this
- 39 chapter without having received the full amount of award granted
- 40 to the employee under section 10 of this chapter; or
- 41 (2) exhausts the employee's benefits under section 10 of this
- 42 chapter;



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1 then such employee may apply to the worker's compensation board,
 2 who may award the employee compensation from the second injury
 3 fund established by this section, as follows under subsection (e).

4 (e) An employee who has exhausted the employee's maximum
 5 benefits under section 10 of this chapter may be awarded additional
 6 compensation equal to sixty-six and two-thirds percent (66 2/3%) of the
 7 employee's average weekly wage at the time of the employee's injury,
 8 not to exceed the maximum then applicable under section 22 of this
 9 chapter, for a period of not to exceed ~~one hundred fifty (150) weeks~~
 10 **one hundred fifty-six (156) weeks** upon competent evidence sufficient
 11 to establish:

12 (1) that the employee is totally and permanently disabled from
 13 causes and conditions of which there are or have been objective
 14 conditions and symptoms proven that are not within the physical
 15 or mental control of the employee; and

16 (2) that the employee is unable to support the employee in any
 17 gainful employment, not associated with rehabilitative or
 18 vocational therapy.

19 (f) The additional award may be renewed during the employee's
 20 total and permanent disability after appropriate hearings by the
 21 worker's compensation board for successive periods not to exceed ~~one~~
 22 **hundred fifty (150) weeks one hundred fifty-six (156) weeks** each.
 23 The provisions of this section apply only to injuries occurring
 24 subsequent to April 1, 1950, for which awards have been or are in the
 25 future made by the worker's compensation board under section 10 of
 26 this chapter. Section 16 of this chapter does not apply to compensation
 27 awarded from the second injury fund under this section.

28 SECTION 13. IC 22-3-3-22 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) In computing
 30 the compensation under this law with respect to injuries occurring on
 31 and after April 1, 1963, and prior to April 1, 1965, the average weekly
 32 wages shall be considered to be not more than seventy dollars (\$70) nor
 33 less than thirty dollars (\$30). In computing the compensation under this
 34 law with respect to injuries occurring on and after April 1, 1965, and
 35 prior to April 1, 1967, the average weekly wages shall be considered
 36 to be not more than seventy-five dollars (\$75) and not less than thirty
 37 dollars (\$30). In computing the compensation under this law with
 38 respect to injuries occurring on and after April 1, 1967, and prior to
 39 April 1, 1969, the average weekly wages shall be considered to be not
 40 more than eighty-five dollars (\$85) and not less than thirty-five dollars
 41 (\$35). In computing the compensation under this law with respect to
 42 injuries occurring on and after April 1, 1969, and prior to July 1, 1971,



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1 the average weekly wages shall be considered to be not more than
2 ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In
3 computing the compensation under this law with respect to injuries
4 occurring on and after July 1, 1971, and prior to July 1, 1974, the
5 average weekly wages shall be considered to be: (A) Not more than: (1)
6 one hundred dollars (\$100) if no dependents; (2) one hundred five
7 dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110)
8 if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three
9 (3) dependents; (5) one hundred twenty dollars (\$120) if four (4)
10 dependents; and (6) one hundred twenty-five dollars (\$125) if five (5)
11 or more dependents; and (B) Not less than thirty-five dollars (\$35). In
12 computing compensation for temporary total disability, temporary
13 partial disability, and total permanent disability under this law with
14 respect to injuries occurring on and after July 1, 1974, and before July
15 1, 1976, the average weekly wages shall be considered to be (A) not
16 more than one hundred thirty-five dollars (\$135), and (B) not less than
17 seventy-five dollars (\$75). However, the weekly compensation payable
18 shall in no case exceed the average weekly wages of the employee at
19 the time of the injury. In computing compensation for temporary total
20 disability, temporary partial disability and total permanent disability
21 under this law with respect to injuries occurring on and after July 1,
22 1976, and before July 1, 1977, the average weekly wages shall be
23 considered to be (1) not more than one hundred fifty-six dollars (\$156)
24 and (2) not less than seventy-five dollars (\$75). However, the weekly
25 compensation payable shall not exceed the average weekly wages of
26 the employee at the time of the injury. In computing compensation for
27 temporary total disability, temporary partial disability, and total
28 permanent disability, with respect to injuries occurring on and after
29 July 1, 1977, and before July 1, 1979, the average weekly wages are
30 considered to be (1) not more than one hundred eighty dollars (\$180);
31 and (2) not less than seventy-five dollars (\$75). However, the weekly
32 compensation payable may not exceed the average weekly wages of the
33 employee at the time of the injury. In computing compensation for
34 temporary total disability, temporary partial disability, and total
35 permanent disability, with respect to injuries occurring on and after
36 July 1, 1979, and before July 1, 1980, the average weekly wages are
37 considered to be (1) not more than one hundred ninety-five dollars
38 (\$195), and (2) not less than seventy-five dollars (\$75). However, the
39 weekly compensation payable shall not exceed the average weekly
40 wages of the employee at the time of the injury. In computing
41 compensation for temporary total disability, temporary partial
42 disability, and total permanent disability, with respect to injuries

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1 occurring on and after July 1, 1980, and before July 1, 1983, the
2 average weekly wages are considered to be (1) not more than two
3 hundred ten dollars (\$210), and (2) not less than seventy-five dollars
4 (\$75). However, the weekly compensation payable shall not exceed the
5 average weekly wages of the employee at the time of the injury. In
6 computing compensation for temporary total disability, temporary
7 partial disability, and total permanent disability, with respect to injuries
8 occurring on and after July 1, 1983, and before July 1, 1984, the
9 average weekly wages are considered to be (1) not more than two
10 hundred thirty-four dollars (\$234) and (2) not less than seventy-five
11 dollars (\$75). However, the weekly compensation payable shall not
12 exceed the average weekly wages of the employee at the time of the
13 injury. In computing compensation for temporary total disability,
14 temporary partial disability, and total permanent disability, with respect
15 to injuries occurring on and after July 1, 1984, and before July 1, 1985,
16 the average weekly wages are considered to be (1) not more than two
17 hundred forty-nine dollars (\$249) and (2) not less than seventy-five
18 dollars (\$75). However, the weekly compensation payable shall not
19 exceed the average weekly wages of the employee at the time of the
20 injury. In computing compensation for temporary total disability,
21 temporary partial disability, and total permanent disability, with respect
22 to injuries occurring on and after July 1, 1985, and before July 1, 1986,
23 the average weekly wages are considered to be (1) not more than two
24 hundred sixty-seven dollars (\$267) and (2) not less than seventy-five
25 dollars (\$75). However, the weekly compensation payable shall not
26 exceed the average weekly wages of the employee at the time of the
27 injury. In computing compensation for temporary total disability,
28 temporary partial disability, and total permanent disability, with respect
29 to injuries occurring on and after July 1, 1986, and before July 1, 1988,
30 the average weekly wages are considered to be (1) not more than two
31 hundred eighty-five dollars (\$285) and (2) not less than seventy-five
32 dollars (\$75). However, the weekly compensation payable shall not
33 exceed the average weekly wages of the employee at the time of the
34 injury. In computing compensation for temporary total disability,
35 temporary partial disability, and total permanent disability, with respect
36 to injuries occurring on and after July 1, 1988, and before July 1, 1989,
37 the average weekly wages are considered to be (1) not more than three
38 hundred eighty-four dollars (\$384) and (2) not less than seventy-five
39 dollars (\$75). However, the weekly compensation payable shall not
40 exceed the average weekly wages of the employee at the time of the
41 injury.

42 In computing compensation for temporary total disability, temporary



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1 partial disability, and total permanent disability, with respect to injuries
2 occurring on and after July 1, 1989, and before July 1, 1990, the
3 average weekly wages are considered to be (1) not more than four
4 hundred eleven dollars (\$411) and (2) not less than seventy-five dollars
5 (\$75). However, the weekly compensation payable shall not exceed the
6 average weekly wages of the employee at the time of the injury.

7 In computing compensation for temporary total disability, temporary
8 partial disability, and total permanent disability, with respect to injuries
9 occurring on and after July 1, 1990, and before July 1, 1991, the
10 average weekly wages are considered to be (1) not more than four
11 hundred forty-one dollars (\$441) and (2) not less than seventy-five
12 dollars (\$75). However, the weekly compensation payable shall not
13 exceed the average weekly wages of the employee at the time of the
14 injury.

15 In computing compensation for temporary total disability, temporary
16 partial disability, and total permanent disability, with respect to injuries
17 occurring on and after July 1, 1991, and before July 1, 1992, the
18 average weekly wages are considered to be (1) not more than four
19 hundred ninety-two dollars (\$492) and (2) not less than seventy-five
20 dollars (\$75). However, the weekly compensation payable shall not
21 exceed the average weekly wages of the employee at the time of the
22 injury.

23 In computing compensation for temporary total disability, temporary
24 partial disability, and total permanent disability, with respect to injuries
25 occurring on and after July 1, 1992, and before July 1, 1993, the
26 average weekly wages are considered to be (1) not more than five
27 hundred forty dollars (\$540) and (2) not less than seventy-five dollars
28 (\$75). However, the weekly compensation payable shall not exceed the
29 average weekly wages of the employee at the time of the injury.

30 In computing compensation for temporary total disability, temporary
31 partial disability, and total permanent disability, with respect to injuries
32 occurring on and after July 1, 1993, and before July 1, 1994, the
33 average weekly wages are considered to be (1) not more than five
34 hundred ninety-one dollars (\$591) and (2) not less than seventy-five
35 dollars (\$75). However, the weekly compensation payable shall not
36 exceed the average weekly wages of the employee at the time of the
37 injury.

38 In computing compensation for temporary total disability, temporary
39 partial disability, and total permanent disability, with respect to injuries
40 occurring on and after July 1, 1994, and before July 1, 1997, the
41 average weekly wages are considered to be (1) not more than six
42 hundred forty-two dollars (\$642) and (2) not less than seventy-five



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1 dollars (\$75). However, the weekly compensation payable shall not
 2 exceed the average weekly wages of the employee at the time of the
 3 injury.

4 (b) In computing compensation for temporary total disability,
 5 temporary partial disability, and total permanent disability, the average
 6 weekly wages are considered to be:

7 (1) with respect to injuries occurring on and after July 1, 1997,
 8 and before July 1, 1998:

9 (A) not more than six hundred seventy-two dollars (\$672); and

10 (B) not less than seventy-five dollars (\$75);

11 (2) with respect to injuries occurring on and after July 1, 1998,
 12 and before July 1, 1999:

13 (A) not more than seven hundred two dollars (\$702); and

14 (B) not less than seventy-five dollars (\$75);

15 (3) with respect to injuries occurring on and after July 1, 1999,
 16 and before July 1, 2000:

17 (A) not more than seven hundred thirty-two dollars (\$732);
 18 and

19 (B) not less than seventy-five dollars (\$75); ~~and~~

20 (4) with respect to injuries occurring on and after July 1, 2000,
 21 **and before July 1, 2001:**

22 (A) not more than seven hundred sixty-two dollars (\$762); and

23 (B) not less than seventy-five dollars (\$75);

24 **(5) with respect to injuries occurring on and after July 1,**
 25 **2001, and before July 1, 2002:**

26 **(A) not more than eight hundred seven dollars (\$807); and**

27 **(B) not less than seventy-five dollars (\$75); and**

28 **(6) with respect to injuries occurring on and after July 1,**
 29 **2002:**

30 **(A) not more than eight hundred forty dollars (\$840); and**

31 **(B) not less than seventy-five dollars (\$75).**

32 However, the weekly compensation payable shall not exceed the
 33 average weekly wages of the employee at the time of the injury.

34 (c) For the purpose of this section only and with respect to injuries
 35 occurring on and after July 1, 1971, and prior to July 1, 1974, only, the
 36 term "dependent" as used in this section shall mean persons defined as
 37 presumptive dependents under section 19 of this chapter, except that
 38 such dependency shall be determined as of the date of the injury to the
 39 employee.

40 (d) With respect to any injury occurring on and after April 1, 1955,
 41 and prior to April 1, 1957, the maximum compensation exclusive of
 42 medical benefits, which shall be paid for an injury under any provisions



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1 of this law or under any combination of its provisions shall not exceed
2 twelve thousand five hundred dollars (\$12,500) in any case. With
3 respect to any injury occurring on and after April 1, 1957 and prior to
4 April 1, 1963, the maximum compensation exclusive of medical
5 benefits, which shall be paid for an injury under any provision of this
6 law or under any combination of its provisions shall not exceed fifteen
7 thousand dollars (\$15,000) in any case. With respect to any injury
8 occurring on and after April 1, 1963, and prior to April 1, 1965, the
9 maximum compensation exclusive of medical benefits, which shall be
10 paid for an injury under any provision of this law or under any
11 combination of its provisions shall not exceed sixteen thousand five
12 hundred dollars (\$16,500) in any case. With respect to any injury
13 occurring on and after April 1, 1965, and prior to April 1, 1967, the
14 maximum compensation exclusive of medical benefits which shall be
15 paid for any injury under any provision of this law or any combination
16 of provisions shall not exceed twenty thousand dollars (\$20,000) in any
17 case. With respect to any injury occurring on and after April 1, 1967,
18 and prior to July 1, 1971, the maximum compensation exclusive of
19 medical benefits which shall be paid for an injury under any provision
20 of this law or any combination of provisions shall not exceed
21 twenty-five thousand dollars (\$25,000) in any case. With respect to any
22 injury occurring on and after July 1, 1971, and prior to July 1, 1974, the
23 maximum compensation exclusive of medical benefits which shall be
24 paid for any injury under any provision of this law or any combination
25 of provisions shall not exceed thirty thousand dollars (\$30,000) in any
26 case. With respect to any injury occurring on and after July 1, 1974,
27 and before July 1, 1976, the maximum compensation exclusive of
28 medical benefits which shall be paid for an injury under any provision
29 of this law or any combination of provisions shall not exceed forty-five
30 thousand dollars (\$45,000) in any case. With respect to an injury
31 occurring on and after July 1, 1976, and before July 1, 1977, the
32 maximum compensation, exclusive of medical benefits, which shall be
33 paid for any injury under any provision of this law or any combination
34 of provisions shall not exceed fifty-two thousand dollars (\$52,000) in
35 any case. With respect to any injury occurring on and after July 1,
36 1977, and before July 1, 1979, the maximum compensation, exclusive
37 of medical benefits, which may be paid for an injury under any
38 provision of this law or any combination of provisions may not exceed
39 sixty thousand dollars (\$60,000) in any case. With respect to any injury
40 occurring on and after July 1, 1979, and before July 1, 1980, the
41 maximum compensation, exclusive of medical benefits, which may be
42 paid for an injury under any provisions of this law or any combination

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1 of provisions may not exceed sixty-five thousand dollars (\$65,000) in
2 any case. With respect to any injury occurring on and after July 1,
3 1980, and before July 1, 1983, the maximum compensation, exclusive
4 of medical benefits, which may be paid for an injury under any
5 provisions of this law or any combination of provisions may not exceed
6 seventy thousand dollars (\$70,000) in any case. With respect to any
7 injury occurring on and after July 1, 1983, and before July 1, 1984, the
8 maximum compensation, exclusive of medical benefits, which may be
9 paid for an injury under any provisions of this law or any combination
10 of provisions may not exceed seventy-eight thousand dollars (\$78,000)
11 in any case. With respect to any injury occurring on and after July 1,
12 1984, and before July 1, 1985, the maximum compensation, exclusive
13 of medical benefits, which may be paid for an injury under any
14 provisions of this law or any combination of provisions may not exceed
15 eighty-three thousand dollars (\$83,000) in any case. With respect to
16 any injury occurring on and after July 1, 1985, and before July 1, 1986,
17 the maximum compensation, exclusive of medical benefits, which may
18 be paid for an injury under any provisions of this law or any
19 combination of provisions may not exceed eighty-nine thousand dollars
20 (\$89,000) in any case. With respect to any injury occurring on and after
21 July 1, 1986, and before July 1, 1988, the maximum compensation,
22 exclusive of medical benefits, which may be paid for an injury under
23 any provisions of this law or any combination of provisions may not
24 exceed ninety-five thousand dollars (\$95,000) in any case. With respect
25 to any injury occurring on and after July 1, 1988, and before July 1,
26 1989, the maximum compensation, exclusive of medical benefits,
27 which may be paid for an injury under any provisions of this law or any
28 combination of provisions may not exceed one hundred twenty-eight
29 thousand dollars (\$128,000) in any case.

30 With respect to any injury occurring on and after July 1, 1989, and
31 before July 1, 1990, the maximum compensation, exclusive of medical
32 benefits, which may be paid for an injury under any provisions of this
33 law or any combination of provisions may not exceed one hundred
34 thirty-seven thousand dollars (\$137,000) in any case.

35 With respect to any injury occurring on and after July 1, 1990, and
36 before July 1, 1991, the maximum compensation, exclusive of medical
37 benefits, which may be paid for an injury under any provisions of this
38 law or any combination of provisions may not exceed one hundred
39 forty-seven thousand dollars (\$147,000) in any case.

40 With respect to any injury occurring on and after July 1, 1991, and
41 before July 1, 1992, the maximum compensation, exclusive of medical
42 benefits, that may be paid for an injury under any provisions of this law

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1 or any combination of provisions may not exceed one hundred
2 sixty-four thousand dollars (\$164,000) in any case.

3 With respect to any injury occurring on and after July 1, 1992, and
4 before July 1, 1993, the maximum compensation, exclusive of medical
5 benefits, that may be paid for an injury under any provisions of this law
6 or any combination of provisions may not exceed one hundred eighty
7 thousand dollars (\$180,000) in any case.

8 With respect to any injury occurring on and after July 1, 1993, and
9 before July 1, 1994, the maximum compensation, exclusive of medical
10 benefits, that may be paid for an injury under any provisions of this law
11 or any combination of provisions may not exceed one hundred
12 ninety-seven thousand dollars (\$197,000) in any case.

13 With respect to any injury occurring on and after July 1, 1994, and
14 before July 1, 1997, the maximum compensation, exclusive of medical
15 benefits, which may be paid for an injury under any provisions of this
16 law or any combination of provisions may not exceed two hundred
17 fourteen thousand dollars (\$214,000) in any case.

18 (e) The maximum compensation, exclusive of medical benefits, that
19 may be paid for an injury under any provision of this law or any
20 combination of provisions may not exceed the following amounts in
21 any case:

22 (1) With respect to an injury occurring on and after July 1, 1997,
23 and before July 1, 1998, two hundred twenty-four thousand
24 dollars (\$224,000).

25 (2) With respect to an injury occurring on and after July 1, 1998,
26 and before July 1, 1999, two hundred thirty-four thousand dollars
27 (\$234,000).

28 (3) With respect to an injury occurring on and after July 1, 1999,
29 and before July 1, 2000, two hundred forty-four thousand dollars
30 (\$244,000).

31 (4) With respect to an injury occurring on and after July 1, 2000,
32 **and before July 1, 2001**, two hundred fifty-four thousand dollars
33 (\$254,000).

34 **(5) With respect to an injury occurring on and after July 1,**
35 **2001, and before July 1, 2002, two hundred sixty-nine**
36 **thousand dollars (\$269,000).**

37 **(6) With respect to an injury occurring on and after July 1,**
38 **2002, two hundred eighty thousand dollars (\$280,000).**

39 SECTION 14. IC 22-3-7-16 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) Compensation
41 shall be allowed on account of disablement from occupational disease
42 resulting in only temporary total disability to work or temporary partial

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1 disability to work beginning with the eighth day of such disability
 2 except for the medical benefits provided for in section 17 of this
 3 chapter. Compensation shall be allowed for the first seven (7) calendar
 4 days only as provided in this section. The first weekly installment of
 5 compensation for temporary disability is due fourteen (14) days after
 6 the disability begins. Not later than fifteen (15) days from the date that
 7 the first installment of compensation is due, the employer or the
 8 employer's insurance carrier shall tender to the employee or to the
 9 employee's dependents, with all compensation due, a properly prepared
 10 compensation agreement in a form prescribed by the board. Whenever
 11 an employer or the employer's insurance carrier denies or is not able to
 12 determine liability to pay compensation or benefits, the employer or the
 13 employer's insurance carrier shall notify the worker's compensation
 14 board and the employee in writing on a form prescribed by the worker's
 15 compensation board not later than thirty (30) days after the employer's
 16 knowledge of the claimed disablement. If a determination of liability
 17 cannot be made within thirty (30) days, the worker's compensation
 18 board may approve an additional thirty (30) days upon a written request
 19 of the employer or the employer's insurance carrier that sets forth the
 20 reasons that the determination could not be made within thirty (30)
 21 days and states the facts or circumstances that are necessary to
 22 determine liability within the additional thirty (30) days. More than
 23 thirty (30) days of additional time may be approved by the worker's
 24 compensation board upon the filing of a petition by the employer or the
 25 employer's insurance carrier that sets forth:

- 26 (1) the extraordinary circumstances that have precluded a
- 27 determination of liability within the initial sixty (60) days;
- 28 (2) the status of the investigation on the date the petition is filed;
- 29 (3) the facts or circumstances that are necessary to make a
- 30 determination; and
- 31 (4) a timetable for the completion of the remaining investigation.

