Reprinted
March 4, 1999

HOUSE BILL No. 2085

DIGEST OF HB 2085 (Updated March 3, 1999 12:00 pm - DI 02)

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

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

Effective: July 1, 1999.

Dvorak, Thompson

January 27, 1999, read first time and referred to Committee on Labor and Employment.
February 25, 1999, amended, reported — Do Pass.
March 3, 1999, read second time, amended, ordered engrossed.

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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. 2085

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

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

SECTION 1. IC 22-3-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

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

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the

usual course of the trade, business, occupation, or profession of the employer.

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

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

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

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(5) A partner in a partnership may elect to include the partner as an employee under IC 22-3-2 through IC 22-3-6 if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades

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and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(6) Real estate professionals are not employees under IC 22-3-2 through IC 22-3-6 if:

(A) they are licensed real estate agents;

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

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

(7) A person is an independent contractor in the construction trades and not an employee under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(8) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor carrier is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(9) A member or manager in a limited liability company may elect to include the member or manager as an employee under IC 22-3-2 through IC 22-3-6 if the member or manager is actually engaged in the limited liability company business. If a member or manager makes this election, the member or manager must serve upon the member's or manager's insurance carrier and upon the board written notice of the election. A member or manager may not be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received.

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

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

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes

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of IC 22-3-2 through IC 22-3-6.

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

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

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

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

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

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing

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the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

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

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

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

(B) forty (40) hours.

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

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

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. IC 22-4-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Contributions shall accrue and become payable from each employer for each calendar year in which it is subject to this article with respect to wages paid during such calendar year except where the status of an employer is changed by cessation or disposition of business or appointment of a receiver, trustees, trustee in bankruptcy, or other fiduciary, contributions shall immediately become due and payable on the basis of wages paid or payable by such employer as of the date of the change of status. Such contributions shall be paid to the department in such manner as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in an employer's employ. When contributions are determined in accordance with Schedule A as provided in IC 22-4-11-3, the board may prescribe rules to require an estimated advance payment of contributions in whole or in part, if in the judgment of the board such advance payments will avoid a debit balance in the fund during the calendar quarter to which the advance payment applies. An adjustment shall be made following the quarter in which an advance payment has been made to reflect the difference between the estimated contribution and the contribution actually payable. Advance payment of contributions shall not be required for

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more than one (1) calendar quarter in any calendar year.

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

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

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

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

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

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(2) Payment of any bill rendered under subdivision (1) shall be made not later than ~~thirty-one (31) days after~~ **the last day of the month in which** such bill was mailed to the last known address of the employer or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subdivision (4).

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

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

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

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

SECTION 3. IC 22-4-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) With respect to initial claims filed for any week beginning on and after July 6, 1980, and before July 7, 1985, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in ~~his~~ **the individual's** benefit period shall be paid for the week, if properly claimed, benefits at the rate of four and three-tenths percent (4.3%) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest. However, the weekly benefit amount may not exceed:

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

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

(1) ninety dollars ($90) if the eligible and qualified individual has no dependents;
(2) one hundred six dollars ($106) if the eligible and qualified individual has one (1) dependent;
(3) one hundred twenty-one dollars ($121) if the eligible and qualified individual has two (2) dependents;
(4) one hundred thirty-seven dollars ($137) if the eligible and qualified individual has three (3) dependents; or
(5) one hundred fifty-one dollars ($151) if the eligible and qualified individual has four (4) or more dependents.

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

(1) ninety-six dollars ($96) if the eligible and qualified individual has no dependents;
(2) one hundred thirteen dollars ($113) if the eligible and qualified individual has one (1) dependent;
(3) one hundred twenty-nine dollars ($129) if the eligible and qualified individual has two (2) dependents;

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(4) one hundred forty-seven dollars ($147) if the eligible and qualified individual has three (3) dependents; or

(5) one hundred sixty-one dollars ($161) if the eligible and qualified individual has four (4) or more dependents.

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

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

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

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

On and after July 6, 1980, and before July 7, 1991, if the weekly benefit amount is less than forty dollars ($40), the board, through the commissioner, shall pay benefits at the rate of forty dollars ($40) per

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

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

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

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

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

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

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

(e) With respect to initial claims filed for any week beginning on and after July 7, 1991, and before July 5, 1992, the weekly benefit amount may not exceed:

(1) one hundred sixteen dollars ($116) if the eligible and qualified

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individual has no dependents;

(2) one hundred thirty-four dollars ($134) if the eligible and qualified individual has one (1) dependent;

(3) one hundred fifty-three dollars ($153) if the eligible and qualified individual has two (2) dependents; or

(4) one hundred seventy-one dollars ($171) if the eligible and qualified individual has three (3) or more dependents.