32 An employer who fails to comply with this section is subject to a civil
 33 penalty of fifty dollars (\$50), to be assessed and collected by the board
 34 upon notice and hearing. Civil penalties collected under this section
 35 shall be deposited in the state general fund.

36 (b) Once begun, temporary total disability benefits may not be
 37 terminated by the employer unless:

- 38 (1) the employee has returned to work;
- 39 (2) the employee has died;
- 40 (3) the employee has refused to undergo a medical examination
- 41 under section 20 of this chapter;
- 42 (4) the employee has received five hundred (500) weeks of



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1 temporary total disability benefits or has been paid the maximum
 2 compensation allowable under section 19 of this chapter; or
 3 (5) the employee is unable or unavailable to work for reasons
 4 unrelated to the compensable disease.

5 In all other cases the employer must notify the employee in writing of
 6 the employer's intent to terminate the payment of temporary total
 7 disability benefits, and of the availability of employment, if any, on a
 8 form approved by the board. If the employee disagrees with the
 9 proposed termination, the employee must give written notice of
 10 disagreement to the board and the employer within seven (7) days after
 11 receipt of the notice of intent to terminate benefits. If the board and
 12 employer do not receive a notice of disagreement under this section,
 13 the employee's temporary total disability benefits shall be terminated.
 14 Upon receipt of the notice of disagreement, the board shall immediately
 15 contact the parties, which may be by telephone or other means and
 16 attempt to resolve the disagreement. If the board is unable to resolve
 17 the disagreement within ten (10) days of receipt of the notice of
 18 disagreement, the board shall immediately arrange for an evaluation of
 19 the employee by an independent medical examiner. The independent
 20 medical examiner shall be selected by mutual agreement of the parties
 21 or, if the parties are unable to agree, appointed by the board under
 22 IC 22-3-4-11. If the independent medical examiner determines that the
 23 employee is no longer temporarily disabled or is still temporarily
 24 disabled but can return to employment that the employer has made
 25 available to the employee, or if the employee fails or refuses to appear
 26 for examination by the independent medical examiner, temporary total
 27 disability benefits may be terminated. If either party disagrees with the
 28 opinion of the independent medical examiner, the party shall apply to
 29 the board for a hearing under section 27 of this chapter.

30 (c) An employer is not required to continue the payment of
 31 temporary total disability benefits for more than fourteen (14) days
 32 after the employer's proposed termination date unless the independent
 33 medical examiner determines that the employee is temporarily disabled
 34 and unable to return to any employment that the employer has made
 35 available to the employee.

36 (d) If it is determined that as a result of this section temporary total
 37 disability benefits were overpaid, the overpayment shall be deducted
 38 from any benefits due the employee under this section and, if there are
 39 no benefits due the employee or the benefits due the employee do not
 40 equal the amount of the overpayment, the employee shall be
 41 responsible for paying any overpayment which cannot be deducted
 42 from benefits due the employee.



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1 (e) For disablements occurring on and after April 1, 1951, and prior
 2 to July 1, 1971, from occupational disease resulting in temporary total
 3 disability for any work, there shall be paid to the disabled employee
 4 during such temporary total disability a weekly compensation equal to
 5 sixty percent (60%) of the employee's average weekly wages for a
 6 period not to exceed five hundred (500) weeks. Compensation shall be
 7 allowed for the first seven (7) calendar days only if the disability
 8 continues for longer than twenty-eight (28) days.

9 For disablements occurring on and after July 1, 1971, and prior to
 10 July 1, 1974, from occupational disease resulting in temporary total
 11 disability for any work, there shall be paid to the disabled employee
 12 during such temporary total disability a weekly compensation equal to
 13 sixty percent (60%) of the employee's average weekly wages, as
 14 defined in section 19 of this chapter, for a period not to exceed five
 15 hundred (500) weeks. Compensation shall be allowed for the first seven
 16 (7) calendar days only if the disability continues for longer than
 17 twenty-eight (28) days.

18 For disablements occurring on and after July 1, 1974, and before
 19 July 1, 1976, from occupational disease resulting in temporary total
 20 disability for any work, there shall be paid to the disabled employee
 21 during such temporary total disability a weekly compensation equal to
 22 sixty-six and two-thirds percent (66 2/3%) of the employee's average
 23 weekly wages, up to one hundred thirty-five dollars (\$135) average
 24 weekly wages, as defined in section 19 of this chapter, for a period not
 25 to exceed five hundred (500) weeks. Compensation shall be allowed for
 26 the first seven (7) calendar days only if the disability continues for
 27 longer than twenty-one (21) days.

28 For disablements occurring on and after July 1, 1976, from
 29 occupational disease resulting in temporary total disability for any
 30 work, there shall be paid to the disabled employee during the temporary
 31 total disability weekly compensation equal to sixty-six and two-thirds
 32 percent (66 2/3%) of the employee's average weekly wages, as defined
 33 in section 19 of this chapter, for a period not to exceed five hundred
 34 (500) weeks. Compensation shall be allowed for the first seven (7)
 35 calendar days only if the disability continues for longer than twenty-one
 36 (21) days.

37 (f) For disablements occurring on and after April 1, 1951, and prior
 38 to July 1, 1971, from occupational disease resulting in temporary
 39 partial disability for work, there shall be paid to the disabled employee
 40 during such disability a weekly compensation equal to sixty percent
 41 (60%) of the difference between the employee's average weekly wages
 42 and the weekly wages at which the employee is actually employed after

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1 the disablement, for a period not to exceed three hundred (300) weeks.
2 Compensation shall be allowed for the first seven (7) calendar days
3 only if the disability continues for longer than twenty-eight (28) days.
4 In case of partial disability after the period of temporary total disability,
5 the later period shall be included as part of the maximum period
6 allowed for partial disability.

7 For disablements occurring on and after July 1, 1971, and prior to
8 July 1, 1974, from occupational disease resulting in temporary partial
9 disability for work, there shall be paid to the disabled employee during
10 such disability a weekly compensation equal to sixty percent (60%) of
11 the difference between the employee's average weekly wages, as
12 defined in section 19 of this chapter, and the weekly wages at which the
13 employee is actually employed after the disablement, for a period not
14 to exceed three hundred (300) weeks. Compensation shall be allowed
15 for the first seven (7) calendar days only if the disability continues for
16 longer than twenty-eight (28) days. In case of partial disability after the
17 period of temporary total disability, the latter period shall be included
18 as a part of the maximum period allowed for partial disability.

19 For disablements occurring on and after July 1, 1974, from
20 occupational disease resulting in temporary partial disability for work,
21 there shall be paid to the disabled employee during such disability a
22 weekly compensation equal to sixty-six and two-thirds percent (66
23 2/3%) of the difference between the employee's average weekly wages,
24 as defined in section 19 of this chapter, and the weekly wages at which
25 he is actually employed after the disablement, for a period not to
26 exceed three hundred (300) weeks. Compensation shall be allowed for
27 the first seven (7) calendar days only if the disability continues for
28 longer than twenty-one (21) days. In case of partial disability after the
29 period of temporary total disability, the latter period shall be included
30 as a part of the maximum period allowed for partial disability.

31 (g) For disabilities occurring on and after April 1, 1951, and prior
32 to April 1, 1955, from occupational disease in the following schedule,
33 the employee shall receive in lieu of all other compensation, on account
34 of such disabilities, a weekly compensation of sixty percent (60%) of
35 the employee's average weekly wage; for disabilities occurring on and
36 after April 1, 1955, and prior to July 1, 1971, from occupational disease
37 in the following schedule, the employee shall receive in addition to
38 disability benefits not exceeding twenty-six (26) weeks on account of
39 said occupational disease a weekly compensation of sixty percent
40 (60%) of the employee's average weekly wages.

41 For disabilities occurring on and after July 1, 1971, and before July
42 1, 1977, from occupational disease in the following schedule, the

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1 employee shall receive in addition to disability benefits not exceeding
2 twenty-six (26) weeks on account of said occupational disease a weekly
3 compensation of sixty percent (60%) of his average weekly wages not
4 to exceed one hundred dollars (\$100) average weekly wages, for the
5 period stated for such disabilities respectively.

6 For disabilities occurring on and after July 1, 1977, and before July
7 1, 1979, from occupational disease in the following schedule, the
8 employee shall receive in addition to disability benefits not exceeding
9 twenty-six (26) weeks on account of the occupational disease a weekly
10 compensation of sixty percent (60%) of the employee's average weekly
11 wages, not to exceed one hundred twenty-five dollars (\$125) average
12 weekly wages, for the period stated for the disabilities.

13 For disabilities occurring on and after July 1, 1979, and before July
14 1, 1988, from occupational disease in the following schedule, the
15 employee shall receive in addition to disability benefits, not exceeding
16 fifty-two (52) weeks on account of the occupational disease, a weekly
17 compensation of sixty percent (60%) of the employee's average weekly
18 wages, not to exceed one hundred twenty-five dollars (\$125) average
19 weekly wages, for the period stated for the disabilities.

20 For disabilities occurring on and after July 1, 1988, and before July
21 1, 1989, from occupational disease in the following schedule, the
22 employee shall receive in addition to disability benefits, not exceeding
23 seventy-eight (78) weeks on account of the occupational disease, a
24 weekly compensation of sixty percent (60%) of the employee's average
25 weekly wages, not to exceed one hundred sixty-six dollars (\$166)
26 average weekly wages, for the period stated for the disabilities.

27 For disabilities occurring on and after July 1, 1989, and before July
28 1, 1990, from occupational disease in the following schedule, the
29 employee shall receive in addition to disability benefits, not exceeding
30 seventy-eight (78) weeks on account of the occupational disease, a
31 weekly compensation of sixty percent (60%) of the employee's average
32 weekly wages, not to exceed one hundred eighty-three dollars (\$183)
33 average weekly wages, for the period stated for the disabilities.

34 For disabilities occurring on and after July 1, 1990, and before July
35 1, 1991, from occupational disease in the following schedule, the
36 employee shall receive in addition to disability benefits, not exceeding
37 seventy-eight (78) weeks on account of the occupational disease, a
38 weekly compensation of sixty percent (60%) of the employee's average
39 weekly wages, not to exceed two hundred dollars (\$200) average
40 weekly wages, for the period stated for the disabilities.

- 41 (1) Amputations: For the loss by separation, of the thumb, sixty
42 (60) weeks; of the index finger, forty (40) weeks; of the second

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1 finger, thirty-five (35) weeks; of the third or ring finger, thirty
 2 (30) weeks; of the fourth or little finger, twenty (20) weeks; of the
 3 hand by separation below the elbow, two hundred (200) weeks; of
 4 the arm above the elbow joint, two hundred fifty (250) weeks; of
 5 the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks;
 6 of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15)
 7 weeks; of the fifth or little toe, ten (10) weeks; of the foot below
 8 the knee joint, one hundred fifty (150) weeks; and of the leg
 9 above the knee joint, two hundred (200) weeks. The loss of more
 10 than one (1) phalange of a thumb or toe shall be considered as the
 11 loss of the entire thumb or toe. The loss of more than two (2)
 12 phalanges of a finger shall be considered as the loss of the entire
 13 finger. The loss of not more than one (1) phalange of a thumb or
 14 toe shall be considered as the loss of one-half (1/2) of the thumb
 15 or toe and compensation shall be paid for one-half (1/2) of the
 16 period for the loss of the entire thumb or toe. The loss of not more
 17 than two (2) phalanges of a finger shall be considered as the loss
 18 of one-half (1/2) the finger and compensation shall be paid for
 19 one-half (1/2) of the period for the loss of the entire finger.
 20 (2) Loss of Use: The total permanent loss of the use of an arm,
 21 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
 22 as the equivalent of the loss by separation of the arm, hand,
 23 thumb, finger, leg, foot, toe, or phalange and the compensation
 24 shall be paid for the same period as for the loss thereof by
 25 separation.
 26 (3) Partial Loss of Use: For the permanent partial loss of the use
 27 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,
 28 compensation shall be paid for the proportionate loss of the use of
 29 such arm, hand, thumb, finger, leg, foot, toe, or phalange.
 30 (4) For disablements for occupational disease resulting in total
 31 permanent disability, five hundred (500) weeks.
 32 (5) For the loss of both hands, or both feet, or the total sight of
 33 both eyes, or any two (2) of such losses resulting from the same
 34 disablement by occupational disease, five hundred (500) weeks.
 35 (6) For the permanent and complete loss of vision by enucleation
 36 of an eye or its reduction to one-tenth (1/10) of normal vision with
 37 glasses, one hundred fifty (150) weeks, and for any other
 38 permanent reduction of the sight of an eye, compensation shall be
 39 paid for a period proportionate to the degree of such permanent
 40 reduction without correction or glasses. However, when such
 41 permanent reduction without correction or glasses would result in
 42 one hundred percent (100%) loss of vision, but correction or

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1 glasses would result in restoration of vision, then compensation
2 shall be paid for fifty percent (50%) of such total loss of vision
3 without glasses plus an additional amount equal to the
4 proportionate amount of such reduction with glasses, not to
5 exceed an additional fifty percent (50%).

6 (7) For the permanent and complete loss of hearing, two hundred
7 (200) weeks.

8 (8) In all other cases of permanent partial impairment,
9 compensation proportionate to the degree of such permanent
10 partial impairment, in the discretion of the worker's compensation
11 board, not exceeding five hundred (500) weeks.

12 (9) In all cases of permanent disfigurement, which may impair the
13 future usefulness or opportunities of the employee, compensation
14 in the discretion of the worker's compensation board, not
15 exceeding two hundred (200) weeks, except that no compensation
16 shall be payable under this paragraph where compensation shall
17 be payable under subdivisions (1) through (8). Where
18 compensation for temporary total disability has been paid, this
19 amount of compensation shall be deducted from any
20 compensation due for permanent disfigurement.

21 With respect to disablements in the following schedule occurring on
22 and after July 1, 1991, the employee shall receive in addition to
23 temporary total disability benefits, not exceeding one hundred
24 twenty-five (125) weeks on account of the disablement, compensation
25 in an amount determined under the following schedule to be paid
26 weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the
27 employee's average weekly wages during the fifty-two (52) weeks
28 immediately preceding the week in which the disablement occurred:

- 29 (1) Amputation: For the loss by separation of the thumb, twelve
- 30 (12) degrees of permanent impairment; of the index finger, eight
- 31 (8) degrees of permanent impairment; of the second finger, seven
- 32 (7) degrees of permanent impairment; of the third or ring finger,
- 33 six (6) degrees of permanent impairment; of the fourth or little
- 34 finger, four (4) degrees of permanent impairment; of the hand by
- 35 separation below the elbow joint, forty (40) degrees of permanent
- 36 impairment; of the arm above the elbow, fifty (50) degrees of
- 37 permanent impairment; of the big toe, twelve (12) degrees of
- 38 permanent impairment; of the second toe, six (6) degrees of
- 39 permanent impairment; of the third toe, four (4) degrees of
- 40 permanent impairment; of the fourth toe, three (3) degrees of
- 41 permanent impairment; of the fifth or little toe, two (2) degrees of
- 42 permanent impairment; of separation of the foot below the knee

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- 1 joint, thirty-five (35) degrees of permanent impairment; and of the
2 leg above the knee joint, forty-five (45) degrees of permanent
3 impairment.
- 4 (2) Amputations occurring on or after July 1, 1997: For the loss
5 by separation of any of the body parts described in subdivision (1)
6 on or after July 1, 1997, the dollar values per degree applying on
7 the date of the injury as described in subsection (h) shall be
8 multiplied by two (2). However, the doubling provision of this
9 subdivision does not apply to a loss of use that is not a loss by
10 separation.
- 11 (3) The loss of more than one (1) phalange of a thumb or toe shall
12 be considered as the loss of the entire thumb or toe. The loss of
13 more than two (2) phalanges of a finger shall be considered as the
14 loss of the entire finger. The loss of not more than one (1)
15 phalange of a thumb or toe shall be considered as the loss of
16 one-half (1/2) of the degrees of permanent impairment for the loss
17 of the entire thumb or toe. The loss of not more than one (1)
18 phalange of a finger shall be considered as the loss of one-third
19 (1/3) of the finger and compensation shall be paid for one-third
20 (1/3) of the degrees payable for the loss of the entire finger. The
21 loss of more than one (1) phalange of the finger but not more than
22 two (2) phalanges of the finger shall be considered as the loss of
23 one-half (1/2) of the finger and compensation shall be paid for
24 one-half (1/2) of the degrees payable for the loss of the entire
25 finger.
- 26 (4) For the loss by separation of both hands or both feet or the
27 total sight of both eyes or any two (2) such losses in the same
28 accident, one hundred (100) degrees of permanent impairment.
- 29 (5) For the permanent and complete loss of vision by enucleation
30 or its reduction to one-tenth (1/10) of normal vision with glasses,
31 thirty-five (35) degrees of permanent impairment.
- 32 (6) For the permanent and complete loss of hearing in one (1) ear,
33 fifteen (15) degrees of permanent impairment, and in both ears,
34 forty (40) degrees of permanent impairment.
- 35 (7) For the loss of one (1) testicle, (10) ten degrees of permanent
36 impairment; for the loss of both testicles, thirty (30) degrees of
37 permanent impairment.
- 38 (8) Loss of use: The total permanent loss of the use of an arm, a
39 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
40 considered as the equivalent of the loss by separation of the arm,
41 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
42 shall be paid in the same amount as for the loss by separation.

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- 1 However, the doubling provision of subdivision (2) does not
2 apply to a loss of use that is not a loss by separation.
- 3 (9) Partial loss of use: For the permanent partial loss of the use of
4 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
5 phalange, compensation shall be paid for the proportionate loss of
6 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.
- 7 (10) For disablements resulting in total permanent disability, the
8 amount payable for impairment or five hundred (500) weeks of
9 compensation, whichever is greater.
- 10 (11) For any permanent reduction of the sight of an eye less than
11 a total loss as specified in subdivision (3), the compensation shall
12 be paid in an amount proportionate to the degree of a permanent
13 reduction without correction or glasses. However, when a
14 permanent reduction without correction or glasses would result in
15 one hundred percent (100%) loss of vision, then compensation
16 shall be paid for fifty percent (50%) of the total loss of vision
17 without glasses, plus an additional amount equal to the
18 proportionate amount of the reduction with glasses, not to exceed
19 an additional fifty percent (50%).
- 20 (12) For any permanent reduction of the hearing of one (1) or both
21 ears, less than the total loss as specified in subdivision (4),
22 compensation shall be paid in an amount proportionate to the
23 degree of a permanent reduction.
- 24 (13) In all other cases of permanent partial impairment,
25 compensation proportionate to the degree of a permanent partial
26 impairment, in the discretion of the worker's compensation board,
27 not exceeding one hundred (100) degrees of permanent
28 impairment.
- 29 (14) In all cases of permanent disfigurement which may impair
30 the future usefulness or opportunities of the employee,
31 compensation, in the discretion of the worker's compensation
32 board, not exceeding forty (40) degrees of permanent impairment
33 except that no compensation shall be payable under this
34 subdivision where compensation is payable elsewhere in this
35 section.
- 36 (h) With respect to disablements occurring on and after July 1,
37 1991, compensation for permanent partial impairment shall be paid
38 according to the degree of permanent impairment for the disablement
39 determined under subsection (d) and the following:
- 40 (1) With respect to disablements occurring on and after July 1,
41 1991, and before July 1, 1992, for each degree of permanent
42 impairment from one (1) to thirty-five (35), five hundred dollars

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1 (\$500) per degree; for each degree of permanent impairment from
 2 thirty-six (36) to fifty (50), nine hundred dollars (\$900) per
 3 degree; for each degree of permanent impairment above fifty (50),
 4 one thousand five hundred dollars (\$1,500) per degree.

5 (2) With respect to disablements occurring on and after July 1,
 6 1992, and before July 1, 1993, for each degree of permanent
 7 impairment from one (1) to twenty (20), five hundred dollars
 8 (\$500) per degree; for each degree of permanent impairment from
 9 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
 10 per degree; for each degree of permanent impairment from
 11 thirty-six (36) to fifty (50), one thousand three hundred dollars
 12 (\$1,300) per degree; for each degree of permanent impairment
 13 above fifty (50), one thousand seven hundred dollars (\$1,700) per
 14 degree.

15 (3) With respect to disablements occurring on and after July 1,
 16 1993, and before July 1, 1997, for each degree of permanent
 17 impairment from one (1) to ten (10), five hundred dollars (\$500)
 18 per degree; for each degree of permanent impairment from eleven
 19 (11) to twenty (20), seven hundred dollars (\$700) per degree; for
 20 each degree of permanent impairment from twenty-one (21) to
 21 thirty-five (35), one thousand dollars (\$1,000) per degree; for
 22 each degree of permanent impairment from thirty-six (36) to fifty
 23 (50), one thousand four hundred dollars (\$1,400) per degree; for
 24 each degree of permanent impairment above fifty (50), one
 25 thousand seven hundred dollars (\$1,700) per degree.

26 (4) With respect to disablements occurring on and after July 1,
 27 1997, and before July 1, 1998, for each degree of permanent
 28 impairment from one (1) to ten (10), seven hundred fifty dollars
 29 (\$750) per degree; for each degree of permanent impairment from
 30 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
 31 degree; for each degree of permanent impairment from thirty-six
 32 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
 33 degree; for each degree of permanent impairment above fifty (50),
 34 one thousand seven hundred dollars (\$1,700) per degree.

35 (5) With respect to disablements occurring on and after July 1,
 36 1998, and before July 1, 1999, for each degree of permanent
 37 impairment from one (1) to ten (10), seven hundred fifty dollars
 38 (\$750) per degree; for each degree of permanent impairment from
 39 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
 40 degree; for each degree of permanent impairment from thirty-six
 41 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
 42 degree; for each degree of permanent impairment above fifty (50),

C
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P
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1 one thousand seven hundred dollars (\$1,700) per degree.

2 (6) With respect to disablements occurring on and after July 1,
3 1999, **and before July 1, 2000**, for each degree of permanent
4 impairment from one (1) to ten (10), nine hundred dollars (\$900)
5 per degree; for each degree of permanent impairment from eleven
6 (11) to thirty-five (35), one thousand one hundred dollars
7 (\$1,100) per degree; for each degree of permanent impairment
8 from thirty-six (36) to fifty (50), one thousand six hundred dollars
9 (\$1,600) per degree; for each degree of permanent impairment
10 above fifty (50), two thousand dollars (\$2,000) per degree.

11 (7) **With respect to disablements occurring on and after July**
12 **1, 2000, and before July 1, 2001**, for each degree of permanent
13 **impairment from one (1) to ten (10), nine hundred fifty**
14 **dollars (\$950) per degree; for each degree of permanent**
15 **impairment from eleven (11) to thirty-five (35), one thousand**
16 **four hundred fifty dollars (\$1,450) per degree; for each degree**
17 **of permanent impairment from thirty-six (36) to fifty (50),**
18 **two thousand dollars (\$2,000) per degree; for each degree of**
19 **permanent impairment above fifty (50), two thousand six**
20 **hundred dollars (\$2,600) per degree.**

21 (8) With respect to disablements occurring on and after July
22 1, 2001, and before July 1, 2002, for each degree of permanent
23 impairment from one (1) to ten (10), one thousand dollars
24 (\$1,000) per degree; for each degree of permanent
25 impairment from eleven (11) to thirty-five (35), one thousand
26 eight hundred fifty dollars (\$1,850) per degree; for each
27 degree of permanent impairment from thirty-six (36) to fifty
28 (50), two thousand seven hundred dollars (\$2,700) per degree;
29 for each degree of permanent impairment above fifty (50),
30 three thousand four hundred dollars (\$3,400) per degree.

31 (9) With respect to disablements occurring on and after July
32 1, 2002, for each degree of permanent impairment from one
33 (1) to ten (10), one thousand fifty dollars (\$1,050) per degree;
34 for each degree of permanent impairment from eleven (11) to
35 thirty-five (35), two thousand four hundred dollars (\$2,400)
36 per degree; for each degree of permanent impairment from
37 thirty-six (36) to fifty (50), three thousand five hundred
38 dollars (\$3,500) per degree; for each degree of permanent
39 impairment above fifty (50), four thousand four hundred
40 dollars (\$4,400) per degree.

41 (i) The average weekly wages used in the determination of
42 compensation for permanent partial impairment under subsections (g)

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- 1 and (h) shall not exceed the following:
- 2 (1) With respect to disablements occurring on or after July 1,
3 1991, and before July 1, 1992, four hundred ninety-two dollars
4 (\$492).
- 5 (2) With respect to disablements occurring on or after July 1,
6 1992, and before July 1, 1993, five hundred forty dollars (\$540).
- 7 (3) With respect to disablements occurring on or after July 1,
8 1993, and before July 1, 1994, five hundred ninety-one dollars
9 (\$591).
- 10 (4) With respect to disablements occurring on or after July 1,
11 1994, and before July 1, 1997, six hundred forty-two dollars
12 (\$642).
- 13 (5) With respect to disablements occurring on or after July 1,
14 1997, and before July 1, 1998, six hundred seventy-two dollars
15 (\$672).
- 16 (6) With respect to disablements occurring on or after July 1,
17 1998, and before July 1, 1999, seven hundred two dollars (\$702).
- 18 (7) With respect to disablements occurring on or after July 1,
19 1999, and before July 1, 2000, seven hundred thirty-two dollars
20 (\$732).
- 21 (8) With respect to disablements occurring on or after July 1,
22 2000, **and before July 1, 2001**, seven hundred sixty-two dollars
23 (\$762).
- 24 **(9) With respect to disablements occurring on or after July 1,**
25 **2001, and before July 1, 2002, eight hundred seven dollars**
26 **(\$807).**
- 27 **(10) With respect to disablements occurring on or after July**
28 **1, 2002, eight hundred forty dollars (\$840).**
- 29 (j) If any employee, only partially disabled, refuses employment
30 suitable to his capacity procured for him, he shall not be entitled to any
31 compensation at any time during the continuance of such refusal
32 unless, in the opinion of the worker's compensation board, such refusal
33 was justifiable. The employee must be served with a notice setting forth
34 the consequences of the refusal under this subsection. The notice must
35 be in a form prescribed by the worker's compensation board.
- 36 (k) If an employee has sustained a permanent impairment or
37 disability from an accidental injury other than an occupational disease
38 in another employment than that in which he suffered a subsequent
39 disability from an occupational disease, such as herein specified, the
40 employee shall be entitled to compensation for the subsequent
41 disability in the same amount as if the previous impairment or
42 disability had not occurred. However, if the permanent impairment or

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P
Y

1 disability resulting from an occupational disease for which
2 compensation is claimed results only in the aggravation or increase of
3 a previously sustained permanent impairment from an occupational
4 disease or physical condition regardless of the source or cause of such
5 previously sustained impairment from an occupational disease or
6 physical condition, the board shall determine the extent of the
7 previously sustained permanent impairment from an occupational
8 disease or physical condition as well as the extent of the aggravation or
9 increase resulting from the subsequent permanent impairment or
10 disability, and shall award compensation only for that part of said
11 occupational disease or physical condition resulting from the
12 subsequent permanent impairment. An amputation of any part of the
13 body or loss of any or all of the vision of one (1) or both eyes caused by
14 an occupational disease shall be considered as a permanent impairment
15 or physical condition.

16 (l) If an employee suffers a disablement from occupational disease
17 for which compensation is payable while the employee is still receiving
18 or entitled to compensation for a previous injury by accident or
19 disability by occupational disease in the same employment, he shall not
20 at the same time be entitled to compensation for both, unless it be for
21 a permanent injury, such as specified in subsection (g)(1), (g)(2),
22 (g)(3), (g)(6), or (g)(7); but the employee shall be entitled to
23 compensation for that disability and from the time of that disability
24 which will cover the longest period and the largest amount payable
25 under this chapter.

26 (m) If an employee receives a permanent disability from
27 occupational disease such as specified in subsection (g)(1), (g)(2),
28 (g)(3), (g)(6), or (g)(7), after having sustained another such permanent
29 disability in the same employment the employee shall be entitled to
30 compensation for both such disabilities, but the total compensation
31 shall be paid by extending the period and not by increasing the amount
32 of weekly compensation and, when such previous and subsequent
33 permanent disabilities, in combination result in total permanent
34 disability or permanent total impairment, compensation shall be
35 payable for such permanent total disability or impairment, but
36 payments made for the previous disability or impairment shall be
37 deducted from the total payment of compensation due.

38 (n) When an employee has been awarded or is entitled to an award
39 of compensation for a definite period under this chapter for disability
40 from occupational disease, which disablement occurs on and after April
41 1, 1951, and prior to April 1, 1963, and such employee dies from any
42 other cause than such occupational disease, payment of the unpaid

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1 balance of such compensation, not exceeding three hundred (300)
2 weeks, shall be made to the employee's dependents of the second and
3 third class as defined in sections 11 through 14 of this chapter, and
4 compensation, not exceeding five hundred (500) weeks, shall be made
5 to the employee's dependents of the first class as defined in sections 11
6 through 14 of this chapter. When an employee has been awarded or is
7 entitled to an award of compensation for a definite period from an
8 occupational disease wherein disablement occurs on and after April 1,
9 1963, and such employee dies from other causes than such
10 occupational disease, payment of the unpaid balance of such
11 compensation not exceeding three hundred fifty (350) weeks shall be
12 paid to the employee's dependents of the second and third class as
13 defined in sections 11 through 14 of this chapter and compensation, not
14 exceeding five hundred (500) weeks shall be made to the employee's
15 dependents of the first class as defined in sections 11 through 14 of this
16 chapter.

17 (o) Any payment made by the employer to the employee during the
18 period of the employee's disability, or to the employee's dependents,
19 which, by the terms of this chapter, was not due and payable when
20 made, may, subject to the approval of the worker's compensation board,
21 be deducted from the amount to be paid as compensation, but such
22 deduction shall be made from the distal end of the period during which
23 compensation must be paid, except in cases of temporary disability.

24 (p) When so provided in the compensation agreement or in the
25 award of the worker's compensation board, compensation may be paid
26 semimonthly, or monthly, instead of weekly.

27 (q) When the aggregate payments of compensation awarded by
28 agreement or upon hearing to an employee or dependent under eighteen
29 (18) years of age do not exceed one hundred dollars (\$100), the
30 payment thereof may be made directly to such employee or dependent,
31 except when the worker's compensation board shall order otherwise.

32 Whenever the aggregate payments of compensation, due to any
33 person under eighteen (18) years of age, exceed one hundred dollars
34 (\$100), the payment thereof shall be made to a trustee, appointed by the
35 circuit or superior court, or to a duly qualified guardian, or, upon the
36 order of the worker's compensation board, to a parent or to such minor
37 person. The payment of compensation, due to any person eighteen (18)
38 years of age or over, may be made directly to such person.

39 (r) If an employee, or a dependent, is mentally incompetent, or a
40 minor at the time when any right or privilege accrues to the employee
41 under this chapter, the employee's guardian or trustee may, in the
42 employee's behalf, claim and exercise such right and privilege.

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1 (s) All compensation payments named and provided for in this
 2 section, shall mean and be defined to be for only such occupational
 3 diseases and disabilities therefrom as are proved by competent
 4 evidence, of which there are or have been objective conditions or
 5 symptoms proven, not within the physical or mental control of the
 6 employee himself.

7 SECTION 15. IC 22-3-7-16.1 IS ADDED TO THE INDIANA
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE JANUARY 1, 2001]: **Sec. 16.1. (a) Every insurance**
 10 **carrier insuring employers who are or may be liable under this**
 11 **article to pay compensation for disablement or death from**
 12 **occupational diseases of their employees under this article and**
 13 **every employer carrying the employer's own risk shall, within**
 14 **thirty (30) days of the board's mailing of notice that an assessment**
 15 **is necessary, pay to the worker's compensation board for the**
 16 **benefit of a fund to be known as the occupational diseases second**
 17 **injury fund. The payment shall not exceed three percent (3%) of**
 18 **the total amount of all payments under this chapter for**
 19 **occupational diseases paid to employees with occupational diseases**
 20 **or their beneficiaries under this chapter for the calendar year next**
 21 **preceding the due date of the payment. Compensation to be**
 22 **considered for purposes of calculating the assessment includes**
 23 **payments for occupational diseases paid to employees with**
 24 **occupational diseases or their beneficiaries under this chapter but**
 25 **excludes payments for medical payments.**

26 (b) The sums shall be paid by the worker's compensation board
 27 to the treasurer of state to be deposited in a special account known
 28 as the occupational diseases second injury fund. The funds are not
 29 part of the state general fund. Any balance remaining in the
 30 account at the end of any fiscal year does not revert to the state
 31 general fund. The funds shall be used only for the payment of
 32 awards of compensation and expense of medical examinations or
 33 treatment made and ordered by the board and chargeable against
 34 the occupational diseases second injury fund under this section and
 35 shall be paid for that purpose by the treasurer of state upon award
 36 or order of the board.

37 (c) If an employee who is entitled to compensation under this
 38 chapter either:

- 39 (1) exhausts the maximum benefits under section 19 of this
 40 chapter without having received the full amount of award
 41 granted to the employee under section 16 of this chapter; or
 42 (2) exhausts the employee's benefits under section 16 of this



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1 **chapter;**
 2 **the employee may apply to the worker's compensation board,**
 3 **which may award the employee compensation from the**
 4 **occupational diseases second injury fund established by this**
 5 **section, as provided under subsection (d).**

6 **(d) An employee who has exhausted the employee's maximum**
 7 **benefits under section 10 of this chapter may be awarded**
 8 **additional compensation equal to sixty-six and two-thirds percent**
 9 **(66 2/3%) of the employee's average weekly wage at the time of the**
 10 **employee's disablement from occupational disease, not to exceed**
 11 **the maximum then applicable under section 19 of this chapter for**
 12 **a period not to exceed one hundred fifty (150) weeks upon**
 13 **competent evidence sufficient to establish:**

14 **(1) that the employee is totally and permanently disabled from**
 15 **an occupational disease (as defined in section 10 of this**
 16 **chapter) of which there are or have been objective conditions**
 17 **and symptoms proven that are not within the physical or**
 18 **mental control of the employee; and**

19 **(2) that the employee is unable to support the employee in any**
 20 **gainful employment not associated with rehabilitative or**
 21 **vocational therapy.**

22 **(e) The additional award may be renewed during the employee's**
 23 **total and permanent disability after appropriate hearings by the**
 24 **worker's compensation board for successive periods not to exceed**
 25 **one hundred fifty (150) weeks each.**

26 **SECTION 16. IC 22-3-7-17 IS AMENDED TO READ AS**
 27 **FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) During the**
 28 **period of disablement, the employer shall furnish or cause to be**
 29 **furnished, free of charge to the employee, an attending physician for**
 30 **the treatment of his occupational disease, and in addition thereto such**
 31 **surgical, hospital, and nursing services and supplies as the attending**
 32 **physician or the worker's compensation board may deem necessary. If**
 33 **the employee is requested or required by the employer to submit to**
 34 **treatment outside the county of employment, ~~said~~ the employer shall**
 35 **also pay the reasonable expense of travel, food, and lodging necessary**
 36 **during the travel, but not to exceed the amount paid at the time of ~~said~~**
 37 **the travel by the state of Indiana to its employees.**

38 **(b) During the period of disablement resulting from the occupational**
 39 **disease, the employer shall furnish such physician, services, and**
 40 **supplies, and the worker's compensation board may, on proper**
 41 **application of either party, require that treatment by such physician and**
 42 **such services and supplies be furnished by or on behalf of the employer**



1 as the board may deem reasonably necessary.

2 (c) **No representative of the employer or insurance carrier,**
3 **including case managers or rehabilitation nurses, may be present**
4 **at any treatment of an employee with an occupational disease**
5 **without the express written consent of the employee and the**
6 **treating medical personnel. At the time of any medical treatment**
7 **that a representative of the employer wishes to attend, the**
8 **representative of the employer shall inform the employee with an**
9 **occupational disease and treating medical personnel that their**
10 **written consent is required before the attendance of the employer's**
11 **representative. The employee's compensation and benefits may not**
12 **be jeopardized in any way due to the employer's failure or refusal**
13 **to complete a written waiver allowing the attendance of the**
14 **employer's representative. The employer's representative may not**
15 **in any way cause the employee to believe that the employee's**
16 **compensation and benefits will be terminated if the employee fails**
17 **or refuses to complete a written waiver allowing the attendance of**
18 **the employer's representative. The written waivers shall be**
19 **executed on forms prescribed by the board.**

20 (d) After an employee's occupational disease has been adjudicated
21 by agreement or award on the basis of permanent partial impairment
22 and within the statutory period for review in such case as provided in
23 section 27(i) of this chapter, the employer may continue to furnish a
24 physician or a surgeon and other medical services and supplies, and the
25 board may, within such statutory period for review as provided in
26 section 27(i) of this chapter, on a proper application of either party,
27 require that treatment by such physician or surgeon and such services
28 and supplies be furnished by and on behalf of the employer as the
29 board may deem necessary to limit or reduce the amount and extent of
30 such impairment. The refusal of the employee to accept such services
31 and supplies when so provided by or on behalf of the employer, shall
32 bar the employee from all compensation otherwise payable during the
33 period of such refusal and his right to prosecute any proceeding under
34 this chapter shall be suspended and abated until such refusal ceases.
35 The employee must be served with a notice setting forth the
36 consequences of the refusal under this section. The notice must be in
37 a form prescribed by the worker's compensation board. No
38 compensation for permanent total impairment, permanent partial
39 impairment, permanent disfigurement, or death shall be paid or payable
40 for that part or portion of such impairment, disfigurement, or death
41 which is the result of the failure of such employee to accept such
42 treatment, services, and supplies, provided that an employer may at any

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1 time permit an employee to have treatment for his disease or injury by
 2 spiritual means or prayer in lieu of such physician, services, and
 3 supplies.

4 ~~(e)~~ (e) Regardless of when it occurs, where a compensable
 5 occupational disease results in the amputation of a body part, the
 6 enucleation of an eye, or the loss of natural teeth, the employer shall
 7 furnish an appropriate artificial member, braces, and prosthodontics.
 8 The cost of repairs to or replacements for the artificial members,
 9 braces, or prosthodontics that result from a compensable occupational
 10 disease pursuant to a prior award and are required due to either medical
 11 necessity or normal wear and tear, determined according to the
 12 employee's individual use, but not abuse, of the artificial member,
 13 braces, or prosthodontics, shall be paid from the second injury fund
 14 upon order or award of the worker's compensation board. The
 15 employee is not required to meet any other requirement for admission
 16 to the second injury fund.

17 ~~(f)~~ (f) If an emergency or because of the employer's failure to
 18 provide such attending physician or such surgical, hospital, or nurse's
 19 services and supplies or such treatment by spiritual means or prayer as
 20 specified in this section, or for other good reason, a physician other
 21 than that provided by the employer treats the diseased employee within
 22 the period of disability, or necessary and proper surgical, hospital, or
 23 nurse's services and supplies are procured within ~~said~~ the period, the
 24 reasonable cost of such services and supplies shall, subject to approval
 25 of the worker's compensation board, be paid by the employer.

26 ~~(g)~~ (g) This section may not be construed to prohibit an agreement
 27 between an employer and employees that has the approval of the board
 28 and that:

- 29 (1) binds the parties to medical care furnished by providers
- 30 selected by agreement before or after disablement; or
- 31 (2) makes the findings of a provider chosen in this manner
- 32 binding upon the parties.

33 ~~(h)~~ (h) The employee and the employee's estate do not have liability
 34 to a health care provider for payment for services obtained under this
 35 section. The right to order payment for all services provided under this
 36 chapter is solely with the board. All claims by a health care provider for
 37 payment for services are against the employer and the employer's
 38 insurance carrier, if any, and must be made with the board under this
 39 chapter.