(f) With respect to initial claims filed for any week beginning on and after July 5, 1992, and before July 4, 1993, the weekly benefit amount may not exceed:

(1) one hundred forty dollars ($140) if the eligible and qualified individual has no dependents;

(2) one hundred sixty dollars ($160) if the eligible and qualified individual has one (1) dependent; or

(3) one hundred eighty-one dollars ($181) if the eligible and qualified individual has two (2) or more dependents.

(g) With respect to initial claims filed for any week beginning on and after July 4, 1993, and before July 3, 1994, the weekly benefit amount may not exceed:

(1) one hundred seventy dollars ($170) if the eligible and qualified individual has no dependents; or

(2) one hundred ninety-two dollars ($192) if the eligible and qualified individual has one (1) or more dependents.

(h) With respect to initial claims filed for any week beginning on or after July 3, 1994, and before July 1, 1995, the weekly benefit amount may not exceed two hundred two dollars ($202).

(i) With respect to initial claims filed for any week on or after July 1, 1995, the weekly benefit amount will equal the amount that results from applying the percentages provided in subsections (j) through ~~(l)~~ **(k)** to the applicable maximum wage credits under IC 22-4-4-3.

(j) With respect to initial claims filed for any week beginning on and after July 1, 1995, and before July 1, 1997, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of:

(1) five percent (5%) of the first one thousand seven hundred fifty dollars ($1,750) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest; and

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

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

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

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

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

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

(1) open to inspection; and

(2) subject to being copied;

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

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

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

(d) The commissioner may release the following information:

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

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(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the department of commerce only for the following purposes:

(A) The purpose of conducting a survey.

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

(C) Other purposes consistent with the goals of the department of commerce and not inconsistent with those of the department.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

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

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

(e) The commissioner may make information available under subsection ~~(d)~~ **(d)(1), (d)(2), or (d)(3)** only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the department of commerce or budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

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

(f) An employee:

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

(2) of any governmental entity listed in subsection (d)(4) of

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this chapter who recklessly violates subsection (d)(4) of this chapter;

commits a Class B misdemeanor.

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

SECTION 5. IC 22-4-39-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter:

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

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

(A) issued by:

(i) a court or an administrative agency with jurisdiction in a state, territory, or possession of the United States;

(ii) a court or an administrative agency with jurisdiction in a foreign country with which the United States has entered into an agreement that requires the United States to honor the process; or

(iii) an authorized official acting under an order of a court or an administrative agency with jurisdiction or under state or local law; and

(B) directed to, and that has the purpose to compel, a governmental entity that holds money otherwise payable to an individual to make a payment from the money to another party to satisfy a legal obligation of the individual to provide child support or make alimony payments.

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

~~(3)~~ **(4)** "Unemployment compensation" means any compensation payable under this article (including amounts payable by the department pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment).

SECTION 6. IC 22-4-39-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The department shall deduct and withhold from any unemployment compensation payable to

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an individual that owes child support obligations: ~~as defined in section 1 of this chapter:~~

(1) the amount specified by the individual to the department to be deducted and withheld under this section, if neither subdivision (2) nor (3) is applicable;

(2) the amount (if any) determined pursuant to an agreement submitted to the department under Section 454(20)(B)(1) of the Social Security Act by the state or local child support enforcement agency, unless subdivision (3) is applicable; or

(3) any amount otherwise required to be so deducted and withheld from the unemployment compensation pursuant to legal process ~~(as that term is defined in Section 462(e) of the Social Security Act)~~ properly served upon the department.

SECTION 7. IC 22-4-41-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The department shall administer this chapter. ~~Each grant or program requires the approval of the governor and the state budget agency.~~

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

SECTION 9. IC 22-4.1-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 6. State Workforce Development Fund

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

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

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

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

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

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

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

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

(5) To provide training for dislocated workers under IC 22-4-41.

(6) To provide training for workers who are at risk of becoming dislocated workers because of a lack of skills.

(7) To provide comprehensive job training and related services for economically disadvantaged, unemployed, and underemployed individuals, including recruitment, counseling, remedial education, vocational training, job development, job placement, and other appropriate services to enable each individual to secure and retain employment at the individual's maximum capacity.

(8) To leverage federal funds to increase the resources available to carry out the purposes of this section.

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COMMITTEE REPORT

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

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

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

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

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

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

"**(A) department of state revenue; or**

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

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

Page 14, delete lines 21 through 24.

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

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

"**(1)**".

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

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

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

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

and when so amended that said bill do pass.

(Reference is to HB 2085 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

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

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

Page 11, delete line 14.

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

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

DVORAK

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