40 SECTION 17. IC 22-3-7-19 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) In computing
 42 compensation for temporary total disability, temporary partial

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1 disability, and total permanent disability under this law with respect to
2 occupational diseases occurring:

3 (1) on and after July 1, 1974, and before July 1, 1976, the average
4 weekly wages shall be considered to be:

5 (A) not more than one hundred thirty-five dollars (\$135); and

6 (B) not less than seventy-five dollars (\$75);

7 (2) on and after July 1, 1976, and before July 1, 1977, the average
8 weekly wages shall be considered to be:

9 (A) not more than one hundred fifty-six dollars (\$156); and

10 (B) not less than seventy-five dollars (\$75);

11 (3) on and after July 1, 1977, and before July 1, 1979, the average
12 weekly wages are considered to be:

13 (A) not more than one hundred eighty dollars (\$180); and

14 (B) not less than seventy-five dollars (\$75);

15 (4) on and after July 1, 1979, and before July 1, 1980, the average
16 weekly wages are considered to be:

17 (A) not more than one hundred ninety-five dollars (\$195); and

18 (B) not less than seventy-five dollars (\$75);

19 (5) on and after July 1, 1980, and before July 1, 1983, the average
20 weekly wages are considered to be:

21 (A) not more than two hundred ten dollars (\$210); and

22 (B) not less than seventy-five dollars (\$75);

23 (6) on and after July 1, 1983, and before July 1, 1984, the average
24 weekly wages are considered to be:

25 (A) not more than two hundred thirty-four dollars (\$234); and

26 (B) not less than seventy-five dollars (\$75); and

27 (7) on and after July 1, 1984, and before July 1, 1985, the average
28 weekly wages are considered to be:

29 (A) not more than two hundred forty-nine dollars (\$249); and

30 (B) not less than seventy-five dollars (\$75).

31 (b) In computing compensation for temporary total disability,
32 temporary partial disability, and total permanent disability, with respect
33 to occupational diseases occurring on and after July 1, 1985, and before
34 July 1, 1986, the average weekly wages are considered to be:

35 (1) not more than two hundred sixty-seven dollars (\$267); and

36 (2) not less than seventy-five dollars (\$75).

37 (c) In computing compensation for temporary total disability,
38 temporary partial disability, and total permanent disability, with respect
39 to occupational diseases occurring on and after July 1, 1986, and before
40 July 1, 1988, the average weekly wages are considered to be:

41 (1) not more than two hundred eighty-five dollars (\$285); and

42 (2) not less than seventy-five dollars (\$75).



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1 (d) In computing compensation for temporary total disability,
2 temporary partial disability, and total permanent disability, with respect
3 to occupational diseases occurring on and after July 1, 1988, and before
4 July 1, 1989, the average weekly wages are considered to be:

- 5 (1) not more than three hundred eighty-four dollars (\$384); and
6 (2) not less than seventy-five dollars (\$75).

7 (e) In computing compensation for temporary total disability,
8 temporary partial disability, and total permanent disability, with respect
9 to occupational diseases occurring on and after July 1, 1989, and before
10 July 1, 1990, the average weekly wages are considered to be:

- 11 (1) not more than four hundred eleven dollars (\$411); and
12 (2) not less than seventy-five dollars (\$75).

13 (f) In computing compensation for temporary total disability,
14 temporary partial disability, and total permanent disability, with respect
15 to occupational diseases occurring on and after July 1, 1990, and before
16 July 1, 1991, the average weekly wages are considered to be:

- 17 (1) not more than four hundred forty-one dollars (\$441); and
18 (2) not less than seventy-five dollars (\$75).

19 (g) In computing compensation for temporary total disability,
20 temporary partial disability, and total permanent disability, with respect
21 to occupational diseases occurring on and after July 1, 1991, and before
22 July 1, 1992, the average weekly wages are considered to be:

- 23 (1) not more than four hundred ninety-two dollars (\$492); and
24 (2) not less than seventy-five dollars (\$75).

25 (h) In computing compensation for temporary total disability,
26 temporary partial disability, and total permanent disability, with respect
27 to occupational diseases occurring on and after July 1, 1992, and before
28 July 1, 1993, the average weekly wages are considered to be:

- 29 (1) not more than five hundred forty dollars (\$540); and
30 (2) not less than seventy-five dollars (\$75).

31 (i) In computing compensation for temporary total disability,
32 temporary partial disability, and total permanent disability, with respect
33 to occupational diseases occurring on and after July 1, 1993, and before
34 July 1, 1994, the average weekly wages are considered to be:

- 35 (1) not more than five hundred ninety-one dollars (\$591); and
36 (2) not less than seventy-five dollars (\$75).

37 (j) In computing compensation for temporary total disability,
38 temporary partial disability and total permanent disability, with respect
39 to occupational diseases occurring on and after July 1, 1994, and before
40 July 1, 1997, the average weekly wages are considered to be:

- 41 (1) not more than six hundred forty-two dollars (\$642); and
42 (2) not less than seventy-five dollars (\$75).



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1 (k) In computing compensation for temporary total disability,
 2 temporary partial disability, and total permanent disability, the average
 3 weekly wages are considered to be:

4 (1) with respect to occupational diseases occurring on and after
 5 July 1, 1997, and before July 1, 1998:

6 (A) not more than six hundred seventy-two dollars (\$672); and

7 (B) not less than seventy-five dollars (\$75);

8 (2) with respect to occupational diseases occurring on and after
 9 July 1, 1998, and before July 1, 1999:

10 (A) not more than seven hundred two dollars (\$702); and

11 (B) not less than seventy-five dollars (\$75);

12 (3) with respect to occupational diseases occurring on and after
 13 July 1, 1999, and before July 1, 2000:

14 (A) not more than seven hundred thirty-two dollars (\$732);
 15 and

16 (B) not less than seventy-five dollars (\$75); ~~and~~

17 (4) with respect to occupational diseases ~~occurring~~ **occurring** on
 18 and after July 1, 2000, **and before July 1, 2001:**

19 (A) not more than seven hundred sixty-two dollars (\$762); and

20 (B) not less than seventy-five dollars (\$75);

21 **(5) with respect to occupational diseases occurring on and**
 22 **after July 1, 2001, and before July 1, 2002:**

23 **(A) not more than eight hundred seven dollars (\$807); and**

24 **(B) not less than seventy-five dollars (\$75); and**

25 **(6) with respect to occupational diseases occurring on and**
 26 **after July 1, 2002:**

27 **(A) not more than eight hundred forty dollars (\$840); and**

28 **(B) not less than seventy-five dollars (\$75).**

29 (l) The maximum compensation that shall be paid for occupational
 30 disease and its results under any one (1) or more provisions of this
 31 chapter with respect to disability or death occurring:

32 (1) on and after July 1, 1974, and before July 1, 1976, shall not
 33 exceed forty-five thousand dollars (\$45,000) in any case;

34 (2) on and after July 1, 1976, and before July 1, 1977, shall not
 35 exceed fifty-two thousand dollars (\$52,000) in any case;

36 (3) on and after July 1, 1977, and before July 1, 1979, may not
 37 exceed sixty thousand dollars (\$60,000) in any case;

38 (4) on and after July 1, 1979, and before July 1, 1980, may not
 39 exceed sixty-five thousand dollars (\$65,000) in any case;

40 (5) on and after July 1, 1980, and before July 1, 1983, may not
 41 exceed seventy thousand dollars (\$70,000) in any case;

42 (6) on and after July 1, 1983, and before July 1, 1984, may not



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1 exceed seventy-eight thousand dollars (\$78,000) in any case; and
2 (7) on and after July 1, 1984, and before July 1, 1985, may not
3 exceed eighty-three thousand dollars (\$83,000) in any case.

4 (m) The maximum compensation with respect to disability or death
5 occurring on and after July 1, 1985, and before July 1, 1986, which
6 shall be paid for occupational disease and the results thereof under the
7 provisions of this chapter or under any combination of its provisions
8 may not exceed eighty-nine thousand dollars (\$89,000) in any case.
9 The maximum compensation with respect to disability or death
10 occurring on and after July 1, 1986, and before July 1, 1988, which
11 shall be paid for occupational disease and the results thereof under the
12 provisions of this chapter or under any combination of its provisions
13 may not exceed ninety-five thousand dollars (\$95,000) in any case. The
14 maximum compensation with respect to disability or death occurring
15 on and after July 1, 1988, and before July 1, 1989, that shall be paid for
16 occupational disease and the results thereof under this chapter or under
17 any combination of its provisions may not exceed one hundred
18 twenty-eight thousand dollars (\$128,000) in any case.

19 (n) The maximum compensation with respect to disability or death
20 occurring on and after July 1, 1989, and before July 1, 1990, that shall
21 be paid for occupational disease and the results thereof under this
22 chapter or under any combination of its provisions may not exceed one
23 hundred thirty-seven thousand dollars (\$137,000) in any case.

24 (o) The maximum compensation with respect to disability or death
25 occurring on and after July 1, 1990, and before July 1, 1991, that shall
26 be paid for occupational disease and the results thereof under this
27 chapter or under any combination of its provisions may not exceed one
28 hundred forty-seven thousand dollars (\$147,000) in any case.

29 (p) The maximum compensation with respect to disability or death
30 occurring on and after July 1, 1991, and before July 1, 1992, that shall
31 be paid for occupational disease and the results thereof under this
32 chapter or under any combination of the provisions of this chapter may
33 not exceed one hundred sixty-four thousand dollars (\$164,000) in any
34 case.

35 (q) The maximum compensation with respect to disability or death
36 occurring on and after July 1, 1992, and before July 1, 1993, that shall
37 be paid for occupational disease and the results thereof under this
38 chapter or under any combination of the provisions of this chapter may
39 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

40 (r) The maximum compensation with respect to disability or death
41 occurring on and after July 1, 1993, and before July 1, 1994, that shall
42 be paid for occupational disease and the results thereof under this

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1 chapter or under any combination of the provisions of this chapter may
 2 not exceed one hundred ninety-seven thousand dollars (\$197,000) in
 3 any case.

4 (s) The maximum compensation with respect to disability or death
 5 occurring on and after July 1, 1994, and before July 1, 1997, that shall
 6 be paid for occupational disease and the results thereof under this
 7 chapter or under any combination of the provisions of this chapter may
 8 not exceed two hundred fourteen thousand dollars (\$214,000) in any
 9 case.

10 (t) The maximum compensation that shall be paid for occupational
 11 disease and the results of an occupational disease under this chapter or
 12 under any combination of the provisions of this chapter may not exceed
 13 the following amounts in any case:

14 (1) With respect to disability or death occurring on and after July
 15 1, 1997, and before July 1, 1998, two hundred twenty-four
 16 thousand dollars (\$224,000).

17 (2) With respect to disability or death occurring on and after July
 18 1, 1998, and before July 1, 1999, two hundred thirty-four
 19 thousand dollars (\$234,000).

20 (3) With respect to disability or death occurring on and after July
 21 1, 1999, and before July 1, 2000, two hundred forty-four thousand
 22 dollars (\$244,000).

23 (4) With respect to disability or death occurring on and after July
 24 1, 2000, **and before July 1, 2001**, two hundred fifty-four
 25 thousand dollars (\$254,000).

26 **(5) With respect to disability or death occurring on and after**
 27 **July 1, 2001, and before July 1, 2002, two hundred sixty-nine**
 28 **thousand dollars (\$269,000).**

29 **(6) With respect to disability or death occurring on and after**
 30 **July 1, 2002, two hundred eighty thousand dollars (\$280,000).**

31 (u) For all disabilities occurring before July 1, 1985, "average
 32 weekly wages" shall mean the earnings of the injured employee in the
 33 employment in which the employee was working at the time of the last
 34 exposure during the period of fifty-two (52) weeks immediately
 35 preceding the last day of the last exposure divided by fifty-two (52). If
 36 the employee lost seven (7) or more calendar days during the period,
 37 although not in the same week, then the earnings for the remainder of
 38 the fifty-two (52) weeks shall be divided by the number of weeks and
 39 parts thereof remaining after the time lost has been deducted. Where
 40 the employment prior to the last day of the last exposure extended over
 41 a period of less than fifty-two (52) weeks, the method of dividing the
 42 earnings during that period by the number of weeks and parts thereof



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1 during which the employee earned wages shall be followed if results
 2 just and fair to both parties will be obtained. Where by reason of the
 3 shortness of the time during which the employee has been in the
 4 employment of the employer or of the casual nature or terms of the
 5 employment it is impracticable to compute the average weekly wages
 6 as above defined, regard shall be had to the average weekly amount
 7 which, during the fifty-two (52) weeks previous to the last day of the
 8 last exposure, was being earned by a person in the same grade
 9 employed at the same work by the same employer, or if there is no
 10 person so employed, by a person in the same grade employed in that
 11 same class of employment in the same district. Whenever allowances
 12 of any character are made to an employee in lieu of wages or a
 13 specified part of the wage contract, they shall be deemed a part of the
 14 employee's earnings.

15 (v) For all disabilities occurring on and after July 1, 1985, "average
 16 weekly wages" means the earnings of the injured employee during the
 17 period of fifty-two (52) weeks immediately preceding the disability
 18 divided by fifty-two (52). If the employee lost seven (7) or more
 19 calendar days during the period, although not in the same week, then
 20 the earnings for the remainder of the fifty-two (52) weeks shall be
 21 divided by the number of weeks and parts of weeks remaining after the
 22 time lost has been deducted. If employment before the date of disability
 23 extended over a period of less than fifty-two (52) weeks, the method of
 24 dividing the earnings during that period by the number of weeks and
 25 parts of weeks during which the employee earned wages shall be
 26 followed if results just and fair to both parties will be obtained. If by
 27 reason of the shortness of the time during which the employee has been
 28 in the employment of the employer or of the casual nature or terms of
 29 the employment it is impracticable to compute the average weekly
 30 wages for the employee, the employee's average weekly wages shall be
 31 considered to be the average weekly amount that, during the fifty-two
 32 (52) weeks before the date of disability, was being earned by a person
 33 in the same grade employed at the same work by the same employer or,
 34 if there is no person so employed, by a person in the same grade
 35 employed in that same class of employment in the same district.
 36 Whenever allowances of any character are made to an employee
 37 instead of wages or a specified part of the wage contract, they shall be
 38 considered a part of the employee's earnings.

39 (w) The provisions of this article may not be construed to result in
 40 an award of benefits in which the number of weeks paid or to be paid
 41 for temporary total disability, temporary partial disability, or permanent
 42 total disability benefits combined exceeds five hundred (500) weeks.



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1 This section shall not be construed to prevent a person from applying
 2 for an award under IC 22-3-3-13. However, in case of permanent total
 3 disability resulting from a disablement occurring on or after January 1,
 4 1998, the minimum total benefit shall not be less than seventy-five
 5 thousand dollars (\$75,000).

6 SECTION 18. IC 22-3-7-20 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) After
 8 disablement and during the period of claimed resulting disability or
 9 impairment, the employee, if so requested by the employee's employer
 10 or ordered by the worker's compensation board, shall submit to an
 11 examination at reasonable times and places by a duly qualified
 12 physician or surgeon designated and paid by the employer or by order
 13 of the board. The employee shall have the right to have present at any
 14 such examination any duly qualified physician or surgeon provided and
 15 paid for by the employee. No fact communicated to or otherwise
 16 learned by any physician or surgeon who may have attended or
 17 examined the employee, or who may have been present at any
 18 examination, shall be privileged either in the hearings provided for in
 19 this chapter, or in any action at law brought to recover damages against
 20 any employer who is subject to the compensation provisions of this
 21 chapter. If the employee refuses to submit to, or in any way obstructs
 22 the examinations, the employee's right to compensation and right to
 23 take or prosecute any proceedings under this chapter shall be
 24 suspended until the refusal or obstruction ceases. No compensation
 25 shall at any time be payable for the period of suspension unless in the
 26 opinion of the board, the circumstances justified the refusal or
 27 obstruction. The employee must be served with a notice setting forth
 28 the consequences of the refusal under this subsection. The notice must
 29 be in a form prescribed by the worker's compensation board.

30 (b) Any employer requesting an examination of any employee
 31 residing within Indiana shall pay, in advance of the time fixed for the
 32 examination, sufficient money to defray the necessary expenses of
 33 travel by the most convenient means to and from the place of
 34 examination, and the cost of meals and lodging necessary during the
 35 travel. If the method of travel is by automobile, the mileage rate to be
 36 paid by the employer shall be the rate as is then currently being paid by
 37 the state to its employees under the state travel policies and procedures
 38 established by the department of administration and approved by the
 39 state budget agency. If the examination or travel to or from the place of
 40 examination causes any loss of working time on the part of the
 41 employee, the employer shall reimburse the employee for the loss of
 42 wages upon the basis of such employee's average daily wage.



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1 (c) When any employee injured in Indiana moves outside Indiana,
 2 the travel expense and the cost of meals and lodging necessary during
 3 the travel, payable under this section, shall be paid from the point in
 4 Indiana nearest to the employee's then residence to the place of
 5 examination. No travel and other expense shall be paid for any travel
 6 and other expense required outside Indiana.

7 (d) A duly qualified physician or surgeon provided and paid for by
 8 the employee may be present at an examination, if the employee so
 9 desires. In all cases, where the examination is made by a physician or
 10 surgeon engaged by the employer and the disabled or injured employee
 11 has no physician or surgeon present at the examination, it shall be the
 12 duty of the physician or surgeon making the examination to deliver to
 13 the injured employee, or the employee's representative, a statement in
 14 writing of the conditions evidenced by such examination. The
 15 statement shall disclose all facts that are reported by the physician or
 16 surgeon to the employer. This statement shall be furnished to the
 17 employee or the employee's representative as soon as practicable, but
 18 not later than thirty (30) days before the time the case is set for hearing.
 19 The statement may be submitted by either party as evidence by that
 20 physician or surgeon at a hearing before the worker's compensation
 21 board if the statement meets the requirements of subsection ~~(f)~~ (g). If
 22 the physician or surgeon fails or refuses to furnish the employee or the
 23 employee's representative with such statement thirty (30) days before
 24 the hearing, then the statement may not be submitted as evidence, and
 25 the physician shall not be permitted to testify before the worker's
 26 compensation board as to any facts learned in the examination. All of
 27 the requirements of this subsection apply to all subsequent
 28 examinations requested by the employer.

29 **(e) No representative of the employer or insurance carrier,**
 30 **including case managers or rehabilitation nurses, may be present**
 31 **at any examination of an employee with an occupational disease**
 32 **without the express written consent of the employee and the**
 33 **treating medical personnel. At the time of any medical examination**
 34 **that a representative of the employer wishes to attend, the**
 35 **representative of the employer shall inform the employee with an**
 36 **occupational disease and treating medical personnel that their**
 37 **written consent is required before the attendance of the employer's**
 38 **representative. The employee's compensation and benefits may not**
 39 **be jeopardized in any way due to the employer's failure or refusal**
 40 **to complete a written waiver allowing the attendance of the**
 41 **employer's representative. The employer's representative may not**
 42 **in any way cause the employee to believe that the employee's**



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1 **compensation and benefits will be terminated if the employee fails**
2 **or refuses to complete a written waiver allowing the attendance of**
3 **the employer's representative. The written waivers shall be**
4 **executed on forms prescribed by the board.**

5 ~~(e)~~ (f) In all cases where an examination of an employee is made by
6 a physician or surgeon engaged by the employee, and the employer has
7 no physician or surgeon present at such examination, it shall be the
8 duty of the physician or surgeon making the examination to deliver to
9 the employer or the employer's representative a statement in writing of
10 the conditions evidenced by such examination. The statement shall
11 disclose all the facts that are reported by such physician or surgeon to
12 the employee. The statement shall be furnished to the employer or the
13 employer's representative as soon as practicable, but not later than
14 thirty (30) days before the time the case is set for hearing. The
15 statement may be submitted by either party as evidence by that
16 physician or surgeon at a hearing before the worker's compensation
17 board if the statement meets the requirements of subsection ~~(f)~~ (g). If
18 the physician or surgeon fails or refuses to furnish the employer or the
19 employer's representative with such statement thirty (30) days before
20 the hearing, then the statement may not be submitted as evidence, and
21 the physician or surgeon shall not be permitted to testify before the
22 worker's compensation board as to any facts learned in such
23 examination. All of the requirements of this subsection apply to all
24 subsequent examinations made by a physician or surgeon engaged by
25 the employee.

26 ~~(f)~~ (g) All statements of physicians or surgeons required by this
27 section, whether those engaged by employee or employer, shall contain
28 the following information:

- 29 (1) The history of the injury, or claimed injury, as given by the
- 30 patient.
- 31 (2) The diagnosis of the physician or surgeon concerning the
- 32 patient's physical or mental condition.
- 33 (3) The opinion of the physician or surgeon concerning the causal
- 34 relationship, if any, between the injury and the patient's physical
- 35 or mental condition, including the physician's or surgeon's reasons
- 36 for the opinion.
- 37 (4) The opinion of the physician or surgeon concerning whether
- 38 the injury or claimed injury resulted in a disability or impairment
- 39 and, if so, the opinion of the physician or surgeon concerning the
- 40 extent of the disability or impairment and the reasons for the
- 41 opinion.
- 42 (5) The original signature of the physician or surgeon.

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1 Notwithstanding any hearsay objection, the worker's compensation
 2 board shall admit into evidence a statement that meets the requirements
 3 of this subsection unless the statement is ruled inadmissible on other
 4 grounds.

5 ~~(g)~~ **(h)** Delivery of any statement required by this section may be
 6 made to the attorney or agent of the employer or employee and such an
 7 action shall be construed as delivery to the employer or employee.

8 ~~(h)~~ **(i)** Any party may object to a statement on the basis that the
 9 statement does not meet the requirements of subsection ~~(e)~~ **(f)**. The
 10 objecting party must give written notice to the party providing the
 11 statement and specify the basis for the objection. Notice of the
 12 objection must be given no later than twenty (20) days before the
 13 hearing. Failure to object as provided in this subsection precludes any
 14 further objection as to the adequacy of the statement under subsection
 15 ~~(f)~~ **(g)**.

16 ~~(i)~~ **(j)** The employer upon proper application, or the worker's
 17 compensation board, shall have the right in any case of death to require
 18 an autopsy at the expense of the party requesting the same. If, after a
 19 hearing, the board orders an autopsy and the autopsy is refused by the
 20 surviving spouse or next of kin, in this event any claim for
 21 compensation on account of the death shall be suspended and abated
 22 during the refusal. The surviving spouse or dependent must be served
 23 with a notice setting forth the consequences of the refusal under this
 24 subsection. The notice must be in a form prescribed by the worker's
 25 compensation board. No autopsy, except one performed by or on the
 26 authority or order of the coroner in discharge of the coroner's duties,
 27 shall be held in any case by any person without notice first being given
 28 to the surviving spouse or next of kin, if they reside in Indiana or their
 29 whereabouts can reasonably be ascertained, of the time and place
 30 thereof, and reasonable time and opportunity shall be given such
 31 surviving spouse or next of kin to have a representative or
 32 representatives present to witness same. However, if such notice is not
 33 given, all evidence obtained by the autopsy shall be suspended on
 34 motion duly made to the board.

35 SECTION 19. IC 22-4-2-12 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. "Base period"
 37 means the ~~first four (4) of the last five (5)~~ **four (4)** completed calendar
 38 quarters immediately preceding the first day of an individual's benefit
 39 period. ~~Provided, However, That~~ for a claim computed in accordance
 40 with IC ~~1971~~, 22-4-22, the base period shall be the base period as
 41 outlined in the paying state's law.

42 SECTION 20. IC 22-4-4-3 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) For calendar
2 quarters beginning on and after April 1, 1979, and before April 1,
3 1984, "wage credits" means remuneration paid for employment by an
4 employer to an individual. Wage credits may not exceed three thousand
5 six hundred sixty-six dollars (\$3,666) and may not include payments
6 specified in section 2(b) of this chapter.

7 (b) For calendar quarters beginning on and after April 1, 1984, and
8 before April 1, 1985, "wage credits" means remuneration paid for
9 employment by an employer to an individual. Wage credits may not
10 exceed three thousand nine hundred twenty-six dollars (\$3,926) and
11 may not include payments specified in section 2(b) of this chapter.

12 (c) For calendar quarters beginning on and after April 1, 1985, and
13 before January 1, 1991, "wage credits" means remuneration paid for
14 employment by an employer to an individual. Wage credits may not
15 exceed four thousand one hundred eighty-six dollars (\$4,186) and may
16 not include payments specified in section 2(b) of this chapter.

17 (d) For calendar quarters beginning on and after January 1, 1991,
18 and before July 1, 1995, "wage credits" means remuneration paid for
19 employment by an employer to an individual. Wage credits may not
20 exceed four thousand eight hundred ten dollars (\$4,810) and may not
21 include payments specified in section 2(b) of this chapter.

22 (e) For calendar quarters beginning on and after July 1, 1995, and
23 before July 1, 1997, "wage credits" means remuneration paid for
24 employment by an employer to an individual and remuneration
25 received as tips or gratuities in accordance with Sections 3301 and
26 3102 et seq. of the Internal Revenue Code. Wage credits may not
27 exceed five thousand dollars (\$5,000) and may not include payments
28 specified in section 2(b) of this chapter.

29 (f) For calendar quarters beginning on and after July 1, 1997, and
30 before July 1, 1998, "wage credits" means remuneration paid for
31 employment by an employer to an individual and remuneration
32 received as tips or gratuities in accordance with Sections 3301 and
33 3102 et seq. of the Internal Revenue Code. Wage credits may not
34 exceed five thousand four hundred dollars (\$5,400) and may not
35 include payments specified in section 2(b) of this chapter.

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

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1 2(b) of this chapter.

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

10 (i) **For calendar quarters beginning on and after July 1, 2000,**
 11 **"wage credits" means remuneration paid for employment by an**
 12 **employer to an individual and remuneration received as tips or**
 13 **gratuities in accordance with Sections 3301 and 3102 et seq. of the**
 14 **Internal Revenue Code. Wage credits may not include payments**
 15 **that are excluded from the definition of wages under section 2(b)**
 16 **of this chapter and may not exceed the following:**

17 (1) **Seven thousand two hundred dollars (\$7,200) in a calendar**
 18 **quarter beginning on and after July 1, 2000.**

19 (2) **Eight thousand six hundred dollars (\$8,600) in a calendar**
 20 **quarter beginning on and after July 1, 2001.**

21 (3) **Ten thousand dollars (\$10,000) in a calendar quarter**
 22 **beginning on and after July 1, 2002.**

23 SECTION 21. IC 22-4-12-4 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Benefits shall be
 25 computed upon the basis of wage credits of an individual in his base
 26 period. Wage credits shall be reported by the employer and credited to
 27 the individual in the manner prescribed by the board. With respect to
 28 initial claims filed for any week beginning on and after July 4, 1959,
 29 and before July 7, 1991, the maximum total amount of benefits payable
 30 to any eligible individual during any benefit period shall not exceed
 31 twenty-six (26) times his weekly benefit, or twenty-five percent (25%)
 32 of his wage credits with respect to his base period, whichever is the
 33 lesser.

34 (b) With respect to initial claims filed for any week beginning on
 35 and after July 7, 1991, **and before July 1, 1999**, the maximum total
 36 amount of benefits payable to any eligible individual during any benefit
 37 period shall not exceed twenty-six (26) times the individual's weekly
 38 benefit, or twenty-eight percent (28%) of the individual's wage credits
 39 with respect to the individual's base period, whichever is less. If such
 40 maximum total amount of benefits is not a multiple of one dollar (\$1),
 41 it shall be computed to the next lower multiple of one dollar (\$1).

42 (c) **With respect to initial claims filed for any week beginning on**



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1 **and after July 1, 1999, the maximum total amount of benefits**
 2 **payable to any eligible individual during any benefit period shall**
 3 **not exceed twenty-six (26) times the individual's weekly benefit, or**
 4 **thirty-two percent (32%) of the individual's wage credits with**
 5 **respect to the individual's base period, whichever is less. If the**
 6 **maximum total amount of benefits is not a multiple of one dollar**
 7 **(\$1), it shall be computed to the next lower multiple of one dollar**
 8 **(\$1).**

9 ~~(b)~~ **(d)** The total extended benefit amount payable to any eligible
 10 individual with respect to his applicable benefit period shall be fifty
 11 percent (50%) of the total amount of regular benefits (including
 12 dependents' allowances) which were payable to him under this article
 13 in the applicable benefit year, or thirteen (13) times the weekly benefit
 14 amount (including dependents' allowances) which was payable to him
 15 under this article for a week of total unemployment in the applicable
 16 benefit year, whichever is the lesser amount.

17 ~~(c)~~ **(e)** This subsection applies to individuals who file a disaster
 18 unemployment claim or a state unemployment insurance claim after
 19 June 1, 1990, and before June 2, 1991, or during another time specified
 20 in another state statute. An individual is entitled to thirteen (13) weeks
 21 of additional benefits, as originally determined, if:

22 (1) the individual has established:

23 (A) a disaster unemployment claim under the Stafford Disaster
 24 Relief and Emergency Assistance Act; or

25 (B) a state unemployment insurance claim as a direct result of
 26 a major disaster;

27 (2) all regular benefits and all disaster unemployment assistance
 28 benefits:

29 (A) have been exhausted by the individual; or

30 (B) are no longer payable to the individual due to the
 31 expiration of the disaster assistance period; and

32 (3) the individual remains unemployed as a direct result of the
 33 disaster.

34 SECTION 22. IC 22-4-14-5 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) As further
 36 conditions precedent to the payment of benefits to an individual with
 37 respect to benefit periods established on and after July 6, 1980, and
 38 before July 7, 1985:

39 (1) the individual must have established, after the last day of his
 40 last base period, if any, wage credits (as defined in IC 22-4-4-3)
 41 and within the meaning of IC 22-4-22-3 equal to at least one and
 42 one-quarter (1.25) times the wages paid to him in the calendar



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1 quarter in which his wages were highest; and
 2 (2) the individual must have established wage credits in the last
 3 two (2) calendar quarters of his base period in a total amount of
 4 not less than nine hundred dollars (\$900) and an aggregate
 5 amount in the four (4) calendar quarters of his base period of not
 6 less than one thousand five hundred dollars (\$1,500).

7 (b) As further conditions precedent to the payment of benefits to an
 8 individual with respect to benefit periods established on and after July
 9 7, 1985, and before January 1, 1992:

10 (1) the individual must have established, after the last day of the
 11 individual's last base period, if any, wage credits (as defined in
 12 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at
 13 least one and one-half (1.5) times the wages paid to the individual
 14 in the calendar quarter in which the individual's wages were
 15 highest; and

16 (2) the individual must have established wage credits in the last
 17 two (2) calendar quarters of the individual's base period in a total
 18 amount of not less than one thousand five hundred dollars
 19 (\$1,500) and an aggregate amount in the four (4) calendar
 20 quarters of the individual's base period of not less than two
 21 thousand five hundred dollars (\$2,500).

22 (c) As further conditions precedent to the payment of benefits to an
 23 individual with respect to benefit periods established on and after
 24 January 1, 1992, and before July 1, 1995:

25 (1) the individual must have established, after the last day of the
 26 individual's last base period, if any, wage credits (as defined in
 27 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at
 28 least one and one-quarter (1.25) times the wages paid to the
 29 individual in the calendar quarter in which the individual's wages
 30 were highest; and

31 (2) the individual must have established wage credits in the last
 32 two (2) calendar quarters of the individual's base period in a total
 33 amount of not less than one thousand five hundred dollars
 34 (\$1,500) and an aggregate in the four (4) calendar quarters of the
 35 individual's base period of not less than two thousand five
 36 hundred dollars (\$2,500).

37 (d) As further conditions precedent to the payment of benefits to an
 38 individual with respect to benefit periods established on and after July
 39 1, 1995, **and before July 1, 1999:**

40 (1) the individual must have established, after the last day of the
 41 individual's last base period, if any, wage credits (as defined in
 42 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at

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1 least one and one-quarter (1.25) times the wages paid to the
 2 individual in the calendar quarter in which the individual's wages
 3 were highest; and

4 (2) the individual must have established wage credits in the last
 5 two (2) calendar quarters of the individual's base period in a total
 6 amount of not less than one thousand six hundred fifty dollars
 7 (\$1,650) and an aggregate in the four (4) calendar quarters of the
 8 individual's base period of not less than two thousand seven
 9 hundred fifty dollars (\$2,750).

10 **(e) As further conditions precedent to the payment of benefits**
 11 **to an individual with respect to benefit periods established on and**
 12 **after July 1, 1999:**

13 **(1) the individual must have established, after the last day of**
 14 **the individual's last base period, if any, wage credits (as**
 15 **defined in IC 22-4-4-3 and within the meaning of**
 16 **IC 22-4-22-3) equal to at least one and one-quarter (1.25)**
 17 **times the wages paid to the individual in the calendar quarter**
 18 **in which the individual's wages were highest; and**

19 **(2) the individual must have established wage credits in an**
 20 **aggregate in the four (4) calendar quarters of the individual's**
 21 **base period of not less than two thousand dollars (\$2,000).**

22 ~~(e)~~ **(f)** As a further condition precedent to the payment of benefits
 23 to an individual with respect to a benefit year established on and after
 24 July 1, 1995, an insured worker may not receive benefits in a benefit
 25 year unless after the beginning of the immediately preceding benefit
 26 year during which the individual received benefits, the individual
 27 performed insured work and earned wages in employment under
 28 IC 22-4-8 in an amount not less than the individual's weekly benefit
 29 amount established for the individual in the preceding benefit year in
 30 each of eight (8) weeks.

31 SECTION 23. IC 22-4-15-1 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) With respect to
 33 benefit periods established on and after July 6, 1980, an individual who
 34 has voluntarily left his employment without good cause in connection
 35 with the work or who was discharged from his employment for just
 36 cause is ineligible for ~~waiting period~~ or benefit rights for the week in
 37 which the disqualifying separation occurred and until he has earned
 38 remuneration in employment equal to or exceeding the weekly benefit
 39 amount of his claim in each of eight (8) weeks. If the qualification
 40 amount has not been earned at the expiration of an individual's benefit
 41 period, the unearned amount shall be carried forward to an extended
 42 benefit period or to the benefit period of a subsequent claim.



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1 (b) When it has been determined that an individual has been
 2 separated from employment under disqualifying conditions as outlined
 3 in this section, the maximum benefit amount of his current claim, as
 4 initially determined, shall be reduced by twenty-five percent (25%). If
 5 twenty-five percent (25%) of the maximum benefit amount is not an
 6 even dollar amount, the amount of such reduction will be raised to the
 7 next higher even dollar amount. When twenty-five percent (25%) of the
 8 maximum benefit amount, as initially determined, exceeds the unpaid
 9 balance remaining in the claim, such reduction will be limited to the
 10 unpaid balance.

11 (c) The disqualifications provided in this section shall be subject to
 12 the following modifications:

13 (1) An individual shall not be subject to disqualification because
 14 of separation from his prior employment if:

15 (A) he left to accept with another employer previously secured
 16 permanent full-time work which offered reasonable
 17 expectation of betterment of wages or working conditions and
 18 thereafter was employed on said job for not less than ten (10)
 19 weeks;

20 (B) having been simultaneously employed by two (2)
 21 employers, he leaves one (1) such employer voluntarily
 22 without good cause in connection with the work but remains
 23 in employment with the second employer with a reasonable
 24 expectation of continued employment; or

25 (C) he left to accept recall made by a base-period employer.

26 (2) An individual whose unemployment is the result of medically
 27 substantiated physical disability and who is involuntarily
 28 unemployed after having made reasonable efforts to maintain the
 29 employment relationship shall not be subject to disqualification
 30 under this section for such separation.

31 (3) An individual who left work to enter the armed forces of the
 32 United States shall not be subject to disqualification under this
 33 section for such leaving of work.

34 (4) An individual whose employment is terminated under the
 35 compulsory retirement provision of a collective bargaining
 36 agreement to which the employer is a party, or under any other
 37 plan, system, or program, public or private, providing for
 38 compulsory retirement and who is otherwise eligible shall not be
 39 deemed to have left his work voluntarily without good cause in
 40 connection with the work. However, if such individual
 41 subsequently becomes reemployed and thereafter voluntarily
 42 leaves work without good cause in connection with the work, he



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1 shall be deemed ineligible as outlined in this section.

2 (5) An otherwise eligible individual shall not be denied benefits
3 for any week because he is in training approved under Section
4 236(a)(1) of the Trade Act of 1974, nor shall the individual be
5 denied benefits by reason of leaving work to enter such training,
6 provided the work left is not suitable employment, or because of
7 the application to any week in training of provisions in this law
8 (or any applicable federal unemployment compensation law),
9 relating to availability for work, active search for work, or refusal
10 to accept work. For purposes of this subdivision, the term
11 "suitable employment" means with respect to an individual, work
12 of a substantially equal or higher skill level than the individual's
13 past adversely affected employment (as defined for purposes of
14 the Trade Act of 1974), and wages for such work at not less than
15 eighty percent (80%) of the individual's average weekly wage as
16 determined for the purposes of the Trade Act of 1974.

17 (6) An individual is not subject to disqualification because of
18 separation from the individual's prior employment if:

19 (A) the prior employment was outside the individual's labor
20 market;

21 (B) the individual left to accept previously secured full-time
22 work with an employer in the individual's labor market; and

23 (C) the individual actually became employed with the
24 employer in the individual's labor market.

25 (7) An individual who, but for the voluntary separation to move
26 to another labor market to join a spouse who had moved to that
27 labor market, shall not be disqualified for that voluntary
28 separation, if the individual is otherwise eligible for benefits.
29 Benefits paid to the spouse whose eligibility is established under
30 this subdivision shall not be charged against the employer from
31 whom the spouse voluntarily separated.

32 As used in this subsection, "labor market" means the area surrounding
33 an individual's permanent residence, outside which the individual
34 cannot reasonably commute on a daily basis. In determining whether
35 an individual can reasonably commute under this subdivision, the
36 department shall consider the nature of the individual's job.

37 ~~(d)~~ (c) "Discharge for just cause" as used in this section is defined
38 to include but not be limited to:

39 (1) separation initiated by an employer for falsification of a
40 employment application to obtain employment through
41 subterfuge;

42 (2) knowing violation of a reasonable and uniformly enforced rule

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- 1 of an employer;
- 2 (3) unsatisfactory attendance, if the individual cannot show good
- 3 cause for absences or tardiness;
- 4 (4) damaging the employer's property through willful negligence;
- 5 (5) refusing to obey instructions;
- 6 (6) reporting to work under the influence of alcohol or drugs or
- 7 consuming alcohol or drugs on employer's premises during
- 8 working hours;
- 9 (7) conduct endangering safety of self or coworkers; or
- 10 (8) incarceration in jail following conviction of a misdemeanor or
- 11 felony by a court of competent jurisdiction or for any breach of
- 12 duty in connection with work which is reasonably owed an
- 13 employee by an employee.

14 SECTION 24. IC 27-1-10-4 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) Upon
 16 authorization of the dissolution, the board of directors shall then
 17 proceed to **do all the following:**

18 ~~(a)~~ (1) Cause a notice that the corporation is about to be dissolved
 19 to be published at least once in a newspaper of general
 20 circulation, printed and published in the English language, in the
 21 county in which the principal office of the corporation is located,
 22 and at least once in a newspaper of general circulation, printed
 23 and published in the English language in the city of Indianapolis,
 24 Marion County, Indiana, and to be mailed to each creditor of the
 25 corporation.

26 ~~(b)~~ (2) Collect all of the corporate assets.

27 ~~(c)~~ (3) Pay and discharge all of the corporate debts and liabilities,
 28 **including any tax, penalty, and interest that have accrued**
 29 **under this article. and**

30 ~~(d)~~ (4) After the expiration of a period of thirty (30) days
 31 following the publication and mailing of said notice, distribute the
 32 remaining corporate assets and property among the shareholders,
 33 members or policyholders according to their respective interests.

34 (b) In case the holders of shares or policies are unknown or shall fail
 35 or refuse to accept their distributive shares in such property and assets,
 36 or are under any disability, or can not be found, after diligent inquiry
 37 or in case the ownership of any shares or policies is in dispute, the
 38 board of directors shall deposit the distributive portions of such shares
 39 of stock or policies with the clerk of the circuit court in the county in
 40 which the principal office is located for the use and benefit of those
 41 who may be lawfully entitled thereto, and such deposit shall have the
 42 same force and effect as if payment had been made directly to and

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1 accepted by the persons lawfully entitled thereto. Such distributive
 2 shares shall be paid over by such clerk to such shareholders or
 3 policyholders, respectively, or to the lawful owner of the shares or
 4 policies, the ownership of which has been in dispute, or to their
 5 respective legal representatives, upon satisfactory proof being made to
 6 such clerk of their respective rights thereto.

7 SECTION 25. IC 27-1-18-2 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) Every
 9 insurance company not organized under the laws of this state, and each
 10 domestic company electing to be taxed under this section, and doing
 11 business within this state shall, on or before March 1 of each year,
 12 report to the department, under the oath of the president and secretary,
 13 the gross amount of all premiums received by it on policies of
 14 insurance covering risks within this state, or in the case of marine or
 15 transportation risks, on policies made, written, or renewed within this
 16 state during the twelve (12) month period ending on December 31 of
 17 the preceding calendar year. From the amount of gross premiums
 18 described in this subsection shall be deducted:

- 19 (1) considerations received for reinsurance of risks within this
 20 state from companies authorized to transact an insurance business
 21 in this state;
- 22 (2) the amount of dividends paid or credited to resident insureds,
 23 or used to reduce current premiums of resident insureds;
- 24 (3) the amount of premiums actually returned to residents on
 25 account of applications not accepted or on account of policies not
 26 delivered; and
- 27 (4) the amount of unearned premiums returned on account of the
 28 cancellation of policies covering risks within the state.

29 (b) A domestic company shall be taxed under this section only in
 30 each calendar year with respect to which it files a notice of election.
 31 The notice of election shall be filed with the insurance commissioner
 32 and the commissioner of the department of state revenue on or before
 33 November 30 in each year and shall state that the domestic company
 34 elects to submit to the tax imposed by this section with respect to the
 35 calendar year commencing January 1 next following the filing of the
 36 notice. The exemption from license fees, privilege, or other taxes
 37 accorded by this section to insurance companies not organized under
 38 the laws of this state and doing business within this state which are
 39 taxed under this chapter shall be applicable to each domestic company
 40 in each calendar year with respect to which it is taxed under this
 41 section. In each calendar year with respect to which a domestic
 42 company has not elected to be taxed under this section it shall be taxed



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1 without regard to this section.

2 ~~(c)(1)~~ (c) For the privilege of doing business in this state, every
3 insurance company required to file the report provided in this section
4 shall pay into the treasury of this state an amount equal to ~~two percent~~
5 ~~(2%)~~ of the excess, if any, of the gross premiums over the allowable
6 deductions **multiplied by the following rate for the year that the**
7 **report covers:**

8 **(1) For 2000, one and ninety-five hundredths percent (1.95%).**

9 **(2) For 2001, one and nine-tenths percent (1.9%).**

10 **(3) For 2002, one and eighty-five hundredths percent (1.85%).**

11 **(4) For 2003, one and eight-tenths percent (1.8%).**

12 **(5) For 2004 and thereafter, one and seventy-five hundredths**
13 **percent (1.75%).**

14 ~~(c)(2)~~ (d) Payments of the tax imposed by this section shall be made
15 on a quarterly estimated basis. The amounts of the quarterly
16 installments shall be computed on the basis of the total estimated tax
17 liability for the current calendar year and the installments shall be due
18 and payable on or before April 15, June 15, September 15, and
19 December 15, of the current calendar year.

20 ~~(c)(3)~~ (e) Any balance due shall be paid in the next succeeding
21 calendar year at the time designated for the filing of the annual report
22 with the department.

23 ~~(c)(4)~~ (f) Any overpayment of the estimated tax during the
24 preceding calendar year shall be allowed as a credit against the liability
25 for the first installment of the current calendar year.

26 ~~(c)(5)~~ (g) In the event a company subject to taxation under this
27 section fails to make any quarterly payment in an amount equal to at
28 least:

29 ~~(i)~~ (1) twenty-five percent (25%) of the total tax paid during the
30 preceding calendar year; or

31 ~~(ii)~~ (2) twenty per cent (20%) of the actual tax for the current
32 calendar year;

33 the company shall be liable, in addition to the amount due, for interest
34 in the amount of one percent (1%) of the amount due and unpaid for
35 each month or part of a month that the amount due, together with
36 interest, remains unpaid. This interest penalty shall be exclusive of and
37 in addition to any other fee, assessment, or charge made by the
38 department.

39 ~~(d)~~ (h) The taxes under this article shall be in lieu of all license fees
40 or privilege or other tax levied or assessed by this state or by any
41 municipality, county, or other political subdivision of this state. No
42 municipality, county, or other political subdivision of this state shall



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1 impose any license fee or privilege or other tax upon any insurance
 2 company or any of its agents for the privilege of doing an insurance
 3 business therein, except the tax authorized by IC 22-12-6-5. However,
 4 the taxes authorized under IC 22-12-6-5 shall be credited against the
 5 taxes provided under this chapter. This section shall not be construed
 6 to prohibit the levy and collection of state, county, or municipal taxes
 7 upon real and tangible personal property of such company, or to
 8 prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by
 9 law. However, all insurance companies, foreign or domestic, paying
 10 taxes in this state predicated in part on their premium income from
 11 policies sold and premiums received in Indiana, shall have the same
 12 rights and privileges from further taxation and shall be given the same
 13 credits wherever applicable, as those set out for those companies
 14 paying ~~only~~ a tax on premiums as set out in this section.

15 ~~(e)~~ (i) Any insurance company failing or refusing, for more than
 16 thirty (30) days, to render an accurate account of its premium receipts
 17 as provided in this section and pay the tax due thereon shall be subject
 18 to a penalty of one hundred dollars (\$100) for each additional day such
 19 report and payment shall be delayed, to be recovered in an action in the
 20 name of the state of Indiana on the relation of the department of
 21 insurance, in any court of competent jurisdiction, and it shall be the
 22 duty of the department to revoke all authority of such defaulting
 23 company to do business within this state, or suspend such authority
 24 during the period of such default, in the discretion of the department.

25 SECTION 26. IC 27-14 IS ADDED TO THE INDIANA CODE AS
 26 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 27 1999]:

28 **ARTICLE 14. MUTUAL INSURANCE HOLDING COMPANY**
 29 **LAW**

30 **Chapter 1. General Provisions and Definitions**

31 **Sec. 1. This article may be referred to as the Indiana mutual**
 32 **insurance holding company law.**

33 **Sec. 2. (a) The requirements of this section constitute the**
 34 **members' surplus protection principle for purposes of this article.**

35 **(b) For purposes of this article:**

36 **(1) a mutual insurance company (MIC) is owned by the**
 37 **members of the mutual insurance company; and**

38 **(2) a mutual insurance holding company (MIHC) organized**
 39 **under this article is owned by the members of the mutual**
 40 **insurance holding company.**

41 **(c) The members' surplus must be maintained for the exclusive**
 42 **benefit of the members of the MIHC.**



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1 (d) Except as provided by subsection (e), after the effective date
2 of a reorganization under this article:

3 (1) a dividend authorized for or paid to the shareholders of
4 any subsidiary of the MIHC;

5 (2) an employee benefit plan provision; and

6 (3) other actions of an MIHC or its subsidiaries;

7 may not be made, granted, enforced, or taken if the dividend,
8 benefit, payment, or other action reduces the members' surplus.

9 (e) Only the following may decrease the members' surplus:

10 (1) Dividends paid to eligible persons who were members of
11 the MIC on the effective date of the reorganization.

12 (2) Supervision of a subsidiary of the MIHC under IC 27-9.

13 (3) A reduction in the market value of a security or other asset
14 of the members' surplus.

15 (f) The commissioner may not take or permit an action under
16 this title that conflicts with the members' surplus protection
17 principle of this section.

18 (g) For the purposes of this article, ownership means that the
19 policyholders or members having voting rights as provided by law
20 and by the MIC's or MIHC's articles of incorporation and bylaws
21 and the right to receive cash, stock, or other assets in the event of
22 a conversion to a stock company under IC 27-1-8-13 or a
23 dissolution under IC 27-1-10, as provided by those laws and by the
24 MIC's or MIHC's articles of incorporation or bylaws.

25 (h) Notwithstanding any provision of this article, if an MIHC
26 converts to a stock insurance company under this title, the
27 members' surplus must be maintained for the exclusive benefit of,
28 or available for distribution to, the eligible members of the MIC
29 that reorganized as an MIHC.

30 Sec. 3. The definitions set forth in this chapter apply throughout
31 this article.

32 Sec. 4. (a) Subject to subsection (b), "acting in concert" means:

33 (1) a knowing participation in a joint activity whether or not
34 under an express agreement;

35 (2) interdependent conscious parallel action toward a common
36 goal under an express agreement or otherwise; or

37 (3) a combination or pooling of voting interests or other
38 interests in the securities of any person for a common purpose
39 under any contract, understanding, relationship, agreement,
40 or other arrangement, written or otherwise.

41 (b) An employee benefit plan is acting in concert with:

42 (1) its trustee; or

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1 (2) a person who serves in a capacity similar to a trustee;
2 solely for the purpose of determining whether capital stock held by
3 the trustee or the person in a similar capacity and capital stock
4 held by the plan will be aggregated.

5 Sec. 5. "Adoption date" means, with respect to a plan, the date
6 on which the board of directors approves a plan of an applicant
7 under this article.

8 Sec. 6. "Affiliate" means a person who, directly or indirectly:

- 9 (1) controls;
10 (2) is controlled by; or
11 (3) is under common control with;

12 another person.

13 Sec. 7. "Applicant" means, with respect to a plan, a person that
14 has submitted the plan to the commissioner under this article.

15 Sec. 8. (a) Subject to subsection (b), "associate" means any of
16 the following:

17 (1) With respect to a particular person, a corporation, a
18 business entity, or other organization (other than the
19 applicant or a subsidiary or an affiliate of the applicant) for
20 which the person is:

- 21 (A) an officer;
22 (B) a partner; or
23 (C) directly or indirectly the beneficial owner of at least
24 ten percent (10%) of any class of equity securities.

25 (2) With respect to an individual who is a director or an
26 officer of the applicant or of any of the applicant's
27 subsidiaries or affiliates, a:

- 28 (A) relative;
29 (B) spouse; or
30 (C) relative of the spouse;
31 of the individual who shares the domicile of the individual.

32 (3) With respect to a particular person, any trust or other
33 estate in which the person has a substantial beneficial interest
34 or for which the person serves as trustee or in a similar
35 fiduciary capacity.

36 (b) The term does not apply to a person that:

- 37 (1) has a beneficial interest in; or
38 (2) serves as a trustee or in a similar fiduciary capacity for;

39 an employee benefit plan.

40 Sec. 9. "Board" means:

- 41 (1) the board of directors of an MIHC, an MIC, an
42 intermediate stock holding company, or a stock insurance

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1 company subsidiary; or

2 (2) another board or committee that is responsible, under the
3 articles or bylaws of the company, for decisions involving the
4 structure or management of an MIHC, MIC, intermediate
5 stock holding company, or stock insurance company
6 subsidiary.

7 **Sec. 10. "Commissioner"** refers to the insurance commissioner
8 appointed under IC 27-1-1-2.

9 **Sec. 11. "Company"** means an entity:

10 (1) formed and legally existing under this title; or

11 (2) that:

12 (A) is owned, entirely or in part, directly or indirectly, by
13 an MIHC; and

14 (B) owns directly or indirectly all or part of the stock of a
15 stock insurance company subsidiary.

16 **Sec. 12. "Effective date"** means, with respect to a plan, the date
17 on which the plan becomes effective under this article.

18 **Sec. 13. "Eligible member"** means, with respect to a plan, a
19 person who is a member of an MIC or MIHC, as applicable, on the
20 adoption date of a plan.

21 **Sec. 14. "Employee benefit plan"** means an employee benefit
22 plan established by an MIHC, or by one (1) or more of the
23 subsidiaries of an MIHC, for the benefit of its:

24 (1) employees; or

25 (2) sales agents.

26 **Sec. 15. "Intermediate stock holding company"** means a
27 company other than a stock insurance company subsidiary and its
28 subsidiaries that:

29 (1) is owned entirely or in part, directly or indirectly, by an
30 MIHC; and

31 (2) directly or indirectly owns all or part of the capital stock
32 of a stock insurance company subsidiary.

33 **Sec. 16. "Internal Revenue Code"** refers to the Internal Revenue
34 Code of 1986, as amended.

35 **Sec. 17. "Member"** means a person that, according to the:

36 (1) records; and

37 (2) articles of incorporation and bylaws;

38 of an MIC or MIHC, as applicable, is a member of the MIC or
39 MIHC, as applicable.

40 **Sec. 18. "Members' surplus"** means the surplus and any built-in
41 gains of a mutual insurance company that exist on the effective
42 date of a reorganization under this article.



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1 **Sec. 19. "Mutual insurance company" or "MIC" means a**
 2 **mutual insurer that is:**

- 3 (1) submitting; or
 4 (2) subject to;

5 **a plan of reorganization under this article.**

6 **Sec. 20. "Mutual insurance holding company" or "MIHC"**
 7 **means a mutual insurance holding company established under**
 8 **IC 27-14-2.**

9 **Sec. 21. "Net income after taxes and net realized gains" means:**

10 (1) as to stock insurance company subsidiaries, the net income
 11 of the stock insurance company subsidiary after:

12 (A) income taxes; and

13 (B) net realized gains (as reduced by capital gains tax, if
 14 any) on the sale of assets that were held as of the effective
 15 date of the reorganization;

16 as reported on its statutory annual statements; or

17 (2) as to any intermediate stock holding company, the
 18 consolidated net income of the intermediate stock holding
 19 company after:

20 (A) income taxes; and

21 (B) net realized gains (as reduced by capital gains tax, if
 22 any) on the sale of assets that were held as of the effective
 23 date of the reorganization;

24 as reported on its audited consolidated financial statements.

25 **Sec. 22. "Outside director" means an individual who:**

26 (1) is a member of a board of:

27 (A) an MIHC;

28 (B) an intermediate stock holding company; or

29 (C) a stock insurance company subsidiary;

30 (2) is not a member, officer, employee, or consultant of:

31 (A) the MIHC, intermediate stock holding company, or
 32 stock insurance company subsidiary on whose board the
 33 individual serves; or

34 (B) a parent company or subsidiary of the MIHC,
 35 intermediate stock holding company, or stock insurance
 36 company subsidiary on whose board the individual serves;

37 (3) does not directly or indirectly own, control, or hold any of
 38 the voting capital stock or other dividend paying instrument
 39 of:

40 (A) the MIHC, intermediate stock holding company, or
 41 stock insurance company subsidiary on whose board the
 42 individual serves; or

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1 (B) a parent company or subsidiary of the MIHC,
2 intermediate stock holding company, or stock insurance
3 company subsidiary on whose board the individual serves;

4 (4) is not an officer, member of the board of directors,
5 employee, or member of the immediate family of a person
6 who directly or indirectly owns, controls, or holds any of the
7 voting capital stock or other dividend paying instrument of:

8 (A) the MIHC, intermediate stock holding company, or
9 stock insurance company subsidiary on whose board the
10 individual serves; or

11 (B) a parent company or subsidiary of the MIHC,
12 intermediate stock holding company, or stock insurance
13 company subsidiary on whose board the individual serves;
14 and

15 (5) does not own a policy issued by the MIC or stock
16 insurance company subsidiary of the MIHC.

17 Sec. 23. "Parent company" means either of the following:

18 (1) As to an intermediate stock holding company, the mutual
19 holding company of which the intermediate stock holding
20 company is a subsidiary.

21 (2) As to a stock insurance company subsidiary, the mutual
22 holding company or intermediate stock holding company of
23 which the stock insurance company subsidiary is a subsidiary.

24 Sec. 24. "Participating policy" means an insurance policy
25 providing for the distribution of policy dividends.

26 Sec. 25. "Person" means any of the following:

27 (1) An individual.

28 (2) An aggregation of individuals acting in concert.

29 (3) A trust.

30 (4) An association.

31 (5) A partnership.

32 (6) A limited liability company.

33 (7) A corporation.

34 Sec. 26. "Plan" means a plan:

35 (1) of reorganization; or

36 (2) to issue stock.

37 Sec. 27. "Plan of reorganization" means a plan adopted under
38 IC 27-14-2.

39 Sec. 28. "Plan to issue stock" means a plan to issue shares of
40 voting capital stock adopted under IC 27-14-4.

41 Sec. 29. "Policy" means a contract providing one (1) or more of
42 the kinds of insurance described in IC 27-1-5-1.



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1 **Sec. 30. "Stock insurance company subsidiary"** means a stock
 2 insurance company that is owned entirely or in part by an MIHC
 3 or an intermediate stock holding company.

4 **Sec. 31. "Subsidiary"** means, with respect to a particular
 5 person, an affiliate of the person that is controlled by the person,
 6 either:

7 (1) directly; or

8 (2) indirectly, through one (1) or more intermediaries.

9 **Sec. 32. "Voting capital stock"** means capital stock whose holder
 10 has the right to vote in the election of directors.

11 **Chapter 2. Mutual Insurance Company Reorganization**

12 **Sec. 1. (a)** A mutual insurance company (MIC) may reorganize
 13 under this chapter as a mutual insurance holding company
 14 (MIHC) with one (1) or more subsidiaries after the following have
 15 occurred:

16 (1) The favorable vote of its board of directors to reorganize.

17 (2) The filing of an application with the commissioner before
 18 July 1, 2001.

19 (3) A notice of a public hearing is made to its members and
 20 the public.

21 (4) At least one (1) public hearing conducted by the
 22 commissioner.

23 (5) The approval of the commissioner of the plan.

24 (6) A favorable vote of the eligible members of the MIC.

25 (7) The issuance of an order of completion by the
 26 commissioner.

27 **(b)** The subsidiaries of an MIC that reorganizes as an MIHC
 28 under this chapter:

29 (1) must include at least one (1) stock insurance company
 30 subsidiary; and

31 (2) may include one (1) or more intermediate stock holding
 32 companies.

33 **Sec. 2.** The reorganization of an MIC as an MIHC under this
 34 chapter may be accomplished by the following means as approved
 35 by the commissioner:

36 (1) The establishment of at least one (1) company.

37 (2) The amendment or restatement of the articles and bylaws
 38 of any company.

39 (3) The transfer or acquisition of any or all of the assets and
 40 liabilities of any company.

41 (4) The merger of two (2) or more mutual insurance
 42 companies.



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1 (5) The merger of two (2) or more intermediate stock holding
2 companies as part of the merger of two (2) or more MIHCs.

3 (6) The merger of two (2) or more stock insurance companies.

4 **Sec. 3. (a) A plan of reorganization under this chapter must be**
5 **adopted by the board of directors of the MIC.**

6 (b) For a plan of reorganization to be adopted by the board of
7 directors of an MIC, at least seventy-five percent (75%) of the
8 members of the board of directors must vote in favor of the
9 adoption.

10 **Sec. 4. Within ninety (90) days after the adoption of a plan of**
11 **reorganization and before a vote on the plan by the members, the**
12 **company adopting the plan must file with the commissioner an**
13 **application containing the following:**

14 (1) A plan of reorganization.

15 (2) The form of the notices to be sent to members under this
16 chapter, including a notice of the public hearing and a notice
17 informing members of their right to vote on the plan.

18 (3) A copy of the:

19 (A) proposed articles of incorporation; and

20 (B) bylaws;

21 of each company to be formed under the plan in compliance
22 with the requirements of IC 27-1-6.

23 (4) If it is necessary to amend the current articles of
24 incorporation or bylaws of any company that is affected by
25 the plan, a copy of:

26 (A) the proposed articles of amendment; and

27 (B) amended bylaws;

28 of the company, which in the case of each domestic insurance
29 company must comply with the requirements of IC 27-1-8.

30 (5) A list of the officers and directors of each company that is
31 created or affected by the plan of reorganization.

32 **Sec. 5. A plan of reorganization filed with the commissioner**
33 **under this chapter must meet the following requirements:**

34 (1) It must describe all significant terms of the proposed
35 reorganization.

36 (2) It must describe in narrative form any plan to issue stock
37 that may be proposed in connection with the plan of
38 reorganization.

39 (3) It must describe the:

40 (A) reasons for and purposes of the proposed
41 reorganization; and

42 (B) manner in which the reorganization is expected to

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- 1 benefit and serve the best interests of the members.
 2 The plan must include an analysis of the risks and benefits of
 3 the proposed reorganization, and a comparison of those risks
 4 and benefits with the risks and benefits of reasonable
 5 alternatives (including demutualization of the MIC) to the
 6 reorganization.
 7 (4) It must provide that, after the effective date of the
 8 reorganization, the MIHC must at all times have the direct or
 9 indirect power to cast at least fifty-one percent (51%) of the
 10 votes for the election of directors of:
 11 (A) all stock insurance company subsidiaries; and
 12 (B) an intermediate stock holding company;
 13 of the MIHC.
 14 (5) It must provide that:
 15 (A) the:
 16 (i) membership interests of the members of the MIC
 17 remain membership interests in the MIHC; and
 18 (ii) members' surplus protection principle will govern
 19 the actions of the MIHC and its subsidiaries;
 20 under the articles of incorporation and bylaws of the
 21 MIHC;
 22 (B) the membership interest of a member of the MIHC
 23 may not be transferred, assigned, pledged, or alienated in
 24 any manner except in connection with a transfer,
 25 assignment, pledge, or alienation of the policy from which
 26 the membership interest is derived; and
 27 (C) the membership interest of a member of the MIHC will
 28 automatically terminate upon the lapse or other
 29 termination of the policy from which the membership
 30 interest is derived.
 31 (6) It must describe how the plan of reorganization is to be
 32 carried out, including a description of a contemplated
 33 transfer, acquisition, or assumption of assets, rights,
 34 franchises, interests, debts, liabilities, or other obligations of
 35 the applicant and any other company affected by the plan of
 36 reorganization.
 37 (7) It must describe the:
 38 (A) establishment of companies;
 39 (B) amendment or restatement of the articles and bylaws
 40 of a company; and
 41 (C) merger of companies;
 42 that will take place under the plan of reorganization.

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- 1 **(8) It must provide a list of:**
2 **(A) all individuals who are or have been selected to become**
3 **directors or officers of the MIHC and its subsidiaries; and**
4 **(B) other individuals who perform or will perform duties**
5 **customarily performed by a director or officer.**
6 **(9) The list prepared under subdivision (8) must include, for**
7 **each individual on the list:**
8 **(A) the individual's principal occupation;**
9 **(B) all offices and positions the individual has held in the**
10 **preceding five (5) years;**
11 **(C) any crime of which the individual has been convicted**
12 **(other than traffic violations) in the preceding ten (10)**
13 **years;**
14 **(D) information concerning any personal bankruptcy of**
15 **the individual or the individual's spouse during the**
16 **previous seven (7) years;**
17 **(E) information concerning the bankruptcy of any**
18 **corporation of which the individual was an officer or**
19 **director during the previous seven (7) years;**
20 **(F) information concerning any state or federal securities**
21 **law allegations against the individual that within the**
22 **previous ten (10) years resulted in:**
23 **(i) a determination that the individual violated the state**
24 **or federal securities law;**
25 **(ii) a plea of nolo contendere; or**
26 **(iii) a consent decree;**
27 **(G) information concerning the revocation during the**
28 **previous ten (10) years of any state or federal license issued**
29 **to the individual; and**
30 **(H) information as to whether the individual was refused**
31 **a performance or other bond or any stock insurance**
32 **company subsidiary.**
33 **(10) With respect to a policy that goes into force after the**
34 **effective date of the reorganization, the policy must provide**
35 **that:**
36 **(A) the owner of the policy; or**
37 **(B) another person or persons specified in:**
38 **(i) the policy; or**
39 **(ii) the MIHC's articles of incorporation or bylaws;**
40 **becomes a member of the MIHC except that a plan of**
41 **reorganization may provide that any person who becomes an**
42 **owner of a policy or who would otherwise become a member**

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under a policy issued during a particular period of not more than three (3) years immediately after the effective date of the plan of reorganization will not become a member until after the expiration of that period.

(11) It must provide that, with regard to a policy of the MIC in force on the effective date of the plan of reorganization:

(A) the policy continues to remain in force under the policy's terms as the policy of a stock insurance company subsidiary;

(B) the policyholder continues to have the right to receive policy dividends as provided for in the policy;

(C) the policyholder's right to benefits, values, guarantees, and other policy obligations of the MIC continues after the effective date of the plan of reorganization as obligations of the stock insurance company subsidiary; and

(D) the dividends paid on the policy after the effective date of the plan of reorganization increase in proportion to:

(i) increases in earned surplus available for the payment of dividends; and

(ii) any increase in dividends paid on policies issued after the effective date of the plan of reorganization.

(12) It must describe the nature and content of the annual report and financial statement to be sent to each member following the reorganization.

(13) It must demonstrate that, in the event of proceedings under IC 27-9 involving a stock insurance company subsidiary of the MIHC that resulted from the reorganization of a domestic MIC, the assets of the MIHC are available to satisfy the policyholder obligations of the stock insurance company subsidiary.

(14) It must provide any additional information that the commissioner may request.

Sec. 6. (a) A plan of reorganization that is adopted by the board of directors of the applicant may be:

(1) amended by the board of directors of the applicant:

(A) in response to the comments or recommendations of the commissioner, or any other state or federal agency or entity, before any solicitation of proxies from the members to vote on the plan of reorganization; and

(B) otherwise, with the consent of the commissioner; or

(2) terminated by the board of directors of the applicant:

(A) before notice is sent to the members under section 8 of

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- 1 **this chapter; or**
 2 **(B) with the consent of the commissioner.**
 3 **(b) For a plan of reorganization to be:**
 4 **(1) amended; or**
 5 **(2) terminated;**
 6 **by the board of directors of an MIC, at least seventy-five percent**
 7 **(75%) of the members of the board of directors must vote in favor**
 8 **of the amendment or termination.**
 9 **Sec. 7. (a) The commissioner shall, as soon as practicable after**
 10 **a plan of reorganization is filed with the commissioner, conduct a**
 11 **public hearing in Indianapolis at a place, date, and time specified**
 12 **by the commissioner to afford interested persons an opportunity**
 13 **to present information, views, arguments, or comments about the**
 14 **plan.**
 15 **(b) At least thirty (30) days before a hearing held under this**
 16 **section, the commissioner shall publish notice of the hearing in a**
 17 **newspaper of general circulation in:**
 18 **(1) the city of Indianapolis;**
 19 **(2) the city in which the principal office of the applicant is**
 20 **located; and**
 21 **(3) other cities or towns that the commissioner considers**
 22 **appropriate.**
 23 **The commissioner may provide written notice of the hearing by**
 24 **other means and to other persons that the commissioner considers**
 25 **appropriate.**
 26 **(c) The notice provided under this section must:**
 27 **(1) refer to the applicable statutory provisions;**
 28 **(2) state the date, time, and location of the hearing; and**
 29 **(3) include a brief statement of the subject of the hearing.**
 30 **(d) At a public hearing under this section, an interested person**
 31 **may appear and:**
 32 **(1) file a written statement;**
 33 **(2) make an oral presentation;**
 34 **(3) pose questions to witnesses; and**
 35 **(4) examine the evidence.**
 36 **(e) At the discretion of the commissioner or the commissioner's**
 37 **appointee, testimony may be taken under oath or by affirmation at**
 38 **a public hearing under this article.**
 39 **Sec. 8. The applicant shall, at least thirty (30) days before the**
 40 **public hearing required under this chapter, mail notice of the**
 41 **public hearing to eligible members of the MIC. The notice must**
 42 **achieve a minimum score of forty (40) on the Flesch reading ease**



1 test or an equivalent score on a comparable test approved by the
2 commissioner. The notice must include the following:

- 3 (1) Reference to the applicable statutory provisions.
4 (2) A statement of the date, time, and location of the hearing.
5 (3) A brief statement of the subject of the hearing, including
6 specific notice to the member that the member's ownership
7 interest in the MIC will be affected by the reorganization.

8 **Sec. 9.** The commissioner shall not approve a plan of
9 reorganization submitted under this article unless the applicant has
10 shown, by a preponderance of the evidence, that the plan of
11 reorganization:

- 12 (1) complies with the law;
13 (2) includes the disclosures and notices required under this
14 article;
15 (3) is fair to the members of the MIC; and
16 (4) complies with the members' surplus protection principle.

17 **Sec. 10.** Not more than one hundred eighty (180) days after the
18 filing of the application relating to the plan, or a longer period if
19 agreed to by the applicant and the commissioner, the commissioner
20 shall approve or disapprove a plan of reorganization. The
21 commissioner's approval of the plan must be conditioned upon:

- 22 (1) the approval of the plan by the eligible members under
23 this chapter; and
24 (2) the requirements of sections 17 and 18 of this chapter.

25 **Sec. 11.** The commissioner shall immediately notify the
26 applicant upon reaching a decision on a plan of reorganization.

27 **Sec. 12. (a)** A plan of reorganization of an MIC must be
28 submitted for approval by the eligible members of the MIC after
29 approval of the application by the commissioner under section 10
30 of this chapter. A vote by the eligible members to approve the plan
31 must be made at a special or annual meeting held under
32 IC 27-1-7-7 and this chapter.

33 (b) The eligible members must be sent notice of the meeting at
34 which a plan of reorganization will be submitted for approval by
35 eligible members. The notice must:

- 36 (1) be mailed at least thirty (30) days before the meeting;
37 (2) refer to the applicable statutory provisions;
38 (3) state the date, time, and location of the meeting;
39 (4) include a brief statement of the subject of the meeting; and
40 (5) describe the member's right to attend and participate in
41 the meeting.

42 (c) The notice sent under this section must achieve a minimum

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1 score of forty (40) on the Flesch reading ease test or an equivalent
2 score on a comparable test approved by the commissioner.

3 **Sec. 13.** Before the special or annual meeting at which the
4 eligible members of an MIC vote on a plan of reorganization, the
5 MIC shall provide the eligible members with information about the
6 plan sufficient for the members, in the reasonable determination
7 of the commissioner, to make an informed decision about the plan
8 of reorganization.

9 **Sec. 14.** Notwithstanding IC 27-1-7-9, with respect to a vote
10 under section 12 of this chapter, an eligible member:

11 (1) may vote in person or by proxy if the proxy:

12 (A) includes reference to the applicable statutory
13 provisions;

14 (B) states the date, time, and location of the meeting;

15 (C) contains a brief statement of the subject of the meeting,
16 including specific notice to the member that the member's
17 interest in the MIC that will be affected by the
18 reorganization; and

19 (D) was solicited and obtained from the member after the
20 MIC has submitted the plan of reorganization to the
21 commissioner under this article; and

22 (2) is entitled to cast only one (1) vote on the proposed plan of
23 reorganization, regardless of the number of policies or the
24 amount of insurance that the member has with the applicant
25 or any affiliate of the applicant.

26 **Sec. 15.** For a plan of reorganization to be approved by
27 members of an MIC, at least sixty-seven percent (67%) of the
28 eligible members must vote in person or by proxy in favor of the
29 plan.

30 **Sec. 16.** Within thirty (30) days after members have approved
31 a plan of reorganization at a special or annual meeting of members
32 under this chapter, an applicant must file with the commissioner
33 the minutes of the meeting at which the plan of reorganization was
34 approved.

35 **Sec. 17.** (a) Before the commissioner issues a permit for
36 completion of organization under subsection (b):

37 (1) the commissioner must have issued notice to the applicant
38 that the commissioner has approved the plan of
39 reorganization of the applicant under section 10 of this
40 chapter;

41 (2) a public hearing must have been conducted under this
42 chapter;



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(3) the commissioner must have received the minutes of the meeting of the members at which the plan was approved reflecting that the plan of reorganization was on the agenda and the plan was approved, if the members voted to approve the plan at a special or annual meeting; and
(4) the articles of incorporation of the applicant must have been certified by the secretary of state and transmitted to the commissioner.

(b) After the events referred to in subsection (a), the commissioner shall issue:

- (1) a permit for completion of organization as provided in IC 27-1-6-11, in the case of a newly organized domestic insurance company; or
- (2) an amended certificate of authority as provided in IC 27-1-8-9, in the case of amended articles of incorporation of a domestic insurance company.

Sec. 18. A plan of reorganization is effective when each stock insurance company subsidiary or MIHC affected by the plan has filed:

- (1) its articles of incorporation or, if appropriate, its articles of amendment; and
- (2) the certificate of authority issued to the company by the commissioner under this chapter;

in the office of the county recorder of the county in which the principal office of the company is located.

Sec. 19. The organization of any domestic insurance company under a plan of reorganization under this article must be conducted under IC 27-1-6 concerning the formation of domestic insurance companies.

Sec. 20. The amendment of the articles of incorporation of a domestic insurance company under a plan of reorganization under this article must be conducted in compliance with IC 27-1-8.

Chapter 3. Mutual Insurance Holding Companies

Sec. 1. An MIHC organized under this article:

- (1) must meet the requirements of IC 27-14-2; and
- (2) is subject to rules that the commissioner may adopt under IC 4-22-2.

Sec. 2. The articles of incorporation of an MIHC must contain the following, or provisions at least substantially equivalent to the following:

- (1) The name of the MIHC, which must include the term "mutual" or the abbreviation "MIHC".

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1 (2) A provision that no actions will be taken by the MIHC that
 2 contravene the members' surplus protection principle
 3 established in this article.

4 (3) A provision specifying that the MIHC must, at all times,
 5 have the direct or indirect power to cast at least fifty-one
 6 percent (51%) of the votes for the election of directors of each
 7 stock insurance company subsidiary and any intermediate
 8 stock holding company.

9 (4) A provision specifying that the MIHC does not have the
 10 power to engage in the business of issuing insurance policies
 11 or contracts, except through a stock insurance company
 12 subsidiary.

13 (5) A provision specifying that the MIHC is not authorized to
 14 issue voting or any other capital stock.

15 (6) A provision setting forth the rights of members of the
 16 MIHC in the equity of the MIHC upon liquidation, including
 17 the rights of the members to the assets of the MIHC.

18 (7) A provision specifying that:

19 (A) a member of the MIHC is not, as a member, personally
 20 liable for the acts, debts, liabilities, or obligations of the
 21 MIHC; and

22 (B) no assessment may be imposed upon the members of
 23 the MIHC by any person, including:

24 (i) the board of directors, members, or creditors of the
 25 MIHC; and

26 (ii) any governmental office or official, including the
 27 commissioner;

28 because of any liability of any company or because of any
 29 act, debt, or liability of the MIHC.

30 **Sec. 3. Members of an MIHC have rights and obligations**
 31 **specified in:**

32 (1) this article; and

33 (2) the articles of incorporation and bylaws of the MIHC.

34 **Sec. 4. (a) On the effective date of the reorganization of an MIC**
 35 **as an MIHC under this chapter, the MIHC must have the direct or**
 36 **indirect power to cast one hundred percent (100%) of the votes for**
 37 **the election of directors of:**

38 (1) all stock insurance subsidiaries; and

39 (2) an intermediate stock holding company;

40 **of the MIC.**

41 (b) After the effective date of the reorganization of an MIC as
 42 an MIHC under this chapter, the MIHC must at all times have the

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1 direct or indirect power to cast at least fifty-one percent (51%) of
 2 the votes for the election of directors of:

- 3 (1) all stock insurance company subsidiaries; and
 4 (2) an intermediate stock holding company;

5 of the MIC.

6 Sec. 5. Material transactions between:

- 7 (1) an MIHC and its subsidiaries; or
 8 (2) subsidiaries of an MIHC;

9 must be fair and reasonable to the members of the MIHC, comply
 10 with the members' surplus protection principle, and be approved
 11 by the commissioner.

12 Sec. 6. At least sixty-seven percent (67%) of the following must
 13 be made up of outside directors:

- 14 (1) The board of directors of an MIHC.
 15 (2) The board of directors of an intermediate stock holding
 16 company.
 17 (3) The board of directors of a stock insurance company
 18 subsidiary.
 19 (4) Each committee of the board of directors of:
 20 (A) an MIHC;
 21 (B) an intermediate stock holding company; or
 22 (C) a stock insurance company subsidiary.

23 Sec. 7. With the written approval of the commissioner, and
 24 subject to any conditions imposed by the commissioner, an MIHC
 25 may do any of the following:

- 26 (1) Merge or consolidate with, or acquire the assets of:
 27 (A) an MIHC organized under this article; or
 28 (B) a similar entity organized under the laws of any other
 29 state.
 30 (2) Acquire the stock of a stock insurance company as a
 31 subsidiary of the MIHC or an intermediate stock holding
 32 company of the MIHC.
 33 (3) Organize an intermediate stock holding company as a
 34 wholly owned subsidiary.
 35 (4) Organize a stock insurance company as a subsidiary.
 36 (5) Acquire the stock or assets of any noninsurance related
 37 corporation.

38 Sec. 8. (a) Except as provided in subsection (b), an MIHC:

- 39 (1) has and may exercise all the rights and privileges of
 40 insurance companies formed under this title; and
 41 (2) is subject to all the requirements and regulations imposed
 42 upon insurance companies formed under this title.



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1 (b) The exceptions referred to in subsection (a) are as follows:

2 (1) An MIHC does not have the right or privilege to write
3 insurance (except through a stock insurance company
4 subsidiary) and is not subject to any requirement or rule
5 adopted under IC 4-22-2 relating to the writing of insurance.

6 (2) An MIHC is not subject to the surplus requirements in
7 IC 27-1-6-15.

8 (3) An MIHC is not subject to any statute or rule adopted
9 under IC 4-22-2 that is imposed upon insurance companies
10 formed under this title to the extent that the statute or rule is
11 in conflict with this article.

12 Sec. 9. Not later than July 1, an MIHC shall file with the
13 commissioner an annual statement containing the following
14 information:

15 (1) Audited financial statements, including:

16 (A) an income statement;

17 (B) a balance sheet;

18 (C) a statement of cash flows; and

19 (D) footnotes.

20 (2) Complete information on the status of any condition
21 imposed in connection with the approval of a plan of
22 reorganization.

23 (3) An investment plan covering all assets of the MIHC.

24 (4) A statement that the MIHC and its affiliates have
25 complied with section 13 of this chapter.

26 (5) A statement that describes any changes in the members'
27 surplus and the reason for any such change in the members'
28 surplus.

29 Sec. 10. (a) An MIHC and its affiliates constitute an insurance
30 holding company system (as defined in IC 27-1-23-1).

31 (b) Notwithstanding subsection (a), a separate filing or approval
32 is not required under IC 27-1-23 for an acquisition or a
33 reorganization that is included in a plan approved under this
34 article.

35 Sec. 11. A membership interest in an MIHC does not constitute
36 a security under Indiana law.

37 Sec. 12. (a) After the effective date of a plan of reorganization,
38 the officers and directors of the MIHC:

39 (1) owe the same fiduciary responsibilities to the members of
40 the former MIC and to new members of the MIHC as the
41 officers and directors of the former MIC owed to the
42 members before the effective date of the plan of



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1 reorganization;
2 (2) are subject to potential liability to the members of the
3 former MIC and to new members of the MIHC to the same
4 extent as the officers and directors of the former MIC were to
5 the members before the effective date of the plan of
6 reorganization; and

7 (3) owe a fiduciary duty to the members of the MIHC to
8 follow the members' surplus protection principle.

9 (b) An action may be brought to recover for the violation of
10 fiduciary responsibilities under this article in accordance with
11 IC 34-11-2-4 or, in the case of fraud, in accordance with
12 IC 34-11-2-7.

13 Sec. 13. (a) The following transactions between an MIHC or an
14 affiliate of an MIHC and any person other than an affiliate may
15 not be entered into unless the MIHC has notified the commissioner
16 in writing of its intention to enter into such a transaction at least
17 thirty (30) days before entering into the transaction, or a shorter
18 period if permitted by the commissioner, and the commissioner has
19 not disapproved it within that period:

20 (1) Sales, purchases, exchanges, loans or extensions of credit,
21 guarantees, or investments, provided those transactions are
22 equal to or exceed three percent (3%) of the MIHC's assets as
23 of December 31 of the previous year.

24 (2) Loans or extensions of credit to any person who is not an
25 affiliate of the MIHC, if the MIHC makes those loans or
26 extensions of credit with the agreement or understanding that
27 the proceeds of such transactions, in whole or in substantial
28 part, are to be used to make loans or extensions of credit to,
29 to purchase assets of, or to make investments in, any affiliate
30 of the MIHC making the loans or extensions of credit,
31 provided those transactions are equal to or exceed three
32 percent (3%) of the MIHC's assets as of December 31 of the
33 previous year.

34 (3) Management agreements, service contracts, and
35 costsharing arrangements.

36 (4) Material transactions, specified by rule, that the
37 commissioner determines may adversely affect the interests
38 of the policyholders of affiliates of the MIHC or that do not
39 comply with the members' surplus protection principle.

40 This subsection does not authorize or permit any transactions not
41 otherwise authorized under this article.

42 (b) An MIHC and its affiliates may not enter into transactions

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1 that are part of a plan or series of like transactions if the purpose
2 of those separate transactions is to avoid the statutory threshold
3 amount and avoid the review required under this section.

4 (c) A stock insurance company subsidiary or intermediate stock
5 holding company of the MIHC that has any shareholder other than
6 the MIHC or a direct or indirect wholly owned subsidiary of the
7 MIHC may not declare or pay any dividend or other distribution
8 on its capital stock except to the extent of one (1) or more years of
9 net income earned and accumulated (on a consolidated basis as to
10 any intermediate stock holding company) after the effective date
11 of the plan of reorganization after deduction of:

12 (1) income taxes; and

13 (2) net realized capital gains (as reduced by capital gains tax,
14 if any) on the sale of assets that were held by the MIC as of
15 the effective date of the reorganization.

16 Chapter 4. Issuance of Capital Stock

17 Sec. 1. (a) This chapter applies only to the initial public offering
18 of voting capital stock by a subsidiary of an MIHC after a
19 reorganization under this article.

20 (b) A subsidiary organized under this title may issue shares of
21 any class or type of capital stock permitted under this title, and
22 other subsidiaries, including an intermediate stock holding
23 company, may issue any type of stock permitted by the law under
24 which it is organized. However, a stock insurance company
25 subsidiary and an intermediate stock holding company may issue
26 shares of voting capital stock to a person or entity other than:

27 (1) the MIHC of which it is a subsidiary; or

28 (2) an intermediate stock holding company or stock insurance
29 company subsidiary that is a direct or indirect subsidiary of
30 the MIHC referred to in subdivision (1);

31 only in compliance with this article.

32 Sec. 2. A plan to issue voting capital stock under this chapter
33 must be adopted:

34 (1) by the board of directors of the MIHC; or

35 (2) in the case of a plan to issue shares of voting capital stock
36 that is not concurrent with the formation of the MIHC, by the
37 board of directors of the stock insurance company subsidiary
38 or intermediate stock holding company proposing to issue the
39 stock.

40 Sec. 3. A board of directors that adopts a plan to issue voting
41 capital stock under this chapter may amend or withdraw that plan
42 at any time before the effective date. However, after the



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1 commissioner has approved a plan to issue voting capital stock, the
2 plan may not be amended unless the commissioner approves the
3 amendment.

4 **Sec. 4. Within ninety (90) days after the adoption of a plan to**
5 **issue voting capital stock, the stock insurance company subsidiary**
6 **or intermediate stock holding company adopting the plan must file**
7 **with the commissioner an application that contains the following:**

8 (1) A proposed plan to issue voting capital stock.

9 (2) The form of notice to be sent to members, informing
10 members of their right to vote on the plan.

11 (3) The form of the proxy statement to be used to solicit the
12 votes of members. The form must describe the plan and must
13 achieve a minimum score of forty (40) on the Flesch reading
14 ease test or an equivalent score on a comparable test
15 approved by the commissioner.

16 (4) The form of proxy to be solicited from members.

17 (5) A copy of the proposed articles of incorporation and
18 bylaws of each domestic insurance company to be formed
19 under the plan in compliance with the requirements of
20 IC 27-1-6.

21 (6) If it is necessary to amend the current articles of
22 incorporation or bylaws of a company that is affected by the
23 plan, a copy of the proposed articles of amendment and
24 amended bylaws of the company, which in the case of each
25 domestic insurance company must comply with the
26 requirements of IC 27-1-8.

27 (7) A list of the officers and directors of a company that is
28 affected by the plan.

29 (8) A description of:

30 (A) the voting capital stock intended to be offered by the
31 applicant;

32 (B) all shareholder rights applicable to the voting capital
33 stock intended to be offered by the applicant;

34 (C) the total number of shares authorized to be issued;

35 (D) the estimated number of shares the applicant intends
36 to offer; and

37 (E) the intended date or range of dates for the offering.

38 (9) A list of:

39 (A) the name or names of any underwriter, syndicate
40 member, or placement agent involved;

41 (B) if known by the applicant, the name or names of each
42 person or group of persons who will control five percent

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- 1 (5%) or more of the total outstanding shares of the class of
 2 voting capital stock to be offered; and
 3 (C) if any of the persons listed under clause (A) or (B) is a
 4 corporation or other business organization, the name of
 5 each member of its board of directors or equivalent
 6 management body.
- 7 (10) Copies of any filings with the United States Securities and
 8 Exchange Commission disclosing intended acquisitions of
 9 voting capital stock of the applicant.
- 10 (11) A description of all expenses expected to be incurred in
 11 connection with the offering.
- 12 (12) Any other information requested by the commissioner.
- 13 **Sec. 5. (a) A plan to issue voting capital stock in a public offering**
 14 **(other than an offering solely in connection with a consolidation,**
 15 **merger, share exchange, or other business combination or an**
 16 **offering of stock under a stock option or other employee benefit**
 17 **plan) must do the following:**
- 18 (1) Provide for each eligible member to receive, without
 19 payment, nontransferable subscription rights to purchase a
 20 portion of the voting capital stock of the applicant.
- 21 (2) Specify how subscription rights are to be allocated in
 22 whole shares of voting capital stock among the eligible
 23 members.
- 24 (3) Provide a fair and equitable means for allocating shares of
 25 voting capital stock in the event of an oversubscription to the
 26 shares by eligible members exercising subscription rights
 27 received under this chapter.
- 28 (4) Provide that any shares of voting capital stock not
 29 subscribed to by eligible members exercising subscription
 30 rights received under this chapter, or not subscribed to by an
 31 employee benefit plan or by directors, officers, and employees
 32 exercising subscription rights, will be sold:
- 33 (A) in a public offering through an underwriter;
 34 (B) through private placement; or
 35 (C) by any other method approved by the commissioner
 36 that is fair and equitable to members.
- 37 (5) Require a person that exercises subscription rights to:
 38 (A) purchase at least the minimum number of shares of
 39 voting capital stock; or
 40 (B) if the person purchases less than the minimum number
 41 of shares, make a purchase of shares of voting capital stock
 42 in at least the minimum amount.



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1 **(6) Require that at least three (3) members of the board of**
 2 **directors of each:**

3 **(A) intermediate stock holding company; and**

4 **(B) stock insurance company subsidiary;**

5 **of the MIHC must be persons who are not officers or**
 6 **employees of the MIHC or any of its subsidiaries.**

7 **(7) Provide that the MIHC will adopt articles of incorporation**
 8 **or articles of amendment that include a provision prohibiting**
 9 **the MIHC from waiving any dividends from its subsidiaries**
 10 **except:**

11 **(A) under conditions specified in the articles of**
 12 **incorporation; and**

13 **(B) after approval of the waiver by the board of directors**
 14 **of the MIHC and by the commissioner.**

15 **(8) Establish a pricing committee within the board of**
 16 **directors of the entity making the offering of voting capital**
 17 **stock, consisting exclusively of outside directors.**

18 **(b) The minimum number of shares of voting capital stock**
 19 **established under subsection (a)(5)(A) may not be more than one**
 20 **hundred (100) shares.**

21 **(c) The minimum amount of a purchase of shares of voting**
 22 **capital stock established under subsection (a)(5)(B) may not be**
 23 **more than two thousand dollars (\$2,000).**

24 **Sec. 6. Subject to the limitations of IC 27-14-5, a plan to issue**
 25 **voting capital stock may do the following:**

26 **(1) Provide an allocation without payment of nontransferable**
 27 **subscription rights to purchase not more than ten percent**
 28 **(10%) of the total amount of outstanding voting capital stock**
 29 **to one (1) or more employee benefit plans that satisfy the**
 30 **requirements of Section 401(a), 403(b), 404(c), 408, 423, or**
 31 **501(c)(9) of the Internal Revenue Code, limited to the extent**
 32 **that unsubscribed shares of voting capital stock remain after**
 33 **the members have exercised their subscription rights.**

34 **(2) Provide for:**

35 **(A) the establishment of; and**

36 **(B) the allocation of not more than four percent (4%) of**
 37 **the total amount of outstanding voting capital stock to;**
 38 **an employee benefit plan that provides benefits that are**
 39 **subject to taxation under Section 83 of the Internal Revenue**
 40 **Code or that complies with the requirements of Section 422 of**
 41 **the Internal Revenue Code, for the purpose of granting stock**
 42 **or stock options.**



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(3) Provide that the articles of incorporation of a subsidiary of the MIHC may, subject to specified exceptions, prohibit a:

- (A) person; or**
- (B) group of persons acting in concert;**

acting directly or through associates, from acquiring more than a specified percentage of any class of the issued and outstanding shares of capital stock of the issuing subsidiary.

(4) Provide that the aggregate number of shares of outstanding voting capital stock purchased by an eligible member that exercises subscription rights may not exceed:

- (A) a specified number of shares equal to at least one percent (1%) of the total number of outstanding shares; or**
- (B) a specified percentage of not less than one percent (1%) of the total number of outstanding shares.**

(5) Provide that subscription rights need not be granted to an eligible member who resides in a foreign country or other jurisdiction for which the commissioner determines that all of the following apply:

- (A) A small number of eligible members reside in the jurisdiction.**
- (B) The granting of subscription rights or the offer or sale of voting capital stock to eligible members in the jurisdiction would require the issuer or its officers or directors to:

 - (i) register, under the securities laws of the jurisdiction, as a broker, dealer, salesman, or agent; or**
 - (ii) register, or otherwise qualify, the voting capital stock for sale in the jurisdiction.****
- (C) The registration, qualification, or filing in the judgment of the commissioner would be impracticable or unduly burdensome for reasons of cost or otherwise.**

Sec. 7. Notwithstanding any provision of this article, an MIHC or an affiliate of an MIHC may not use any form of a stock option or other preference with respect to the sale or purchase of any voting capital stock or other equity instrument of the MIHC or an affiliate of the MIHC to compensate an officer or director of the MIHC or an affiliate of the MIHC for services in connection with a plan to issue stock.

Chapter 5. Restrictions on Capital and Other Stock

Sec. 1. A plan to issue voting capital stock that is filed with the commissioner under this article must do the following:

- (1) Describe the reasons for and the purposes of the proposed**

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1 issuance of shares of voting capital stock and the manner in
 2 which the issuance is expected to benefit and serve the best
 3 interests of the members.

4 **(2) Require that, after the effective date, the MIHC must at all**
 5 **times have the direct or indirect power to cast at least**
 6 **fifty-one percent (51%) of the votes for the election of**
 7 **directors of each stock insurance company subsidiary and any**
 8 **intermediate stock holding company.**

9 **(3) Provide that the aggregate number of shares of voting**
 10 **capital stock owned by all of the directors and officers of the**
 11 **MIHC and its subsidiaries and associates may not exceed:**

12 (A) within five (5) years after the initial issuance of voting
 13 capital stock, five percent (5%) of the total number of
 14 shares of voting capital stock to be issued; and

15 (B) more than five (5) years after the initial issuance of
 16 voting capital stock, ten percent (10%) of the total number
 17 of shares of voting capital stock to be issued;

18 including any shares acquired by the officers and directors
 19 and their associates through discounted subscriptions,
 20 employee benefit plans, or stock options.

21 **(4) Provide that the aggregate number of shares of voting**
 22 **capital stock purchased by:**

23 (A) a single director or officer of the MIHC or the
 24 subsidiaries of the MIHC;

25 (B) associates of the person referred to in clause (A); and

26 (C) persons acting in concert with the person referred to in
 27 clause (A) or (B);

28 may not exceed five percent (5%) of the total number of
 29 shares to be issued under the plan, including any shares
 30 attributed to the officers and directors and their associates
 31 but held by one (1) or more tax qualified employee benefit
 32 plans.

33 **(5) Provide that the aggregate number of shares of all**
 34 **nonvoting equities and other nonvoting dividend paying**
 35 **instruments owned by all of the directors and officers of the**
 36 **MIHC and its subsidiaries and associates may not exceed:**

37 (A) within five (5) years after the initial issuance of voting
 38 capital stock, five percent (5%) of the total number of
 39 shares of nonvoting equities or other nonvoting dividend
 40 paying instruments to be issued; and

41 (B) more than five (5) years after the initial issuance of
 42 voting capital stock, ten percent (10%) of the total number



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of shares of nonvoting equities or other dividend paying instruments to be issued.

(6) Provide that the aggregate number of shares of nonvoting equities or other nonvoting dividend paying instruments purchased by:

(A) a single director or officer of the MIHC or the subsidiaries of the MIHC;

(B) associates of the person referred to in clause (A); and

(C) persons acting in concert with the person referred to in clause (A) or (B);

may not exceed five percent (5%) of the total number of shares of nonvoting equities and other nonvoting dividend paying instruments to be issued under the plan, including any nonvoting equities or instruments attributed to the officers and directors and their associates but held by one (1) or more tax qualified employee benefit plans.

(7) Provide that a director, officer, agent, or employee of the MIHC or its subsidiaries, or an associate of a director, officer, agent, or employee, may not receive a fee, commission, or other valuable consideration for aiding, promoting, or assisting in the issuance of voting capital stock under this section, except for:

(A) compensation as provided for in the plan and approved by the commissioner;

(B) the person's usual, regular salary or compensation; and

(C) reasonable fees and compensation paid to an individual who is an attorney, accountant, or actuary for services performed in the individual's independent practice, even if the individual is also a director, officer, agent, or employee of the MIHC or its subsidiaries.

(8) Provide that the aggregate number of shares of voting capital stock that may be purchased by an employee benefit plan may not exceed ten percent (10%) of the total number of shares to be issued under the plan.

(9) Describe:

(A) how the offering price of the voting capital stock to be sold is established; or

(B) the method by which the offering price will be determined.

Chapter 6. Public Hearing, Commissioner Approval, and Effective Date of Plan to Issue Stock



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1 **Sec. 1. Not more than:**

2 (1) sixty (60) days after the acceptance of an application filed
3 with respect to a plan to issue stock under IC 27-14-4; or

4 (2) a longer period after the application is filed, as determined
5 by the commissioner upon a showing of good cause;

6 the commissioner may conduct a public hearing in Indianapolis at
7 a place, date, and time specified by the commissioner to afford
8 interested persons an opportunity to present information, views,
9 arguments, or comments in regard to the plan.

10 **Sec. 2. (a) At least thirty (30) days before a hearing held under**
11 **this chapter, the commissioner shall publish notice of the hearing**
12 **in a newspaper of general circulation in:**

13 (1) the city of Indianapolis;

14 (2) the city in which the principal office of the applicant is
15 located; and

16 (3) another city or cities that the commissioner considers
17 appropriate;

18 may provide written notice of the hearing by other means and to
19 other persons that the commissioner considers appropriate.

20 **(b) The notice provided under this section must:**

21 (1) refer to the applicable statutory provisions;

22 (2) state the date, time, and location of the hearing; and

23 (3) include a brief statement of the subject of the hearing.

24 **Sec. 3. At a public hearing on a plan to issue stock held under**
25 **this chapter:**

26 (1) a member or any other interested person may appear and:

27 (A) file a written statement; or

28 (B) make an oral presentation; and

29 (2) at the discretion of the commissioner or the
30 commissioner's appointee, testimony may be taken under oath
31 or by affirmation.

32 **Sec. 4. In compliance with the later of:**

33 (1) sixty (60) days after a public hearing held under this
34 chapter; or

35 (2) one hundred twenty (120) days after the commissioner
36 accepts the application relating to the plan;

37 the commissioner shall approve or disapprove the plan under
38 IC 27-14-4 to issue stock.

39 **Sec. 5. The commissioner shall approve a plan to issue stock**
40 **submitted under IC 27-14-4 unless the commissioner makes at least**
41 **one (1) of the following findings with respect to the plan:**

42 (1) Disapproval of the plan is necessary to prevent practices

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1 that will cause financial impairment to the applicant or its
2 subsidiaries.

3 (2) The financial or management resources of the applicant or
4 its subsidiaries or affiliates warrant disapproval.

5 (3) The plan does not comply with the provisions of this
6 article.

7 (4) The proposed plan is unfair to members.

8 (5) The plan does not comply with the members' surplus
9 protection principles of this article.

10 Sec. 6. (a) The commissioner shall immediately notify the
11 applicant upon reaching a decision on a plan submitted under this
12 chapter.

13 (b) If the commissioner disapproves a plan, the commissioner
14 shall provide the applicant with a written statement detailing the
15 reasons for the disapproval.

16 (c) A decision of the commissioner approving a plan to issue
17 stock must specify the method by which the offering price will be
18 determined.

19 Sec. 7. The approval by the commissioner of a plan to issue
20 stock expires one hundred eighty (180) days after the date of
21 approval, except as otherwise provided by an order of the
22 commissioner.

23 Sec. 8. The organization of a domestic insurance company under
24 a plan under this article must be conducted in compliance with the
25 provisions of IC 27-1-6 concerning the formation of domestic
26 insurance companies, except as provided in this chapter.

27 Sec. 9. The amendment of the articles of incorporation of a
28 domestic insurance company under a plan under this article must
29 be conducted in compliance with IC 27-1-8, except as provided in
30 this chapter.

31 Chapter 7. Miscellaneous Provisions

32 Sec. 1. (a) This article, while independent of any other law, is
33 supplemental to IC 27-1-2 through IC 27-1-20.

34 (b) All provisions of IC 27-1-2 through IC 27-1-20 are fully and
35 completely applicable to this article in the same manner as if the
36 provisions of this article had been an original part of IC 27-1-2
37 through IC 27-1-20. If any conflict exists between this article and
38 IC 27-1-2 through IC 27-1-20, this article is controlling.

39 Sec. 2. A civil action:

40 (1) challenging the validity of; or

41 (2) arising out of;

42 action that is taken or proposed to be taken under this article must

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1 commence not later than sixty (60) days after the approval by the
2 commissioner of the plan under which or in respect of which the
3 action is taken or proposed to be taken.

4 Sec. 3. The provisions of this article are severable in the manner
5 provided in IC 1-1-1-8(b).

6 Sec. 4. (a) A person who is aggrieved by an agency action of the
7 commissioner under this article may petition for judicial review of
8 the action under IC 4-21.5-5.

9 (b) A person who is aggrieved by a failure of the commissioner
10 to act or make a determination required by this article may bring
11 an action for mandate in the circuit court of Marion County to
12 compel the commissioner to act or make the determination.

13 Sec. 5. An MIHC and its subsidiaries and affiliates may not do
14 any of the following:

15 (1) Lend funds to any person to finance the purchase of stock
16 in a stock offering by an MIHC or any of its subsidiaries other
17 than policyholder loans granted under the terms of an
18 insurance policy of a subsidiary.

19 (2) Pay commissions, special fees, or other special or
20 extraordinary compensation to officers, directors, interested
21 persons, or affiliates for arranging, promoting, aiding,
22 assisting, or participating in the structure or placement of a
23 stock offering by the MIHC or any of its subsidiaries, except
24 to the extent permitted under IC 27-14-4.

25 (3) Enter into an understanding or agreement transferring
26 legal or beneficial ownership of stock to another person in
27 avoidance of this article.

28 Sec. 6. A stock insurance company subsidiary to which
29 insurance policies, contracts, and other assets and obligations are
30 transferred in connection with a plan of reorganization under this
31 article has, with respect to the insurance policies, contracts, and
32 other assets and obligations, all rights, liabilities, and authority of
33 the MIC that is the subject of the plan of reorganization. An MIHC
34 resulting from a plan of reorganization of an MIC under this
35 article has all obligations and liabilities of the MIC for any claims,
36 asserted or otherwise, relating to the ownership interests of the
37 policyholders or members of the MIC, or to the value of the
38 ownership interests, that existed at the effective date of the
39 reorganization.

40 Sec. 7. If a proceeding is pending against an MIC that is the
41 subject of a plan of reorganization under this article:

42 (1) the proceeding may be continued after the effective date,

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1 as if the reorganization had not occurred; or
2 (2) the stock insurance company subsidiary that succeeds to
3 the MIC's business may be substituted in the proceeding for
4 the MIC;

5 except that the MIHC resulting from the plan of reorganization
6 shall be substituted for the MIC and any subsidiaries of the MIC
7 in all proceedings involving claims relating to the ownership
8 interests of the policyholders or members of the MIC, or to the
9 value of the ownership interests, that existed at the effective date
10 of the reorganization.

11 Sec. 8. Subject to IC 27-14-1-2, an MIHC may convert to a stock
12 insurance holding company under IC 27-1-8-13 as though the
13 MIHC were an MIC.

14 Sec. 9. The commissioner shall, at the applicant's expense, hire
15 attorneys, actuaries, accountants, investment bankers, and other
16 experts as may be necessary to assist the commissioner in
17 reviewing all matters under this article that are associated with a
18 plan of reorganization or a plan to issue stock. The commissioner
19 may at any time require an applicant to deposit an amount of
20 money with the department of insurance in anticipation of
21 expenses to be incurred by the commissioner under this article.

22 SECTION 27. THE FOLLOWING ARE REPEALED [EFFECTIVE
23 JANUARY 1, 1999 (RETROACTIVE)]: IC 6-5.5-2-2; IC 6-5.5-2-5;
24 IC 6-5.5-2-5.3.

25 SECTION 28. [EFFECTIVE JANUARY 1, 1999
26 (RETROACTIVE)]: IC 6-5.5-2-1, IC 6-5.5-2-3, 6-5.5-2-4, and
27 IC 6-5.5-4-1, all as amended by this act, apply to taxable years that
28 begin after December 31, 1998.

29 SECTION 29. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1899, 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:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1899 as introduced.)

BAUER, Chair

Committee Vote: yeas 16, nays 5.

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